



PRINCE EDWARD ISLAND
ÎLE-DU-PRINCE-ÉDOUARD

HOSPITAL AND DIAGNOSTIC SERVICES INSURANCE ACT

PLEASE NOTE

This document, prepared by the *Legislative Counsel Office*, is an office consolidation of this Act, current to December 2, 2015. 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



HOSPITAL AND DIAGNOSTIC SERVICES INSURANCE ACT

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HOSPITAL AND DIAGNOSTIC SERVICES INSURANCE ACT

CHAPTER H-8

1. Definitions

In this Act

- (a) “**authorized charges**” means charges, authorized by an agreement referred to in section 7, to be made directly to patients for insured services, but does not include charges by way of premium or other amount not related to a specific service;
- (b) repealed by 1997,c.22,s.30;
- (c) repealed by 1993,c.30,s.61;
- (d) “**hospital**” means a hospital as defined in clause 1(1)(d) of the *Hospitals Act* R.S.P.E.I. 1988, Cap. H-10.1;
- (e) “**insured services**” means the hospital and diagnostic services to which a person is entitled under this Act and the regulations;
- (f) “**Minister**” means the Minister of Health and Wellness;
- (g) “**resident**” and “**resident of the province**” means a resident of the province as defined in the regulations;
- (h) “**regulations**” means regulations made under this Act. *R.S.P.E.I. 1974, Cap. H-10,s.2; 1987,c.33,s.13; 1993,c.30,s.61; 1997,c.22,s.30; 2005,c.40,s.13; 2005,c.9,s.14; 2010,c.31,s.3.*

PART I — MINISTER

2. Minister, functions of

- (1) It is the function of the Minister and the Minister has power
 - (a) to ensure the development and maintenance throughout Prince Edward Island of a balanced and integrated system of hospitals and schools of nursing and related health facilities;
 - (b) repealed by 2005,c.9,s.14;
 - (c) repealed by 2005,c.9,s.14;
 - (d) to establish and operate, alone or in cooperation with one or more organizations, institutes and centres for the training of hospital and related personnel;
 - (e) to conduct surveys and research programs and to obtain statistics for its purposes;
 - (f) to approve or disapprove hospitals and other facilities for the purposes of this Act in accordance with the regulations;
 - (g) subject to the approval of the Lieutenant Governor in Council, to do all other acts and things that the Minister considers necessary or advisable for carrying out effectively the intent and purposes of this Act.

Health Negotiating Agency: Agency representatives

Subsections (2) to (5) repealed by 1993, c.30, s.61. R.S.P.E.I. 1974, Cap. H-10, s.5; 1993, c.30, s.61; 1997, c.22, s.30; 2005, c.9, s.14.

3. Inspectors

The Minister may determine those aspects or those recipients of the expenditure of public moneys under this Act that require review, study and investigation by the Minister to ensure compliance with this Act and the most economical expenditure of such public moneys and, for the purposes of any such review, study or investigation, may appoint inspectors, who may be employees of the Minister, to inspect hospital buildings, facilities, equipment and personnel records and assess the standard of care provided and other aspects of hospital administration and management. R.S.P.E.I. 1974, Cap. H-10, s.6; 1977, c.18, s.2; 1997, c.22, s.30.

4. Power of Minister to recover judgment

The Minister is hereby authorized and has power to recover judgment in any court of competent jurisdiction and to enforce payment to the Minister by any and all legal procedures, as a debt due Her Majesty, against all persons upon whom a duty to pay or remit moneys or premiums to the Minister is imposed under or by virtue of this Act or the regulation thereunder. R.S.P.E.I. 1974, Cap. H-10, s.8; 1997, c.22, s.30.

5. Conflict of provisions

Repealed by 1993, c.30, s.61.

6. Confidentiality

- (1) The Minister and every person employed or engaged in the administration of this Act shall maintain confidentiality with respect to all matters pertaining to this Act, that come to the person's knowledge as a result, and the person shall not communicate such information to any other person, except as provided in this section.

