



PRINCE EDWARD ISLAND
ÎLE-DU-PRINCE-ÉDOUARD

DRUG COST ASSISTANCE ACT

PLEASE NOTE

This document, prepared by the *Legislative Counsel Office*, is an office consolidation of this Act, current to September 22, 2014. It is intended for information and reference purposes only.

This document is *not* the official version of the Act. The Act and the amendments as printed under the authority of the Queen's Printer for the province should be consulted to determine the authoritative statement of the law.

For more information concerning the history of this Act, please see the *Table of Public Acts* on the Prince Edward Island Government web site (www.princeedwardisland.ca).

If you find any errors or omissions in this consolidation, please contact:

Legislative Counsel Office

Tel: (902) 368-4292

Email: legislation@gov.pe.ca



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DRUG COST ASSISTANCE ACT

CHAPTER D-14.1

1. Definitions

In this Act

- (a) “**applicant**” means a person by whom, or on whose behalf, an application is made under this Act;
- (b) “**benefit**” means a drug product or supplies listed in the formulary established under the *Drug Product Interchangeability and Pricing Act* R.S.P.E.I. 1988, Cap. D-15 that is supplied to an eligible person;
- (c) “**claim**” means a claim for payment of a benefit;
- (d) “**co-payment**” means the prescribed amount that an eligible person is required to pay toward the cost of a benefit under a program;
- (e) “**drug**” means a drug as defined in clause 1(h) of the *Pharmacy Act* R.S.P.E.I. 1988, Cap. P-6;
- (f) “**eligible person**” means a person who is eligible for benefits in accordance with the regulations;
- (g) “**formulary**” means the formulary established under the *Drug Product Interchangeability and Pricing Act*;
- (h) “**health number**” means a health number as defined in the *Provincial Health Number Act* R.S.P.E.I. 1988, Cap. P-27.01;
- (i) “**Minister**” means the Minister of Health and Wellness;
- (j) “**participating pharmacy**” means a pharmacy authorized by the Minister, pursuant to an agreement, to deliver pharmacy services in support of the Plan;
- (k) “**Plan**” means the Drug Cost Assistance Plan established by this Act;
- (l) “**prescription**” means a prescription as defined in clause 1(v) of the *Pharmacy Act*;
- (m) “**program**” means a program of benefits established under the Plan;
- (n) “**resident**” means a resident as defined in the regulations under the *Health Services Payment Act* R.S.P.E.I. 1988, Cap. H-2, but does not include persons who are resident pursuant to a temporary resident visa, study permit, work permit or other similar visa or permit issued by Citizenship and Immigration Canada;
- (o) “**third-party insurance**” means a contract or plan of insurance between a person and an insurer for the payment of the cost of drug products or supplies. *2013,c.10,s.1; 2014,c.39,s.60(2)(b)*.

2. Administration of Act

The Minister is responsible for the administration of this Act. *2013,c.10,s.2*.

3. Plan established

- (1) There is hereby established the Drug Cost Assistance Plan.

Purpose of Plan

- (2) The purpose of the Plan is to provide benefits in a cost-effective manner to eligible persons.

Programs

- (3) The Minister may establish programs under the Plan in accordance with the regulations.

Appointment of Administrator

- (4) The Minister shall appoint an Administrator to administer and operate the Plan. *2013,c.10,s.3.*

4. Benefits specified in formulary

- (1) The Minister shall specify in the formulary the benefits covered by each program and may specify

- (a) the classes, groups, attributes or other distinctions relating to the provision of benefits;
- (b) whether any rules, terms, restrictions or conditions apply to the provision of a benefit or a class or group of benefits;
- (c) information or notices required in relation to the Plan; and
- (d) any other information respecting benefits under a program the Minister considers necessary or advisable.

Contribution by eligible persons

- (2) The Minister may require an eligible person to contribute to the cost of a benefit at a rate of co-payment prescribed by the regulations and that rate may vary according to the program under which the benefits are received.

Premium by eligible person

- (3) The Minister may require an eligible person to pay a premium in accordance with the regulations as a condition of enrolment in a program. *2013,c.10,s.4.*

5. Payor of last resort

Where a person has or is covered by third-party insurance and is eligible for benefits under the Plan, the Plan shall be the payor of last resort. *2013,c.10,s.5.*

6. Ineligibility

A person is not eligible to receive benefits under the Plan if the person is entitled to those benefits

- (a) under the *Workers Compensation Act*;
- (b) from the Royal Canadian Mounted Police;
- (c) from the Department of National Defence;
- (d) from Veterans Affairs Canada;
- (e) under the Non-Insured Health Benefits Program for First Nations and Inuit;
- (f) under any other enactment or Act of the Parliament of Canada; or
- (g) under any statute of any jurisdiction either within or outside of Canada. *2013,c.10,s.6.*



7. Eligibility criteria

- (1) Subject to subsection (2), the Lieutenant Governor in Council may prescribe eligibility criteria for the programs, and these criteria may vary according to the programs to which they apply.

