

1994 BILL 39

Second Session, 23rd Legislature, 43 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 39

**ALBERTA HEALTH CARE INSURANCE
AMENDMENT ACT, 1994**

DR. L. TAYLOR

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 39
Dr. L. Taylor

BILL 39

1994

ALBERTA HEALTH CARE INSURANCE AMENDMENT ACT, 1994

(Assented to , 1994)

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of Alberta, enacts as follows:

Amends RSA
1980 cA-24

1 The Alberta Health Care Insurance Act is amended by this Act.

2 Section 1 is amended

(a) by repealing clause (a)(vi);

(b) by repealing clause (t);

(c) in clause (u)

(i) in subclause (i) by adding "or as an osteopathic practitioner" after "medical practitioner";

(ii) in subclause (ii) by adding "or osteopathy" after "medicine";

(d) in clause (x) by striking out "osteopath,".

Explanatory Notes

1 Amends chapter A-24 of the Revised Statutes of Alberta 1980.

2 Section 1 presently reads in part:

1 In this Act,

(a) "basic health services" means

(i) insured services,

(ii) those services that are provided by a dental surgeon in the field of oral surgery and are specified in the regulations but are not within the definition of insured services,

(iii) optometric services,

(iv) chiropractic services,

(v) services and appliances provided by a podiatrist,

(vi) services provided by an osteopath, and

(vii) services classified as basic health services by the regulations;

(t) "osteopath" means,

(i) with reference to services provided in Alberta, a person registered as an osteopathic practitioner under the Medical Profession Act, and

3 The following is added after section 5:

Payment of
benefits to
physicians and
dental
surgeons

5.05(1) No physician or dental surgeon may receive the payment of benefits from the Minister for insured services provided in Alberta to a resident unless,

- (a) in the case of insured services provided by a physician, the physician was enrolled in the Plan when the services were provided;
- (b) in the case of insured services provided by a dental surgeon, the dental surgeon was opted into the Plan when the services were provided.

(2) No resident may receive the payment of benefits from the Minister for insured services provided in Alberta to the resident by a physician or dental surgeon unless

- (a) the physician who provided the insured services was enrolled in the Plan when the insured services were provided, or
- (b) the dental surgeon who provided the insured services was opted into the Plan when the insured services were provided.

(3) Notwithstanding subsections (1) and (2), the Minister may pay benefits for insured services provided in Alberta to a resident by a physician who was not enrolled in the Plan or a dental surgeon who was opted out of the Plan if the insured services were provided in an emergency.

4 Section 5.1 is amended by striking out “physician and” and “physician or” wherever they occur.

- (ii) *with reference to services provided in a place outside Alberta, a person lawfully entitled to practise osteopathy in that place;*
- (u) *"physician" means*
 - (i) *with reference to medical services provided in Alberta, a person registered as a medical practitioner under the Medical Profession Act, and*
 - (ii) *with reference to medical services provided in a place outside Alberta, a person lawfully entitled to practise medicine in that place;*
- (x) *"practitioner" means a chiropractor, dental mechanic, dental surgeon, optician, optometrist, osteopath, physician or podiatrist or other person who provides a basic health service or an extended health service;*

3 Establishes when benefits for insured services provided in Alberta by physicians or dental surgeons may be paid.

4 Section 5.1 presently reads:

5.1(1) Subject to this section, every physician and dental surgeon shall be deemed to have opted into the Plan.

5 Section 5.2 is repealed and the following is substituted:

Extra billing

5.2(1) No physician who is enrolled in the Plan and no dental surgeon who is opted into the Plan who provides insured services to a person shall charge or collect from any person an amount in addition to the benefits payable by the Minister for those insured services.

(2) If a physician or dental surgeon contravenes subsection (1), the Minister may,

- (a)** in the case of a first or subsequent contravention, send a written warning to the physician or dental surgeon,
- (b)** in the case of a 2nd or subsequent contravention, refer the contravention to the College or The Alberta Dental Association, as the case may be, and
- (c)** in the case of a 3rd or subsequent contravention, order that, after a date specified in the order,
 - (i)** in the case of a physician, the physician is deemed not to be enrolled in the Plan for the period specified in the order, and
 - (ii)** in the case of a dental surgeon, the dental surgeon is deemed to have opted out of the Plan for the period specified in the order.