Disclosure of information

- (2) Subject to subsection (3), the Minister may disclose information obtained in the administration of this Act
- (a) in connection with the administration of this Act, the *Canada Health Act*, R.S.C. 1985, Chap. C-6, the *Hospitals Act*, R.S.P.E.I. 1988, Cap. H-10.1, the *Health Services Payment Act*, R.S.P.E.I. 1988, Cap. H-8 and the *Criminal Code* (Canada), R.S.C. 1985, c. C-46;
 - (b) to the person who provided the insured services, to the legal representative of that person or to the trustee in bankruptcy of that person;
 - (c) to the person who received the insured services or to the legal representative or guardian of the person;
 - (d) in proceedings under this Act;
 - (e) pursuant to a subpoena issued by a court of competent jurisdiction or as permitted by rules of court;
 - (f) including personal non-medical information to government departments, agencies and commissions, as designated by the Minister for the purpose of planning health services, research and epidemiological studies;

- (g) to employees of the Department of Health and Wellness and the Department of Family and Human Services for the purpose of carrying out a statutory duty; or
- (h) as prescribed by the regulations.

Types of information

- (3) The information that may be disclosed pursuant to subsection (2) shall be restricted to the following:
 - (a) insured services provided;
 - (b) the date on which the insured services were provided;
 - (c) the name and address of the person who provided the insured services;
 - (d) amounts paid under the plan; and
 - (e) the person to whom the payments were made from the plan.

Statistical information

- (4) Information referred to in subsection (3) may be published or disclosed in statistical form, provided that the names of the persons who received insured services are not thereby revealed.

Information to professional body

- (5) The Minister may disclose any information gathered pursuant to this Act to the statutory body governing the person who provides insured services under this Act, provided that the governing body makes a written request for the information for the purposes of investigating a complaint against one of its members or for use in disciplinary proceedings involving a member.

Reporting of child abuse

- (6) Nothing in this section shall be taken to preclude the disclosure to the Director of Child Protection of information indicative of child abuse or neglect or relevant to an investigation pursuant to the *Child Protection Act* R.S.P.E.I. 1988, Cap. C-5.1. 1999,c.29,s.1;2000(2nd),c.3,s.62; 2005,c.40,s.13; 2005,c.9,s.14; 2008,c.20,s.72(41); 2010,c.31,s.3; 2010,c.28,s.38; 2012,c.17,s.2; 2015,c.28,s.3.

PART II — HOSPITAL AND DIAGNOSTIC SERVICES INSURANCE PLAN

7. Agreement with Canada authorized

The Minister, with the approval of the Lieutenant Governor in Council, may enter into an agreement with the Government of Canada to provide for the payment by the Government of Canada to the province, of contributions in respect of the cost of insured services incurred by the province pursuant to this Act, and may from time to time vary or amend any such agreement. *R.S.P.E.I. 1974, Cap. H-10, s.13.*

8. Advances from Canada

Repealed by 1997,c.22,s.30.

9. Entitlement to receive insured services

- (1) Subject to this Act and the regulations, all residents of the province are entitled to receive insured services upon uniform terms and conditions.

Entitlement to services under another Act disqualifies under this Act

- (2) Where a person is entitled to and eligible for services under the *Workers Compensation Act* R.S.P.E.I. 1988, Cap. W-7.1 or under any other Act of the Legislature or of the Parliament of Canada or under any statute or law of any other jurisdiction either within or outside Canada specified in an agreement with the Government of Canada under this Act, he is not entitled to the same services under this Act.

