



PRINCE EDWARD ISLAND  
ÎLE-DU-PRINCE-ÉDOUARD

# **HEALTH SERVICES PAYMENT ACT**

## PLEASE NOTE

This document, prepared by the *Legislative Counsel Office*, is an office consolidation of this Act, current to June 28, 2019. 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](http://www.princeedwardisland.ca)).

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## HEALTH SERVICES PAYMENT ACT

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## HEALTH SERVICES PAYMENT ACT

### CHAPTER H-2

#### 1. Definitions

In this Act

- (a) repealed by 1997, c.22, s.30;
- (b) repealed by 1993, c.30, s.61;
- (c) “**Minister**” means the Minister of Health and Wellness;
- (d) “**basic health services**” means all services rendered by physicians that in the opinion of the Minister are medically required and such other health services as are rendered by such practitioners and under such conditions and limitations as may be prescribed by the regulations;
  - (d.01) “**community hospital**” means a community hospital as defined in the *Hospitals Act* R.S.P.E.I. 1988, Cap. H-10.1;
  - (d.02) repealed by 2009, c.75, s.3(2);
  - (d.1) “**complement**” means the complement of participating physicians for the province approved by the Minister;
  - (d.2) repealed by 2009, c.7, s.38(2);
- (e) “**entitled person**” means a resident who is entitled to basic health services under this Act and the regulations;
  - (e.01) repealed by 2005, c.39, s.11;
  - (e.02) “**Health PEI**” means Health PEI as established under the *Health Services Act* R.S.P.E.I. 1988, Cap. H-1.6;
  - (e.03) “**hospital**” means a provincial hospital or a community hospital;
- (e.1) “**participating**” in relation to a physician or practitioner means one who holds a valid billing number authorizing the holder to claim payments under the plan, or has otherwise been admitted to and continues to participate in the plan;
- (f) “**plan**” means a plan for the payment of the cost of basic health services established in accordance with this Act and the regulations;
- (f.1) “**Planning Committee**” means the Physician Resource Planning Committee established under section 2.2;
- (f.2) repealed by 2005, c.39, s.11;
- (g) “**regulations**” means the regulations made under this Act;
- (h) “**resident**” has the meaning prescribed in the regulations;
- (i) “**physician**” means a person lawfully entitled to practise medicine in the place in which the practice is carried on by him;
- (j) “**practitioner**” means a person other than a physician who is lawfully entitled to render basic health services in the place where they are rendered;

- (j.1) repealed by 2005,c.39,s.11;
- (j.2) repealed by 2005,c.39,s.11;
- (j.3) “**strategy**” means the strategy provided for in section 2.1 to ensure that there are appropriate numbers, types, and distribution of physicians to meet the need for medical services in the province;
- (k) “**tariff**” means a tariff established by the Minister pursuant to section 2. *R.S.P.E.I. 1974, Cap. H-2, s.1; 1977,c.15,s.1; 1980,c.2,s.3; 1984,c.5,s.1; 1985,c.18,s.1; 1987,c.33,s.13; 1993,c.30,s.61; 1995,c.17,s.1; 1997,c.22,s.30; 2002,c.29,s.22; 2005,c.40,s.11; 2005,c.39,s.11; 2009,c.75,s.3(2); 2009,c.7,s.38(2); 2010,c.31,s.3.*

## PART I — MINISTER

### 2. Powers of Minister

- (1) It is the function of the Minister and the Minister has power
  - (a) to develop and operate a health services plan for the residents of the province which will qualify for financial assistance under the *Canada Health Act* R.S.C. 1985, Chap. C-6 in accordance with this Act and the regulations;
  - (b) to establish a tariff of fees or other system of payment for health services and, with the approval of the Lieutenant Governor in Council, to authorize payments in respect thereof;
  - (c) to consult with the appropriate professional organizations before establishing or altering any tariff providing for payment in respect of basic health services rendered to entitled persons;
  - (d) to interpret tariffs and determine their application to the assessment of claims;
  - (e) to conduct surveys and research in relation to health services of every kind and nature;
  - (f) to perform such other functions as may be assigned from time to time by the Lieutenant Governor in Council;
  - (g) with the approval of the Lieutenant Governor in Council to do all other acts and things which the Minister considers necessary or advisable for the purposes of carrying out effectively the intent and purpose of this Act.

#### Delegation

- (2) The Minister may, in writing, delegate any or all of the Minister’s powers, functions and duties under this Act or the regulations to Health PEI.