Residency required

- (2) A person shall be a resident of the province for the purposes of eligibility under the Plan.

Eligibility, initial and ongoing

- (3) Eligibility for the purposes of this Act and the regulations shall include initial and ongoing eligibility. *2013, c.10, s.7.*

8. Application

- (1) A resident may apply to the Administrator in the form approved by the Administrator and in accordance with the regulations for enrolment in a program.

Information to be provided

- (2) The Administrator may request and an applicant, and any other person whose information is required under the regulations, shall provide in a timely manner any information required to determine the applicant's eligibility for enrolment in a program, and the Administrator may seek verification of that information from third parties, including but not limited to the Canada Revenue Agency, as the Administrator considers necessary.

Determination of eligibility

- (3) The eligibility of an applicant for enrolment and the payment of benefits under a program shall be determined by the Administrator in accordance with the regulations based on the information provided by the applicant and any other information available or provided to the Administrator by any other person for that purpose.

Consent to use of information

- (4) Application for or participation by a person in a program, including use of a health number for the purpose of obtaining benefits under a program, shall be considered to be consent by the person for third parties to release to the Administrator the information required by the Administrator
 - (a) to determine that person's eligibility for the program;
 - (b) for conducting audits of the person's participation in the program;
 - (c) for planning, delivering or funding programs, allocating resources and evaluating or monitoring programs; and
 - (d) detecting, monitoring and preventing fraud or any unauthorized receipt of benefits.

Refusal

- (5) Where the Administrator determines under subsection (3) that an applicant is not eligible under a program, the Administrator shall in writing notify the applicant of and the reasons for that decision and of the applicant's right to appeal the decision to the Minister, in accordance with section 17. *2013, c.10, s.8.*

9. Payment of benefits

- (1) The Administrator shall pay benefits to or on behalf of eligible persons in accordance with the regulations.

Requirements

- (2) To be eligible for payment, a claim shall contain all the information required by the regulations and be in the form required by the Administrator.

Particulars to be provided

- (3) Every person or participating pharmacy that makes a claim for benefits shall provide to the Administrator, upon the Administrator's request, sufficient particulars of the claim and supporting documentation to enable the Administrator to assess the claim in accordance with this Act and the regulations.

Claims assessed by the Administrator

- (4) All claims for benefits are subject to assessment and approval by the Administrator.

Rules, terms, etc.

- (5) The rules, terms, restrictions and conditions under which benefits may be paid, including but not limited to the amount of co-payment required, and the person to whom benefits are to be paid shall be determined in accordance with the regulations.

Payment by eligible person

- (6) Nothing in this Act or the regulations shall be construed so as to prevent an eligible person from assuming the responsibility for payment for a benefit which would otherwise be considered a benefit under this Act. *2013,c.10,s.9.*

10. Administrator's authority

- (1) The Administrator may, in accordance with the regulations,
- (a) restrict, refuse, suspend, vary or discontinue payment of benefits to or on behalf of a person;
 - (b) reassess or adjust claims;
 - (c) require a person or participating pharmacy to reimburse the Plan, as directed by the Minister, in whole or in part, for any benefit paid; and
 - (d) take any steps permitted by this Act or the regulations to recover an inadvertent or improper payment of a benefit.

Requirement to provide information

- (2) The Administrator may require a person, participating pharmacy or insurer to provide information, including personal information relating to a person to whom a benefit has been paid or on whose behalf a claim has been presented, to the Administrator as the Administrator considers necessary for the purposes of this Act. *2013,c.10,s.10.*

11. Collection, use and disclosure of information

The Administrator may collect information, including personal information, directly or indirectly and may use and, where necessary, disclose that information for the purpose of

- (a) providing benefits to eligible persons;
- (b) planning, delivering or funding programs including, without limiting the foregoing, allocating resources and evaluating or monitoring programs; and
- (c) detecting, monitoring and preventing fraud or any unauthorized receipt of benefits. *2013,c.10,s.11.*



12. Agreement

The Minister may enter into an agreement with a pharmacy or with the Prince Edward Island Pharmacists Association that may provide for

- (a) the payment of a benefit to or on behalf of an eligible person, including any rules, terms, restrictions and conditions applicable to the payment;
- (b) the fees to be paid to a participating pharmacy for providing services in the dispensing of benefits; and
- (c) the information to be provided to the Minister by a participating pharmacy for the purpose of the administration of the Plan and the programs. *2013,c.10,s.12.*

13. Records

A participating pharmacy shall maintain prescription records for all claims for benefits for not less than two years from the date of last dispensing. *2013,c.10,s.13.*

14. Appointment of auditor

- (1) The Minister may appoint a person as an auditor for the purposes of this section.