Need for services ends, entitlement to insured services ends

- (3) Where a competent medical authority established under clause 11(1)(y) on the basis of reports submitted by the attending physician and the hospital, considers that an insured person is no longer in need of hospital care, that person is not entitled to insured services. *R.S.P.E.I. 1974, Cap. H-10, s.15; 2015, c.36, s.31.*

10. Minister, further functions and powers

In addition to the duties and powers enumerated in Part I, it is the function of the Minister and the Minister has power

- (a) to administer the plan of hospital care insurance established by this Act and the regulations;
- (b) to determine the amounts to be paid to hospitals and to pay hospitals for insured services provided to insured persons under the plan of hospital care insurance, and to make retroactive adjustments with hospitals for under-payment or over-payment for insured services according to the cost as determined in accordance with this Act and the regulations;
- (c) to receive and disburse all moneys pertaining to the plan of hospital care insurance;
- (d) to approve or disapprove charges made to all patients by hospitals in Prince Edward Island to which payments are made under the plan of hospital care insurance;
- (e) to enter into agreements with hospitals outside Prince Edward Island and with other governments and hospital care insurance authorities established by other governments for providing insured services to insured persons;
- (f) to prescribe forms necessary or desirable to carry out the intent and purpose of this Act;
- (g) repealed by *1997, c.22, s.30*;
- (h) to appoint inspectors and other officers with the duty and power to examine and obtain information from hospital accounting records, books, returns, reports, and audited financial statements and reports thereon;
- (i) to appoint medical practitioners with the duty and power to examine and obtain information from the medical and other hospital records, including patients' charts with medical records and nurses' notes, reports, and accounts of patients who are receiving or have received insured services;
- (j) to appoint inspectors with the duty and power to inspect and examine books, accounts, and records of employers and collectors for the purpose of obtaining information related to the hospital insurance plan;
- (k) to withhold payment for insured services for any insured person who does not, in the opinion of the Minister, medically require such services;
- (l) to act as a central purchasing agent for the purchase of drugs, biologicals or related preparations for all hospitals in the province, to supervise, check and inspect the use of drugs, biologicals or related preparations by hospitals in the province and to



- withhold or reduce payments under this Act to a hospital that does not comply with regulations respecting the purchasing of drugs, biologicals or related preparations;
- (m) to supervise and ensure the efficient and economical use of all diagnostic or therapeutic aids and procedures used by or in hospitals and to withhold or reduce payments under this Act to a hospital that does not comply with the regulations respecting the use of such aids and procedures. *R.S.P.E.I. 1974, Cap. H-10, s.16; 1977, c.18, s.5; 1993, c.30, s.61; 1997, c.22, s.30.*

11. Regulations

- (1) The Lieutenant Governor in Council may make regulations
- (a) establishing a plan of hospital care insurance;
 - (b) providing for participation in the plan of hospital care insurance by residents of the province including designated groups thereof;
 - (c) defining words used in the Act for the purpose of the Act and the regulations;
 - (d) defining residents of the province for the purposes of the plan and prescribing the terms and conditions under which residents are entitled to insured services;
 - (e) establishing the premiums that shall be paid by or on behalf of residents, together with the amount and manner of payment and other details relating to payment and other details relating to payment of premiums by or on behalf of residents and for the collection of premiums by authorized agents;
 - (f) prescribing the in-patient and out-patient services to be designated as insured services to which insured persons are entitled;
 - (g) approving hospitals and other facilities for the purposes of the plan of hospital care insurance;
 - (h) repealed by *2005, c.9, s.14;*
 - (i) repealed by *2005, c.9, s.14;*
 - (j) prescribing the terms and conditions under which payments will be made to hospitals;
 - (k) respecting the purchase of drugs, biologicals or related preparations by hospitals and, without limiting the generality thereof, requiring all hospitals in the province to purchase drugs, biologicals or related preparations through one central purchasing agent, designating one central purchasing agent for the purchase of drugs, biologicals or related preparations in the province, regulating or prohibiting the purchase of specific drugs or brands of drugs, biologicals or related preparations by hospitals in the province or by the central purchasing agent and supervising, checking and inspecting the use of drugs, biologicals or related preparations by hospitals;
 - (l) respecting the efficient and economical use of all diagnostic or therapeutic aids and procedures used by or in hospitals and respecting the withholding or reduction of payments under this Act to hospitals that do not comply therewith;
 - (m) respecting the insured services which must be provided by hospitals in order to qualify them for payment under the plan;
 - (n) respecting the records and accounts to be kept by hospitals and the returns and reports to be made by them to the Minister;
 - (o) prescribing the manner and form in which accounts shall be rendered by hospitals to the Minister;
 - (p) prescribing the conditions under which insured persons may receive insured services in hospitals situated outside the province;