- (2) *A physician or dental surgeon may opt out of the Plan by*
- (a) *notifying the Minister in writing indicating the effective date of the opting out, and*
 - (b) *publishing a notice of the proposed opting out in a newspaper having general circulation in the area in which the physician or dental surgeon practises*

at least 30 days prior to the effective date of the opting out.

- (3) *A physician or dental surgeon who has not previously practised in Alberta may opt out of the Plan prior to commencing practice, by*

- (a) *notifying the Minister in writing indicating the date on which the physician or dental surgeon will commence practice, and*
- (b) *publishing a notice of the proposed opting out in a newspaper having general circulation in the area in which the physician or dental surgeon intends to practise.*

- (4) *A physician or dental surgeon who has opted out of the Plan may opt into the Plan by notifying the Minister in writing at least 30 days prior to the effective date of the opting in.*

5 Section 5.2 presently reads:

5.2(1) In this section, "eligible resident" means a resident who is entitled to receive benefits under this Act.

(2) No physician or dental surgeon shall charge or collect from any person an amount in addition to the benefits payable by the Minister with respect to insured services unless that physician or dental surgeon has opted out or is deemed to have opted out of the Plan in accordance with section 5.1 or this section.

(3) If a physician or dental surgeon contravenes subsection (2), the Minister may

- (a) *in the case of a first or subsequent contravention, send a written warning to the physician or dental surgeon,*
- (b) *in the case of a 2nd or subsequent contravention, refer the contravention to the College or The Alberta Dental Association, as the case may be, and*
- (c) *in the case of a 3rd or subsequent contravention, order that, after a date specified in the order, the physician or dental surgeon shall be deemed to have opted out of the Plan for the period specified in the order.*

(4) An order under subsection (3)(c) shall, prior to the effective date of the order, be served personally or by registered mail on the physician or dental surgeon affected by the order.

(3) An order under subsection (2)(c) shall, prior to the effective date of the order, be served personally or by registered mail on the physician or dental surgeon affected by the order.

Emergency
services

5.3 If a physician who is not enrolled in the Plan or a dental surgeon who is opted out of the Plan provides insured services in Alberta in an emergency to a resident in respect of whom benefits may be paid and the physician, dental surgeon or resident is paid benefits with respect to those insured services, the physician or dental surgeon shall not charge or collect from any person an amount in addition to those benefits.

Minister's right
to recover
amounts

5.4(1) If a physician or dental surgeon, in contravention of section 5.2 or 5.3, receives an amount in addition to the benefits payable by the Minister, the Minister may recover that additional amount and the amount of the benefits by one or more of the following means:

- (a) withholding those amounts from any benefits payable to the physician or dental surgeon;
- (b) civil action as though those amounts were a debt owing to the Crown in right of Alberta;
- (c) pursuant to an agreement between the Minister and the physician or dental surgeon that provides for the repayment of those amounts.

(2) The Minister shall reimburse a resident in respect of whom benefits may be paid or his personal representatives for any amounts recovered under subsection (1) that were paid by the resident and with respect to which the resident did not receive benefits.

Duty to advise

5.5(1) Prior to providing insured services in Alberta to a resident in respect of whom benefits may be paid, a physician who is not enrolled in the Plan and a dental surgeon who is opted out of the Plan shall advise the resident of that fact and that the resident is not entitled to be reimbursed from the Plan for the cost of any insured services provided by the physician or dental surgeon.

(2) This section does not apply when the insured services are provided in an emergency.

(5) Except where insured services are provided to an eligible resident in an emergency, no eligible resident is entitled to benefits with respect to insured services provided by a physician or dental surgeon who has opted out of the Plan.

(6) Except where insured services are provided to an eligible resident in an emergency,

(a) no physician or dental surgeon who has opted out or is deemed to have opted out of the Plan is entitled to benefits for insured services provided to an eligible resident, and

(b) prior to providing insured services to an eligible resident, a physician or dental surgeon who has opted out or is deemed to have opted out of the Plan shall notify the eligible resident of that fact and that the eligible resident is not entitled to be reimbursed for the cost of the services from the Plan.