Audit

- (2) In order to ensure compliance with a program, the Plan and this Act and the regulations, an auditor may conduct an audit of a participating pharmacy.

Entry without warrant

- (3) Where reasonably necessary for the purposes of this section, an auditor or other person designated by the Minister under this section may, at all reasonable times, without a warrant, enter a participating pharmacy's business premises to inspect the prescriptions, documents, papers and records referred to in subsection (4).

Powers of auditor

- (4) An auditor conducting an audit may examine and copy those prescriptions, documents, papers and records in the custody or control of a participating pharmacy that the auditor considers necessary to complete the audit in the manner required by this Act and the regulations.

Electronic records, copies

- (5) An examination of records for the purposes of this section
 - (a) includes electronic records, and an auditor may make a copy of those records, including electronic records, in any manner that the auditor considers appropriate, including photocopying, scanning and electronic copying of data; and
 - (b) may include an examination of information, documentation or other records held by a participating pharmacy relating to a person's insurer and any records of payment to that insurer or other method of obtaining coverage for the benefits.

Assistance

- (6) The Minister may designate a person to accompany an auditor for the purpose of providing assistance in conducting an audit.

Requirement to provide information

- (7) A participating pharmacy shall provide the information required by an auditor under this section in order to determine compliance with a program, the Plan and this Act and that information may be provided in person or by mail, facsimile or electronic transmission.

Report

- (8) At the conclusion of an audit, or at any time when requested to do so by the Minister, an auditor shall report to the Minister the auditor's findings with respect to the audit.

Excess is a debt due to Crown

- (9) Where, following an audit performed in accordance with this section, the Minister determines that a payment has been made to a person or a participating pharmacy in excess of the amount that was required to be paid under the Plan, the excess amount is a debt due to Her Majesty in right of the Province. *2013, c.10, s.14.*

15. Notice

Where it has been determined pursuant to an audit conducted under section 14 that a payment in excess of the amount that was required to be paid under the Plan has been made to a person or a participating pharmacy, the Minister shall, in writing, notify the person or participating pharmacy

- (a) of the amount paid in excess and the manner in which the amount was calculated;
- (b) that the excess amount is a debt due to Her Majesty in right of the Province;
- (c) that the amount may be recovered; and
- (d) of the person's or participating pharmacy's right to appeal the determination under section 17. *2013, c.10, s.15.*

16. Interest

The Minister may charge interest on an amount paid in excess of the amount that was required to be paid under the Plan in accordance with the *Judicature Act* R.S.P.E.I. 1988, Cap. J-2.1. *2013, c.10, s.16.*

17. Appeal

- (1) A person who is aggrieved by a decision of the Administrator under subsection 8(3) or the regulations may appeal that decision to the Minister by filing with the Minister, in the form required by the Minister, a notice of appeal within 30 days of receipt of the Administrator's decision.

Hearing or review

- (2) An appellant may request a hearing or a review of the decision appealed from.

Additional information, etc. to be provided

- (3) The Minister may require an appellant to provide further or additional information, records or documents for the purpose of a hearing or review, as the case may be.

Hearing or review within 30 days

- (4) Subject to subsection (5), within 30 days of the filing of a notice of appeal under subsection (1), the Minister shall hear or review the matter.



Idem

- (5) Where additional information, records or documents requested by the Minister under subsection (3) have not been provided by the time scheduled for the hearing or review, the Minister shall within 30 days of receipt of the information, records or documents hear or review the matter.

Decision within 30 days

- (6) Within 30 days following a hearing or review under this section, the Minister
- (a) may
 - (i) confirm, vary or rescind the decision appealed from,
 - (ii) refer the matter, or any issue, back to the Administrator for further consideration, or
 - (iii) provide any direction that the Minister considers appropriate; and
 - (b) shall notify the appellant in writing of the Minister's decision and the reasons for it.

Delegation of Minister's duties, etc.

