

1996 BILL 15

Fourth Session, 23rd Legislature, 45 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 15

HOSPITALS AMENDMENT ACT, 1996

MR. RENNER

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 15
Mr. Renner

BILL 15

1996

HOSPITALS AMENDMENT ACT, 1996

(Assented to _____, 1996)

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

Amends SA
1994 c37

*1(1) Section 4 of the Hospitals Amendment Act, 1994 is amended
by this section.*

(2) Section 80 is amended

*(a) by renumbering clause (a) as clause (a.2) and by adding
the following before clause (a.2):*

*(a) "automobile" means an automobile as defined in the
Insurance Act;*

*(a.1) "automobile insurer" means an insurer under a
motor vehicle liability policy;*

*(b) in clause (d) by striking out "under this Part" and
substituting "under Division 1 of this Part";*

(c) by adding the following after clause (f):

*(f.1) "motor vehicle liability policy" means a motor
vehicle liability policy as defined in the Insurance
Act evidencing a contract of insurance that has been
made or renewed in Alberta or that is deemed under
the Insurance Act to have been made or renewed in
Alberta;*

(d) by adding the following after clause (g):

*(g.1) "third party liability insurance" means that portion
of an insurance contract evidenced by a motor
vehicle liability policy that insures against liability*

Explanatory Notes

1(1) Amends chapter 37 of the Statutes of Alberta, 1994.

(2) Section 80 presently reads in part:

80 In this Part,

(a) "beneficiary" means a person who receives health services for personal injuries;

(d) "Crown's right of recovery" means the Crown's right, under this Part, to recover the Crown's cost of health services;

resulting from bodily injury to or the death of one or more persons and loss of or damage to property;

(3) *The following heading is added before section 81:*

**Division 1
Crown's Right of Recovery**

(4) *Section 81 is amended by adding the following after subsection (2):*

(3) Notwithstanding this Division, the Crown does not have a right to recover the Crown's cost of health services provided to a beneficiary if

- (a) the beneficiary's personal injuries are caused by an act or omission of a wrongdoer in the use or operation of an automobile, and
- (b) the wrongdoer is, when the injuries are caused, insured under a motor vehicle liability policy.

(5) *The following is added after section 92:*

Beneficiary's
duty to co-
operate

92.1(1) A beneficiary shall co-operate fully with the Minister and the Director and their agents and legal counsel in establishing and proving the Crown's right of recovery in respect of the beneficiary.

(2) If the Crown is unable to recover all or a portion of the Crown's cost of health services under the Crown's right of recovery because the beneficiary has not complied with subsection (1), the Crown has the right to recover from the beneficiary the amount of the Crown's cost of health services that the Crown was unable to recover from the wrongdoer.

(6) *The following is added after section 99:*

**Division 2
Crown's Cost of Health Services -
Automobile Accidents**

Aggregate
assessment

99.1(1) The Minister shall establish, in accordance with the regulations, for each calendar year an aggregate assessment payable by automobile insurers.

(2) The aggregate assessment for a calendar year is

(3) Creates Division 1.

(4) Section 81 presently reads:

81(1) If a beneficiary receives health services for personal injuries suffered as a result of a wrongful act or omission of a wrongdoer, the Crown has the right to recover from the wrongdoer the Crown's cost of health services

(a) for health services that the beneficiary has received for those personal injuries, and

(b) for health services that the beneficiary will likely receive in the future for those personal injuries.

(2) If a beneficiary is contributorily negligent, the Crown is entitled to recover 100% of the Crown's cost of the beneficiary's health services less a percentage for the beneficiary's contributory negligence as determined under sections 82 and 83.

(5) Beneficiary's duty to co-operate.

(6) Establishing assessments and duty of automobile insurers to pay their share of assessments.