(7) If a physician or dental surgeon who has opted out or is deemed to have opted out of the Plan provides insured services to an eligible resident in an emergency and the physician or dental surgeon or the resident is paid benefits with respect to those insured services, the physician or dental surgeon shall not charge or collect from any person an amount in addition to those benefits.

(8) If a physician or dental surgeon, in contravention of subsection (2) or (7), receives an amount in addition to the benefits payable by the Minister, the Minister may recover that additional amount and the amount of the benefits by any one or more of the following:

(a) withholding those amounts from any benefits payable to the physician or dental surgeon;

(b) civil action as though those amounts were a debt owing to the Crown in right of Alberta;

(c) pursuant to an agreement between the Minister and the physician or dental surgeon concerned providing for the repayment of those amounts.

(9) The Minister shall reimburse an eligible resident or his personal representatives for any amounts recovered under subsection (8) that were paid by the eligible resident and with respect to which the eligible resident did not receive benefits.

Application for
enrolment

5.6(1) A physician may apply to the Minister to be enrolled in the Plan.

(2) The application procedures and requirements for enrolment are set out in the regulations.

(3) A physician is eligible for enrolment in the Plan only if

(a) the insured services that the physician intends to provide are needed as determined in accordance with the regulations, or

(b) the physician is otherwise eligible under the regulations.

Registered
physicians
enrolled

5.7(1) A physician who is registered as a medical practitioner or as an osteopathic practitioner under the *Medical Profession Act* on the coming into force of this section is deemed to be enrolled as a physician in the Plan unless, when this section comes into force, the physician was opted out of the Plan.

(2) A person whose registration as a medical practitioner or as an osteopathic practitioner under the *Medical Profession Act* is suspended on the coming into force of this section is deemed to be enrolled as a physician under the Plan when the suspension ends and the registration of the person as a medical practitioner or osteopathic practitioner is reinstated unless, when the suspension occurred, the person was opted out of the Plan.

Terms and
conditions

5.8 The Minister may impose terms and conditions on the enrolment of any physician and may amend those terms and conditions from time to time.

Suspension
and
cancellation

5.9 A physician's enrolment in the Plan may be suspended or cancelled by the Minister in accordance with the regulations.

6 *Section 6 is amended*

(a) in clause (h.1) by striking out "and 5.2";

(b) by adding the following after clause (h.1):

(h.2) respecting the application procedures and requirements for physicians to be enrolled in the Plan;

6 Enrolment regulations. Section 7(h.1) presently reads:

(h.1) governing notifications under section 5.1 and 5.2;

- (h.3) respecting the determination of need for the purposes of physicians' eligibility for enrolment in the Plan;
- (h.4) establishing additional eligibility criteria for the enrolment of physicians in the Plan;
- (h.5) respecting the terms and conditions that may be imposed on a physician's enrolment in the Plan;
- (h.6) respecting the suspension and cancellation of a physician's enrolment in the Plan;
- (h.7) respecting the procedures and requirements for physicians who wish to have their enrolment in the Plan terminated;

7 *Section 12(1) is amended*

- (a) *in clause (b) by striking out "except sections 5.1 and 5.2" and substituting "except sections 5.2 and 5.3";*
- (b) *in clause (c) by striking out "except sections 5.1 and 5.2" and substituting "except sections 5.2 and 5.3".*

8 *This Act comes into force on Proclamation.*

7 Section 12(1) presently reads in part:

12(1) Nothing in this Act or the regulations

- (b) except sections 5.1 and 5.2, interferes with the right of any practitioner to make an agreement or arrangement with any person to collect from that person an amount in addition to the benefits payable by the Minister with respect to goods or services provided by the practitioner, if the agreement or arrangement is made before the goods or services are provided,***
- (c) except sections 5.1 and 5.2, affects the right of any resident to receive any health services or benefits in respect of them by reason of his choice of practitioner,***
or

8 Coming into force.