- (7) The Minister may delegate the Minister's powers and duties under this section to an employee of the Government. *2013, c.10, s.17.*

18. Delegation by Minister

- (1) Subject to subsection 17(7), the Minister may delegate any power, duty or function of the Minister under this Act or the regulations to any person the Minister considers appropriate.

Agreements

- (2) The Minister may enter into an agreement with any person or agency for the administration and operation of the Plan. *2013, c.10, s.18.*

19. Offences

- (1) No person shall
- (a) on behalf of himself or herself or on behalf of another person, obtain or receive benefits to which that person or the other person is not entitled to obtain or receive under the Plan;
 - (b) provide false or misleading information or records pursuant to a requirement of this Act or the regulations to provide information or records;
 - (c) fail to provide information, answers or records as required by this Act or the regulations; or
 - (d) aid or abet another person in applying for, obtaining or receiving any benefits under the Plan for which the person is not eligible.

Idem

- (2) A person who contravenes or fails to comply with any provision of this Act or the regulations is guilty of an offence and liable on summary conviction
- (a) in the case of an individual, to a fine of not less than \$2,000 and not more than \$10,000 or to imprisonment for a term of not more than 12 months, or to both; and
 - (b) in the case of a corporation, to a fine of not less than \$20,000 and not more than \$50,000.

Continuing contravention

- (3) Where a contravention or violation of any provision of this Act or the regulations continues for more than one day, the offender is guilty of a separate offence for each day that the contravention or violation continues. *2013, c. 10, s. 19.*

20. Protection from liability

- (1) No action or other proceeding shall be brought against a person who, in good faith, complies with a request or requirement to provide personal information under this Act or the regulations.

Idem

- (2) No action or proceeding shall be brought against the Minister, the Administrator, an auditor or any other person acting under the authority of this Act or the regulations for anything done or not done, or for any neglect,
- (a) in the performance or intended performance of a duty imposed under this Act or the regulations; or
 - (b) in the exercise or intended exercise of a power conferred under this Act or the regulations,

unless the person acted in bad faith.

Idem, provision of assistance

- (3) A person who provides assistance to an auditor or other person acting under the authority of this Act or the regulations has the same protection as a person referred to in subsection (2), unless the person acted in bad faith.

Corporation remains liable

- (4) Subsection (3) does not relieve a corporation of any liability to which it would otherwise be subject in respect of an offence committed by a director, officer or employee. *2013, c. 10, s. 20.*

21. Regulations

The Lieutenant Governor in Council may make regulations

- (a) respecting the establishment of programs under the Plan;
- (b) respecting eligibility criteria for programs and the enrolment of eligible persons;
- (c) respecting factors that make a person ineligible;
- (d) respecting the method of determining the amount of any co-payment or premium required under a program;
- (e) respecting co-ordination of benefits under a program;
- (f) respecting the process for making claims for payment of benefits and the manner in which benefits may be paid to or on behalf of an eligible person;
- (g) respecting service of documents and the provision of information for the purposes of the Act, including specifying when and in what circumstances service may be deemed to be effected;
- (h) respecting the application process for the purposes of section 8 and the information and supporting documents to be provided by an applicant;
- (i) requiring persons to report changes in their status as eligible persons, and providing for applications to vary enrolment in a program accordingly where appropriate;



- (j) respecting the information to be provided in making a claim for benefits and the supporting documentation that may be required in support of it;
- (k) respecting the rules, terms, restrictions and conditions under which benefits may be paid;
- (l) respecting the circumstances and conditions under which the Administrator shall determine whether a person's eligibility shall be reassessed, changed or revoked;
- (m) respecting the manner in which benefits may be restricted, refused, suspended, varied or discontinued by the Administrator pursuant to subsection 10(1);
- (n) respecting the manner of assessment, reassessment and readjustment of claims and the reimbursement and recovery of benefit payments made inadvertently or improperly;
- (o) defining any word or phrase used but not defined in this Act;
- (p) respecting the transition to this Act of matters, including the payment of benefits, previously administered pursuant to a program under the *Drug Cost Assistance Act* R.S.P.E.I. 1988, Cap. D-14 or a policy administered by the Minister;
- (q) providing for any other transitional matters the Lieutenant Governor in Council considers necessary or advisable in connection with the implementation of this Act; and
- (r) respecting such other matters as the Lieutenant Governor in Council considers necessary to give effect to the purposes of this Act. *2013,c.10,s.21.*

22. Repeal

The *Drug Cost Assistance Act* R.S.P.E.I. 1988, Cap. D-14 is repealed. *2013,c.10,s.22.*