- (a) the Minister's estimate of the Crown's cost of health services for personal injuries suffered by a beneficiary as a result of a wrongful act or omission of a wrongdoer in the use or operation of an automobile in that calendar year if the wrongdoer was insured under a motor vehicle liability policy when the injuries were caused, and
- (b) a portion, as established by the regulations, of the Minister's estimate of the Crown's cost of insured services as defined in section 53(i) for personal injuries suffered by a beneficiary as a result of a wrongful act or omission of a wrongdoer in the use or operation of an automobile that occurred before this section comes into force if
 - (i) the wrongdoer was insured under a motor vehicle liability policy when the injuries were caused, and
 - (ii) no judgment has been obtained or settlement entered into in respect of the Crown's cost of the insured services before this section comes into force.

Procedure for
establishing
aggregate
assessment

99.2(1) Before establishing the aggregate assessment for a calendar year, the Minister shall

- (a) calculate a proposed aggregate assessment for that calendar year,
 - (b) provide a notice of the proposed aggregate assessment and of the right to make representations concerning the assessment to each automobile insurer who is licensed to provide automobile insurance under the *Insurance Act* when the notice is sent out, and
 - (c) select a person to hear representations.
- (2) If representations are made to the person selected by the Minister, the person shall provide the Minister with a report on them.
- (3) The Minister shall, after considering any report under subsection (2), establish, in accordance with the regulations, the aggregate assessment for the calendar year and notify the Provincial Treasurer and the automobile insurers referred to in subsection (1)(b) of the amount of the aggregate assessment.

Automobile insurer's duty to provide information

99.3 An automobile insurer who is licensed to provide automobile insurance under the *Insurance Act* for all or a portion of a calendar year shall, at the times specified by the Director, provide the Director with the information prescribed by the regulations.

Assessment factor

99.4 After the Provincial Treasurer receives notice of the aggregate assessment for a calendar year, the Provincial Treasurer shall

- (a) establish, in accordance with the regulations, the assessment factor for that year, and
- (b) provide a notice of the assessment factor to each automobile insurer who is licensed to provide automobile insurance under the *Insurance Act* when the assessment factor is established and to each automobile insurer who becomes so licensed in the calendar year for which the assessment factor is established.

Automobile insurer's duty to pay

99.5(1) An automobile insurer who is licensed to provide automobile insurance under the *Insurance Act* for all or a portion of a calendar year for which an assessment factor has been established shall pay to the Crown an amount that is the product obtained when the assessment factor for the calendar year is multiplied by the total premiums written by the automobile insurer for third party liability insurance in the calendar year.

(2) The manner of and time for making a payment under subsection (1) are governed by the regulations.

Duty to report premiums

99.6(1) An automobile insurer who was licensed to provide automobile insurance under the *Insurance Act* for all or a portion of a calendar year for which an assessment factor was established shall, on or before March 15 of the following year, file with the Provincial Treasurer a report of the premiums for third party liability insurance written in the calendar year for which the assessment factor was established.

(2) An automobile insurer referred to in subsection (1) shall file the report in a manner and form specified by the Provincial Treasurer.

(3) An automobile insurer who fails to file a report for a calendar year as required by this section shall pay a penalty to the Crown in accordance with the regulations.