#### No sub-delegation

- (3) Health PEI shall not further delegate a power, duty or function delegated to it by the Minister without the consent in writing of the Minister. *R.S.P.E.I. 1974, Cap. H-2, s.4; 1985,c.18,s.6; 1997,c.22,s.30; 2016,c.10,s.1.*

## PART 1.1 — PHYSICIAN RESOURCES

### 2.1 Resources strategy

- (1) The Minister shall develop and implement a physician resources management strategy.



**Delegation**

- (2) The Minister may delegate the Minister's authority to make decisions implementing the strategy.

**Complement**

- (3) The Minister, after consideration of the recommendations of the Planning Committee, shall determine the complement of physicians for the province, specifying the numbers and types and any other conditions under which physicians are permitted to participate in the plan.

**Change to complement**

- (4) Repealed by 2009,c.75,s.3(3). 1995,c.17,s.2; 1997,c.22,s.30; 2002,c.29,s.22; 2005,c.39,s.11; 2009,c.75,s.3(3).

**2.2 Physician Resource Planning Committee**

- (1) For the purpose of assisting the Minister in the achievement of an appropriate and affordable number, and equitable distribution, of general and specialized physicians for the province, there is hereby established the Physician Resource Planning Committee, composed of the following members appointed by the Lieutenant Governor in Council:
- (a) four members of the Medical Society of Prince Edward Island, nominated by the Medical Society of Prince Edward Island;
  - (b) two persons nominated by the Minister;
  - (c) two persons nominated by the Board of Directors of Health PEI.

**Functions**

- (2) The Planning Committee shall
- (a) applying a methodology based on need, recommend to the Minister an appropriate and affordable number, and equitable distribution, of general and specialized physicians participating in the plan;
  - (b) make recommendations to the Minister respecting the implementation, management and amendment of the strategy;
  - (c) make recommendations to the Minister on the complement of physicians for the province;
  - (d) review requests from Health PEI, and make recommendations to the Minister on adjustments to the complement; and
  - (e) generally, make recommendations to the Minister on any matter respecting physician resources.

**Strategy**

- (3) The strategy shall
- (a) take into account health status goals for the province, and existing health resources;
  - (b) include targets for the appropriate numbers, types and distribution of physicians, according to the population's needs, based on assessment of community and provincial circumstances and requirements;
  - (c) take into account the affordability and sustainability of the strategy in view of the financial resources allocated from time to time;
  - (d) plan the allocation of resources, taking into account community preferences and the recommendations of Health PEI.

**Subcommittees**

- (4) The Planning Committee may establish subcommittees to inquire into and report on matters referred to them.

**Administrative support**

- (5) The Minister shall provide to the Planning Committee, and any subcommittee, such administrative and research support as may be reasonably required.

**Expenses**

- (6) The members of the Planning Committee shall receive such allowances and expenses as the Lieutenant Governor in Council may determine. *1995, c.17, s.2; 2002, c.29, s.22; 2005, c.39, s.11; 2009, c.75, s.3(4); 2009, c.7, s.38(3); 2013, c.33, s.1.*

## PART II — HEALTH SERVICES PAYMENT PLAN

### 3. Payment of benefits

- (1) Subject to this Act and the regulations, all residents of the province who are entitled persons are entitled to the payment of benefits by the Minister in respect of basic health services rendered to them on and after the plan commencement date.

**Approval of Minister**

- (2) All claims for benefits are subject to assessment and approval by the Minister, and the amount of the benefits to be paid to any claimant shall be determined by the Minister in accordance with this Act and the regulations.

**Entitlement to services**

- (3) Where a person is entitled to and eligible for any of the basic health services under the *Workers' Compensation Act R.S.P.E.I. 1988, Cap. W-7* or under any Act of the Parliament of Canada except the *Canada Health Act* he is not entitled to the same services under this Act. *R.S.P.E.I. 1974, Cap. H-2, s.9; 1985, c.18, s.3; 1985, c.18, s.6.*

### 4. Additional powers of Minister

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 health services established by this Act and the regulations;
- (b) to determine the amounts to be paid and to pay physicians and practitioners for health services provided to entitled persons under the Health Services Payment Plan, and to make retroactive adjustments to physicians and practitioners for underpayment or overpayment for basic health services according to the tariff determined in accordance with this Act and the regulations;
- (c) to receive and disburse all moneys pertaining to the Health Services Payment Plan;
- (d) to enter into agreements with other governments and medical care authorities established by other governments for providing basic health services to entitled persons;
- (e) to prescribe forms necessary or desirable to carry out the intent and purpose of this Act;
- (f) repealed by *1997, c.22, s.30;*