- (q) respecting the amount and manner of payment for insured services rendered by hospitals within or without the province to insured persons of the province;
- (r) approving the charges that may be made for private and semi-private wards in hospitals;
- (s) establishing the proportion of total bed capacity to be designated and retained as standard ward accommodation;
- (t) prescribing the authorized charges for insured services that may be made by a hospital directly to the patient;
- (u) respecting the admission, treatment, conduct, discipline and discharge of patients or any class of patients in hospitals in Prince Edward Island to which hospital payments are made under the plan of hospital care insurance;
- (v) regulating insurance contracts which provide hospital insurance benefits supplementary to those made available under this Act and the regulations;
- (w) prohibiting, restricting or enabling the making and renewing of contracts to provide a resident with or reimbursing or indemnifying a resident for the cost of insured services, and regulating the making and renewing of contracts of insurance and prepayment plans with residents to provide any benefits related directly or indirectly to hospitalization or to the length of time a person is in hospital;
- (x) prohibiting or enabling payment by insurance to the insured of the cost of any insured services and the provision of any benefits related directly or indirectly to hospitalization or to the length of time a person is in hospital;
- (y) providing for the appointment of such advisory and other committees, boards, and other officers and agencies as the Minister considers necessary or advisable for effective operation of the plan, and providing for remuneration of the members thereof;
- (y.1) respecting claims by the Minister and approval of terms of settlement of claims made by an injured person, pursuant to this Act;
- (y.2) respecting the sharing of proceeds of a sum recovered in respect of the cost of insured services, including the payment of recovery fees;
- (z) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary or advisable to carry out effectively the intent and purposes of this Act.

Effect of regulations

- (2) A regulation made pursuant to this Act has the same force and effect as if it were expressly set out herein. *R.S.P.E.I. 1974, Cap. H-10, s.17; 1977, c.18, s.6; 1985, c.21, s.5; 1997, c.22, s.30; 1999, c.29, s.2; 2005, c.9, s.14.*

12. Application of regulations

Any regulation may be limited in its application in time, place, or to persons or things and may be retroactive in its operation. *R.S.P.E.I. 1974, Cap. H-10, s.18.*

13. Liability of Minister

Repealed by *2005, c.9, s.14. R.S.P.E.I. 1974, Cap. H-10, s.19; 2005, c.9, s.14.*

14. Definitions

- (1) In this section



- (a) “**injured person**” means a person who has suffered injury due to the negligent or wrongful act or omission of another person;
- (b) “**other person**” means the person who appears to have been negligent or committed a wrongful act or omission that resulted in injury to the injured person.

Right to claim for insured services

- (2) Subject to section 65.1 of the *Insurance Act* R.S.P.E.I. 1988, Cap. I-4, an injured person who receives insured services pursuant to this Act
 - (a) shall have the same right to claim for the cost of the insured services against the other person, as the injured person would have had if the injured person had been required to pay for the insured services; and
 - (b) shall include a claim for the cost of insured services received pursuant to this Act, where the injured person makes a claim against the other person.

Payment of damages to Minister

- (3) Where, pursuant to subsection (2) a person recovers damages attributable to insured services received pursuant to this Act, the person shall, within 20 days, pay those damages to the Minister.

Subrogation

- (4) The Minister is subrogated to the right of the injured person to claim against the other person pursuant to subsection (2).

Minister’s action

- (5) Where an injured person
 - (a) recovers damages against the other person by court order or by settlement but does not pay to the Minister the amount attributable to a claim for the cost of the insured services; or
 - (b) does not claim the cost of insured services against the other person,

the Minister may maintain an action against the injured person for the recovery of the cost of insured services provided pursuant to this Act.

Not binding against Minister, unless

- (6) An adjudication of the injured person’s claim against the other person shall not be binding against the Minister unless the claim included the cost of insured services provided pursuant to this Act.