Interest	<p>99.7 If an automobile insurer does not make a payment under section 99.5 or pay a penalty under section 99.6 in the manner or at the time specified in the regulations, the insurer shall pay interest to the Crown in accordance with the regulations.</p>
Duty to provide other information	<p>99.8(1) The Provincial Treasurer may by notice direct an automobile insurer to provide any information or document that the Provincial Treasurer requires for the purposes of establishing an assessment factor or determining amounts payable to the Crown under this Division.</p> <p>(2) An automobile insurer who receives a notice under subsection (1) shall provide the information or document to the Provincial Treasurer within the time period specified in the notice.</p>
Estimate of amounts payable	<p>99.9(1) If</p> <ul style="list-style-type: none"> (a) an automobile insurer does not provide information under section 99.6 or 99.8 in respect of a calendar year or provides the information late, or (b) the Provincial Treasurer has reason to believe that the information provided under section 99.6 or 99.8 in respect of a calendar year is not correct, <p>the Provincial Treasurer may, using the Provincial Treasurer's estimate of premiums for third party liability insurance written by the automobile insurer in that calendar year, establish an amount that the automobile insurer is required to pay in respect of that calendar year.</p> <p>(2) If the Provincial Treasurer establishes an amount that an automobile insurer is required to pay under subsection (1), the Provincial Treasurer shall notify the automobile insurer of the amount required to be paid and the basis for determining the amount.</p> <p>(3) An amount that an automobile insurer is required to pay under this section is deemed to be an amount that is payable under section 99.5.</p>
Review	<p>99.91(1) An automobile insurer who receives a notice from the Provincial Treasurer under section 99.9 may request a review of the estimate of the premiums for third party liability insurance used to calculate the amount payable specified in the notice.</p> <p>(2) An automobile insurer who wishes a review shall submit to the Provincial Treasurer, within 30 days of the notice</p>

under section 99.9 being sent, a written statement that sets out the reasons on which the request for a review is based.

(3) On receiving a request for a review that meets the requirements of subsection (2), the Provincial Treasurer shall select an employee of the Government who is under the Provincial Treasurer's administration to conduct the review.

(4) After considering the representations of the automobile insurer, the person selected to conduct the review shall

(a) confirm or vary the amount that the automobile insurer is required to pay to the Crown, and

(b) notify the automobile insurer of the decision.

(5) Interest accrues on an unpaid amount that a person conducting a review decides is required to be paid from the time that the amount should have been paid under section 99.5.

(6) If the person conducting a review reduces the amount that an automobile insurer is required to pay to the Crown and the automobile insurer has paid the full amount under review, the Provincial Treasurer shall

(a) refund the difference with interest at the rate charged on amounts owing by automobile insurers under the regulations, or

(b) if the automobile insurer is required to pay other amounts to the Crown under this Division, apply the difference and interest referred to in clause (a) to offset payment of those other amounts.

Examination of
automobile
insurer's
books

99.92(1) In this section, "auditor" means a person authorized by the Provincial Treasurer to be an auditor.

(2) An auditor may at any reasonable time enter the offices of an automobile insurer who was licensed to provide automobile insurance under the *Insurance Act* for all or a portion of a calendar year for which an assessment factor was established and examine and make copies of the books and records of the insurer for the purposes of determining the amount of premiums written by the insurer for third party liability insurance in the calendar year.

(3) The officers, employees and agents of the automobile insurer shall assist an auditor in conducting an examination under subsection (2) and shall provide the auditor with the books and records that the auditor requires.

Civil action

99.93(1) An amount that is payable by an automobile insurer to the Crown under this Division may be collected by the Crown by civil action for debt in a court of competent jurisdiction.

(2) A person designated by the Provincial Treasurer may issue a certificate that sets out the amount that an automobile insurer is required to pay under this Division and, for the purposes of a civil action for debt, the certificate is conclusive proof of the amount that the automobile insurer is required to pay.

(3) A certificate is admissible in evidence without proof of the signature, authority or office of the person purporting to have signed the certificate.

(7) *The following heading is added before section 100:*

**Division 3
General**

(8) *Section 101(1) is amended by striking out “under this Part” and substituting “under the Crown’s right of recovery”.*

(9) *Section 102 is amended*

(a) *in subsection (2)*

(i) *in clause (c) by striking out “91 and 93” and substituting “91, 93 and 99.3”;*

(ii) *by adding the following after clause (c):*

(d) *respecting the calculation and establishment of an aggregate assessment for a calendar year payable by automobile insurers, including provisions respecting the aggregate assessment for the portion of 1996 that Division 2 is in force.*

(b) *by adding the following after subsection (2):*

(3) *The Provincial Treasurer may make regulations*

(a) *respecting the establishment of an assessment factor for a calendar year;*

(7) Creates Division 3.