- (g) to appoint physicians 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 basic health services;
- (h) to withhold payment for basic health services for any entitled person who does not, in the opinion of the Minister, medically require the services;
- (i) to determine those aspects of the expenditure of public moneys under this Act that require review, study or investigation to ensure compliance with this Act and the most economical expenditure of such public moneys, and to appoint, prescribe terms of reference for and vest powers and authority in inspectors for that purpose. *R.S.P.E.I. 1974, Cap. H-2, s.10; 1977, c.15, s.2; 1993, c.30, s.61; 1997, c.22, s.30; 1997, c.22, s.30.*

## 5. Regulations

- (1) The Lieutenant Governor in Council may make regulations
  - (a) establishing a plan for the payment of the cost of basic health services received by entitled persons;
  - (b) prescribing the waiting period (not exceeding three months) before a person who becomes a resident of the province after the plan commencement date becomes an entitled person, and the period during which an entitled person remains eligible for benefits under this Act after removing his residence from this province;
  - (c) prescribing the basic health services for which entitled persons are eligible and the exclusions under the plan;
  - (d) excepting services rendered by a physician or practitioner from the services in respect of which an entitled person is eligible to receive benefits;
  - (e) prescribing the terms and amounts to be paid with respect to the cost of basic health services rendered to entitled persons outside Prince Edward Island;
  - (f) prescribing the manner of and time for submission of claims for basic health services rendered to entitled persons either within or outside the province;
  - (g) providing for the making of claims for payment of the cost of basic health services and prescribing the information that shall be furnished in connection therewith;
  - (h) respecting the records and accounts to be kept by Minister in respect of the Minister's duties, functions and responsibilities under this Act;
  - (i) prescribing the forms and records to be used for the purposes of this Act or the regulations;
  - (j) respecting the procedure that shall be followed by the Minister in dealing with disputes or complaints relating to or arising from the plan;
  - (k) respecting the inspection, management, conduct and operation of the Minister in respect of its duties, functions and responsibilities under the plan;
  - (l) defining for purposes of the plan any word or phrase used in this Act;
  - (m) providing for the appointment and remuneration of such advisory or other committees, boards and other officers or agencies as the Minister considers necessary or advisable for the effective operation of the plan;
  - (n) respecting the appointment of inspectors under this Act and prescribing the terms of reference, powers and duties of inspectors;
  - (o) respecting the manner of and other details relating to payment of claims to entitled persons and to physicians or practitioners;

- (p) specifying what services other than medical services are basic health services for the purposes of the plan, and prescribing what practitioners may render the services and under what conditions the services are basic health services and prescribing the amount of payment for the health services;
- (q) prescribing guidelines to be applied by a physician or practitioner in making a determination under section 9 and the procedures for payment to an entitled person for basic health services rendered consequent to such determination;
- (r) limiting payment for group services, whether examinations or immunization, except where prior approval of the Minister has been obtained;
- (s) prescribing services that shall be deemed not to be basic health services for the purposes of this Act and the conditions under which the costs of any class of basic health services are payable and limiting the payment commensurate with the circumstances of the performance of the services;
- (t) regarding the sponsorship of training of physicians and their establishment in practice in Prince Edward Island;
- (u) respecting applications by physicians and practitioners to participate in the plan;
- (v) respecting the issuance, classification, suspension, cancellation, reinstatement, surrender and revocation of authorization to participate in the plan;
- (w) respecting the terms, conditions, and circumstances, in which authorization to participate in the plan may be given, refused, held, used, suspended, cancelled, reinstated, surrendered, and revoked;
- (w.1) requiring a participating physician or practitioner to apply to the Minister for approval to make any significant changes to his or her practice as a participant, including a change in geographical location or in respect of basic health services provided;
- (w.2) respecting the application process and the determination of an application referred to in clause (w.1), including the factors to be taken into account;
- (w.3) authorizing the Minister to impose conditions on a participant's participation in the plan on approving an application or part of an application referred to in clause (w.1);
- (x) respecting circumstances in which, periods for which, and percentages by which, amounts payable for all or some basic health services rendered by all or some physicians or practitioners may be greater than, or smaller than, the amount that would otherwise be payable;
- (y) establishing and implementing the strategy;
- (z) respecting interim measures to control the costs of the plan pending the adoption of the strategy; and
- (z.1) respecting claims by the Minister and approval of terms of settlement of claims made by an injured person, pursuant to this Act;
- (z.2) respecting the sharing of proceeds of a sum recovered in respect of the cost of basic health services including the payment of recovery fees;
- (aa) generally for the better carrying out of the objects and purposes of this Act or in respect of any matter for which no provision or only imperfect provision has been made.