Not a defence, unless

- (7) The settlement or release of an injured person’s claim against the other person shall not be binding against nor be a defence against the Minister’s claim under this section unless
 - (a) the claim included the cost of insured services provided pursuant to this Act; and
 - (b) the Minister has approved the settlement or release in writing.

Approval not releasing Minister’s claim

- (8) The Minister may give written approval to a settlement by the injured person which does not settle or release the claim of the Minister for cost of the insured services provided pursuant to this Act.

Net amount prorated

- (9) Subject to the regulations, where the net amount recovered pursuant to this section is insufficient to cover both the damages of the injured person and the cost of insured services provided pursuant to this Act, the injured person and the Minister shall share the recovery in proportion to their respective losses, unless the Minister agrees otherwise in writing.

Insurer to provide information

- (10) Every liability insurer, at the Minister's request, shall provide information to the Minister respecting
- (a) a claim made against an insured person by a person who received insured services pursuant to this Act; and
 - (b) the terms and conditions of any settlement entered into by an insured person and a person who received insured services pursuant to this Act.

Claim against liability insurer

- (11) Where an injured person makes a claim against a liability insurer respecting injuries that included the provision of insured services under this Act, the liability insurer shall pay to the Minister the cost of the insured services, which shall discharge the insurer of liability for those insured services.

Where *Insurance Act* applies

- (12) Subsection (11) does not apply where subsection 65.1(7) of the *Insurance Act* R.S.P.E.I. 1988, Cap. I-4 applies.

Certificate *prima facie* proof

- (13) In an action pursuant to this section, a certificate signed on behalf of the Minister shall be *prima facie* proof
- (a) that the person named in the certificate has received insured services pursuant to this Act in the amount showing in the certificate; and
 - (b) and of the office, authority and signature of the person signing, without proof of the person's appointment, authority or signature.

Minister may approve recovery fees

- (14) The Minister may approve the payment of recovery fees as prescribed, in respect of the injured person's claim for the cost of insured services received pursuant to this Act. *R.S.P.E.I. 1974, Cap. H-10, s.20; 1976, c.14, s.1; 1997, c.22, s.30; 1999, c.29, s.3.*

15. Offences, to obtain service for which not entitled

- (1) No person shall knowingly obtain or receive the benefit of insured services that he is not entitled to obtain or receive under this Act and the regulations.

Aiding or abetting

- (2) No person shall knowingly aid or abet another person to obtain or receive insured services that such other person is not entitled to obtain or receive under this Act and the regulations.

Penalties

- (3) Every person who contravenes subsection (1) or (2) is guilty of an offence and on summary conviction is liable to a fine of not less than \$250 and not more than \$2,000 or to imprisonment for a term of not more than six months or to both fine and imprisonment.



Obstruction of an inspector or medical practitioner

- (4) Every person who obstructs an inspector or a medical practitioner in the performance of his duties under this Act and the regulations is guilty of an offence and on summary conviction is liable to a fine of not less than \$200 and not more than \$10,000 or to imprisonment for a term not exceeding two years.

Penalties, general

- (5) Every person who knowingly contravenes any provision of this Act or the regulations for which no penalty is specifically provided is guilty of an offence and on summary conviction is liable to a fine of not less than \$25 and not more than \$200 or to imprisonment for a term not exceeding three months. *R.S.P.E.I. 1974, Cap. H-10, s.21; 1985, c.21, s.6.*

15.1 No cause of action where good faith

- (1) No cause of action shall be maintained against a person for anything done or omitted to be done in good faith by that person in exercising a function or performing a duty pursuant to this Act.

Vicarious liability remains

- (2) Subsection (1) does not absolve the Minister from vicarious liability for an act or omission, in which good faith could not be proved and for which the Minister would otherwise be vicariously liable.

No action for giving information

- (3) If a physician, practitioner or hospital provides information in good faith as required by this Act, no action shall be maintained against the physician, practitioner or hospital based solely on the provision of the information. *1999, c.29, s.4.*