(8) Section 101(1) presently reads:

101(1) The Director may hire legal counsel for the purpose of recovering the Crown's cost of health services under this Part.

(9) Section 102(2) presently reads:

(2) The Minister may make regulations

(a) for the purposes of determining the Crown's cost of health services,

(i) respecting what is a cost of the Crown, and

(ii) respecting whether something is a capital cost or an operating cost and whether a health service has a capital cost;

(b) respecting the calculation of the Crown's cost of health services under the Crown's right of recovery, including

(i) the establishment of a capital cost factor to be used to determine capital costs, and

(ii) the establishment of discount rates to be used to determine future costs;

(c) prescribing the information to be provided to the Director under sections 91 and 93.

- (b) respecting the manner in which and time at which automobile insurers are required to make payments under Division 2;
- (c) respecting the penalty referred to in section 99.6, the manner in which the penalty is calculated and the manner in which and time at which automobile insurers are required to pay the penalty;
- (d) for the purposes of section 99.7, respecting rates of interest, the manner in which interest is calculated and the manner in which and time at which automobile insurers are required to pay interest.

(10) *The following is added after section 102:*

Extinguish-
ment of certain
rights

102.1(1) A beneficiary's right to recover the cost of insured services as defined in section 53(i) in respect of a wrongful act or omission that occurred before this section comes into force and the Minister's right of subrogation in respect of the beneficiary's right are extinguished if

- (a) the beneficiary's personal injuries were caused by a wrongful act or omission of a wrongdoer in the use or operation of an automobile, and
- (b) the wrongdoer was, when the injuries were caused, insured under a motor vehicle liability policy.

(2) Subsection (1) does not affect any judgment obtained or settlement entered into before this section comes into force.

(11) *Section 103(2) is amended by striking out "A beneficiary's" and substituting "Subject to section 102.1, a beneficiary's".*

2 *Section 5 of the Hospitals Amendment Act, 1994 is amended by adding the following after subsection (2):*

(2.1) *The Insurance Act is amended*

(a) *by adding the following after section 47.1:*

Compliance
with Hospitals
Act

47.2(1) The Minister may impose on the licence of an insurer any terms and conditions that the Minister considers appropriate if

(10) Extinguishment of certain rights.

(11) Section 103(2) presently reads:

(2) A beneficiary's rights and the Minister's right of subrogation in respect of a wrongful act or omission that occurred before the coming into force of this Part is governed by the provisions of this Act in force when the wrongful act or omission occurred.

2 Amends chapter I-5 of the Revised Statutes of Alberta 1980. Clause (a) establishes a sanction for automobile insurers who do not comply with information requirements or who fail to pay their share of an assessment under the Hospitals Act. Clause (b) prohibits motor vehicle liability policies and other documents from showing amounts payable under Part 5 of the Hospitals Act separately.

- (a) the insurer does not comply with section 99.3, 99.6 or 99.8 of the *Hospitals Act*,
- (b) an officer, employee or agent of the insurer does not comply with section 99.92(3) of the *Hospitals Act*, or
- (c) the insurer does not pay an amount that it is required to pay under Part 5, Division 2 of the *Hospitals Act* within the time established under that Part.

(2) The Minister may suspend or cancel the licence of the insurer if the insurer does not comply with any of the terms or conditions imposed on its licence under subsection (1).

(3) The Minister may revive the licence of an insurer that has been suspended or cancelled under subsection (2) if the Minister is satisfied that the default on which the suspension or cancellation was based has been remedied.

(b) by adding the following after section 312:

Hospitals Act

312.1 No amount that is required to be paid to the Crown under Part 5, Division 2 of the *Hospitals Act* shall be shown as a separate amount on

- (a) an application for automobile insurance,
- (b) a motor vehicle liability policy, or
- (c) a certificate referred to in section 297(5).