#### **Effect of regulation**

- (2) A regulation made pursuant to this Act shall have the same force as if it were expressly set out herein. *R.S.P.E.I. 1974, Cap. H-2, s.11; 1977,c.15,s.3; 1980,c.24,s.1; 1995,c.17,s.3; 1997,c.22,s.30; 1999,c.27,s.1; 2016,c.40,s.1.*



**6. Member of Legislative Assembly**

No person who receives a payment under this Act shall thus be made ineligible as a member of the Legislative Assembly. *R.S.P.E.I. 1974, Cap. H-2, s.12.*

**7. Application of Act**

Nothing in this Act

- (a) prevents a person from choosing his own physician or practitioner;
- (b) prevents a physician or practitioner from practising as a physician or practitioner outside the plan; or
- (c) imposes an obligation upon a physician or practitioner to treat a person. *R.S.P.E.I. 1974, Cap. H-2, s.13.*

**8. Application**

- (1) A practitioner or physician who wishes to participate in the plan shall apply to the Minister.

**Existing physicians and practitioners**

- (2) Subject to such exclusions as may be prescribed by the regulations, the Minister shall recognize as a participating physician or practitioner any physician or practitioner who received payments from the Minister under the plan at any time during the period of two years preceding the date on which this section comes into force.

**Admission**

- (3) The Minister shall, in determining whether to admit an applicant to participate in the plan, consider the complement and any recommendation of the Planning Committee.

**Idem, conditions**

- (4) The Minister may admit a physician or practitioner to participate in the plan subject to one or more of the following conditions:
  - (a) restricting the geographical area of application;
  - (b) restricting the duration of validity;
  - (c) restricting the validity to claims for basic health services rendered in order to carry on the practice of another physician or practitioner during his absence or indisposition. *1995,c.17,s.4.*

**9. Eligibility for direct payment**

In respect of a basic health service provided to an entitled person by a participating physician or practitioner, the physician or practitioner is eligible to receive payment under the plan directly from the Minister in accordance with the prescribed procedures and conditions. *1995,c.17,s.4.*

**10. Non-participating**

- (1) A non-participating physician or practitioner is not eligible to receive any payment under the plan directly from the Minister in accordance with the prescribed procedures and conditions.

**Payment to entitled person**

- (2) In respect of a basic health service provided to an entitled person by a non-participating physician or practitioner, the entitled person is eligible to receive payment under the plan

from the Minister in accordance with the prescribed procedures and conditions, and in such case the physician or practitioner shall

- (a) advise the person that he is not a participating physician or practitioner; and
- (b) provide the person with sufficient information to enable the person to recover the amount payable in accordance with the prescribed procedures and conditions. *1995, c.17, s.4.*

### 10.1 Selective opting out of the plan

- (1) A participating physician or practitioner may determine, subject to and in accordance with the regulations, in respect of a particular patient or a particular basic health service, to collect his fees otherwise than from the Minister under the plan, and if he so determines, he shall, before rendering the service, inform the patient that the patient will be billed directly for the service rendered.

#### Minister to be advised of determination

- (2) Where a physician or practitioner has made a determination under subsection (1) he shall, in such manner as the Minister may require, inform the Minister thereof and of the total charge made to the patient for the service rendered. *1995, c.17, s.4.*

## 11. Entitlement

An entitled person who is charged for a basic health service and submits a substantiated claim in respect thereof to the Minister is entitled to payment of the amount of the charge or the amount payable pursuant to the tariff established by the Minister in relation to that service, whichever is the lesser amount. *R.S.P.E.I. 1974, Cap. H-2, s.16; 1997, c.22, s.30.*

## 12. Payments

Payments under the plan for basic health services provided by physicians or practitioners shall be as prescribed by the regulations. *R.S.P.E.I. 1974, Cap. H-2, s.17; 1985, c.18, s.4.*

## 13. Agreements

- (1) The Minister may enter into agreements or make arrangements for payment
  - (a) to an employer of a physician or a practitioner who with the consent of the employee, has assigned to the employer his right to collect his fees under the plan;
  - (b) to a partnership, association or group of physicians or practitioners who have assigned to the partnership, association or group, their right to collect their fees under the plan; or
  - (c) to a physician or practitioner who renders basic health services on a basis other than a fee for services rendered.

#### Approval of assignment

- (2) An assignment made pursuant to clauses (1)(a) or (b) has no force or effect for purposes of the plan unless the Minister approves of the terms and conditions of the assignment, and a copy of the assignment is filed with the Minister. *R.S.P.E.I. 1974, Cap. H-2, s.18.*

## 14. Payment under tariff

- (1) A participating physician or practitioner is entitled to payment in accordance with the tariff for basic health services rendered to an entitled person.



**Tariff amount is maximum payment**

- (2) No person shall pay a participating physician or practitioner any amount for a basic health service rendered to an entitled person greater than the amount payable under the tariff.

**Differential rates**

- (3) The tariff may provide differential rates for a particular service, including differentials based on such factors as
- (a) the geographical area in which the service is rendered,
  - (b) the setting in which the service is rendered,
  - (c) the incidence of demand for the service,
  - (d) the volume of services that have been performed and the degree to which the budget for those services has been expended, and
  - (e) the total amount paid for the service in a previous year.

**Annual review**

- (4) Not later than September 1 of each year the Minister shall review the tariff with the appropriate professional organizations. *1995,c.17,s.5; 2016,c.10,s.2.*

**14.1 Prohibition of extra billing**

No payment whatsoever shall be made to a physician or practitioner or entitled person in respect of any basic health service for which a charge is made that is greater than that authorized by the tariff. *1995,c.17,s.5; 2016,c.10,s.3.*

**15. Agreements by Minister**

Except in cases where such action would contravene the requirements of the *Canada Health Act*, the Minister may enter into agreements with any government, person or group of persons

- (a) respecting any matter relating to the administration or operation of the plan; or
- (b) providing for any matter for which no provision is made elsewhere in this Act or in the regulations which it considers necessary for the purpose of exercising or discharging its powers, duties or functions,

and the Minister may implement any agreement so made. *R.S.P.E.I. 1974, Cap. H-2, s.20; 1985,c.18,s.6; 1993,c.30,s.61; 1997,c.22,s.30.*

**16. Delegation of functions**

Notwithstanding subsection 2(2), the Minister may delegate certain administrative functions to any agency if the action does not contravene the requirements of the *Canada Health Act*. *R.S.P.E.I. 1974, Cap. H-2, s.21; 1985, c.18, s.6; 2016,c.10,s.4.*

**17. 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, c. C-6, the *Hospitals Act* R.S.P.E.I. 1988, Cap. H-10, the *Hospital and Diagnostic Services Insurance 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 basic health services, to the legal representative of that person or to the trustee in bankruptcy of that person;
  - (c) to the person who received the basic health services or to the legal representative or guardian of the person;
  - (d) in proceedings under this Act;
  - (e) pursuant to a subpoena by a court of competent jurisdiction or as permitted by the 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 or the Department of Social Development and Housing or Health PEI for the purpose of carrying out a statutory duty;
  - (g.1) repealed by 2009,c.7,s.38(4); 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) basic health services provided;
  - (b) the date on which the basic health services were provided;
  - (c) the name and address of the person who provided the basic health services;
  - (d) amounts paid under the plan; and
  - (e) the person to whom 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 basic health 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 child abuse or neglect**

- (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.27,s.2; 2000(2nd),c.3,s.62;



2005,c.40,s.11; 2005,c.39,s.11; 2008,c.20,s.72(39); 2009,c.7,s.38(4); 2010,c.31,s.3; 2010,c.28,s.37; 2012,c.17,s.2; 2015,c.28,s.3; 2019,c.1,s.3.

**18. Limitation of action**

No action lies against a person providing basic health services or a member of his staff in respect of the furnishing to the plan of information relating to basic health services provided by him. *R.S.P.E.I. 1974, Cap. H-2, s.23.*

**19. Liability of Minister**

The Minister is not liable for any act or omission of any physician or a practitioner relating to the provision of basic health services under the plan. *R.S.P.E.I. 1974, Cap. H-2, s.24.*

**20. Referral to committee**

- (1) The Minister, or an agency to whom the Minister has delegated the Minister's authority under this Act, may refer any claim or claims to a committee established or continued under the regulations for the purpose of assessing the claims and their amounts in accordance with the regulations.

**Report to Minister or agency**

- (2) Where the committee concludes that there has been misuse or abuse of the plan, or that a fee claimed is not commensurate with the service rendered, it shall report its conclusions and recommendations to the Minister and the agency referred to in subsection (1), if any, and the Minister or the agency, as the case may be, may refuse payment or make payment in accordance with the committee's conclusions and recommendations. *R.S.P.E.I. 1974, Cap. H-2, s.25; 2008,c.16,s.1; 2013,c.33,s.2; 2016,c.10,s.5.*

**20.1 Additional functions**

In addition to its functions under section 20, the committee shall provide advice and recommendations to the Minister respecting

- (a) the effective and efficient administration of the plan;
- (b) proposed changes to the plan; and
- (c) other matters referred to it by the Minister from time to time. *2013,c.33,s.3.*

**21. Effect of contract of insured person**

- (1) Subject to subsection (3)
- (a) every contract under which an insured person is to be provided with, or to be reimbursed or indemnified for, the costs of basic health services that are benefits under this Act, has no force or effect and no payments shall be made thereunder to reimburse or indemnify any person for those costs in whole or in part; and
  - (b) no person shall make or renew a contract under which a resident is to be provided with, or to be reimbursed or indemnified for, any part of the cost of basic health services that are benefits.

**Refund of premium**

- (2) Where under clause (1)(a) a contract ceases to have force and effect, the insurer making the contract shall refund the unearned premium to the person insured, in cash or in the form of

increased benefits of equal value, and the refund shall be made forthwith after the date on which this section comes into force.

**Application of subsection (1)**

- (3) Subsection (1) does not apply to a contract or part of a contract
- (a) wherein the sole payments or advantages provided are those payable to third persons
    - (i) under an insurance contract in respect of third party liability, or
    - (ii) under a motor vehicle liability contract issued under the *Insurance Act* R.S.P.E.I. 1988, Cap. I-4; or
  - (b) that provides coverage in respect of basic health services provided to residents while outside the province for charges or fees in excess of the level of payment for such services provided under this Act. *R.S.P.E.I. 1974, Cap. H-2, s.26; 1977, c.15, s.5.*

**22. 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 basic health 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 basic health services pursuant to this Act
- (a) shall have the same right to claim for the cost of the basic health services against the other person, as the injured person would have had if the injured person had been required to pay for the basic health services; and
  - (b) shall include a claim for the cost of basic health 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 basic health 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 basic health services; or
  - (b) does not claim the cost of basic health services against the other person,

the Minister may maintain an action against the injured person for the recovery of the cost of basic health 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 basic health 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 basic health 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 the cost of the basic health 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 basic health 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 basic health 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 basic health 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 basic health services under this Act, the liability insurer shall pay to the Minister the cost of the basic health services, which shall discharge the insurer of liability for those basic health 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 basic health services pursuant to this Act in the amount showing in the certificate; and
  - (b) 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 basic health services received pursuant to this Act. *1999,c.27,s.3.*

**22.1 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.27,s.4.*

## OFFENCES AND PENALTIES

**23. Offences and penalties**

- (1) A person providing basic health services to an entitled person, who wilfully makes a false statement in any report, form or return required to be submitted to the Minister to enable benefits to be paid by the Minister to him or to any other person is guilty of an offence and liable on summary conviction to a fine of not less than \$250 and not more than \$2,000.

**Act to prevail**

- (2) A person other than a person providing basic health services to an entitled person who wilfully makes a false statement in any report, form or return prescribed by or required for the purposes of this Act or the regulations is guilty of an offence and liable on summary conviction to a fine of not less than \$250 and not more than \$2,000. *R.S.P.E.I. 1974, Cap. H-2, s.28; 1985,c.18,s.5; 1994,c.58,s.6; 1999,c.27,s.5.*

**23.1 Offence where not entitled to basic health services**

- (1) No person shall knowingly receive the benefit of basic health services under this Act, unless the person is entitled to receive basic health services pursuant to this Act.

**Offence to aid unentitled person**

- (2) No person shall knowingly aid or abet another person to receive basic health services under this Act to which the other person is not entitled.

**Penalty**

- (3) Every person who contravenes subsections (1) or (2) is guilty of an offence and is liable to a fine of not less than \$250 and not more than \$2000. *1999,c.27,s.6.*



**23.2 Transitional**

The members of the Planning Committee, on the date this section comes into force, shall continue to act until their replacements are appointed. *2005,c.39,s.11.*

**24. *Idem***

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