

1992

Chapter 75

An Act to amend *The Saskatchewan Medical Care Insurance Act*

(Assented to _____, 1992)

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

Short title

1 This Act may be cited as *The Saskatchewan Medical Care Insurance Amendment Act, 1992*.

R.S.S. 1978, c.S-29 amended

2 *The Saskatchewan Medical Care Insurance Act* is amended in the manner set forth in this Act.

Section 2 amended

3 Section 2 is amended:

(a) by repealing clause (h) and substituting the following:

“(h) **`insured services'** means the services that are declared to be insured services pursuant to section 14 and that are not declared or deemed to be uninsured services pursuant to section 15 or 24”; and

(b) by repealing clause (m) and substituting the following:

“(m) **`physician'** means a person who is registered under *The Medical Profession Act, 1981*, who is the holder of a valid and subsisting licence that is issued under that Act and that is not under suspension by the Council of the College of Physicians and Surgeons pursuant to that Act, and includes the holder of a valid and subsisting permit that is issued under that Act and that is not under suspension pursuant to that Act”.

Section 14 amended

4 Subsections 14(1) to (3) are repealed and the following substituted:

“(1) Subject to sections 15 and 24, services that are medically required services provided in Saskatchewan by a physician are insured services.

“(2) Subject to sections 15 and 24, the following services that are prescribed in the regulations and provided in Saskatchewan are insured services:

(a) services of an optometrist;

(b) services of a dentist;

- (c) services of a chiropractor;
- (d) other services that are prescribed in the regulations.

"(3) Subject to sections 15 and 24, where a beneficiary receives a service outside Saskatchewan that would be an insured service pursuant to subsection (1) or (2) if it were provided in Saskatchewan, the service is an insured service if it is provided:

- (a) by a person who, in the opinion of the minister, possesses qualifications equivalent to those required of a person providing that type of insured service in Saskatchewan; and
- (b) in accordance with the terms and limitations prescribed in the regulations".

Section 15 amended

5 Section 15 is amended:

- (a) by striking out "are not insured" and substituting "are uninsured"; and
- (b) by repealing clause (h) and substituting the following:

"(h) any other services provided by physicians that are prescribed in the regulations".

Section 15.1 amended

6 Section 15.1 is amended by striking out "pursuant to clause 14(2)(d) or 15(h)" and substituting "for the purposes of clause 15(h) or pursuant to clause 48(1)(i.1)".

Section 18 amended

7 Section 18 is amended:

- (a) by adding the following subsection after subsection (1.2):

"(1.3) Subsections (1.1) and (1.2) do not apply to insured services provided by a chiropractor";

- (b) by striking out "section 49" in subsection (4) and substituting "sections 49 to 49.91"; and

- (c) by adding the following subsections after subsection (10):

"(10.1) Notwithstanding subsections (8) to (10), the minister may make payments respecting services that are insured services pursuant to subsection 14(3) to an insurer who, pursuant to an insurance contract, has paid on behalf of a beneficiary for those insured services.

"(10.2) A payment by the minister to an insurer pursuant to subsection (10.1) is deemed to be in satisfaction of the minister's obligation under this section to make the payment to the beneficiary".

New sections 18.01 to 18.03**8 The following sections are added after section 18:****"Limits on charges for insured chiropractic services**

18.01 No chiropractor who provides an insured service to a beneficiary that is prescribed in the regulations shall demand or accept payment for that service in an amount that the chiropractor knows exceeds the amount that the chiropractor may charge under those regulations for that service from either the beneficiary or any other person, or both.

"Limits on charges for services provided to certain persons

18.02(1) In this section and in section 18.03, '**client**' means:

- (a) a beneficiary within the meaning of *The Saskatchewan Assistance Plan Supplementary Health Benefits Regulations*, being Saskatchewan Regulations 65/66;
- (b) a person entitled to benefits pursuant to *The Saskatchewan Income Plan Act*;
- (c) a person who is receiving benefits under the Family Income Plan within the meaning of the regulations made pursuant to *The Saskatchewan Assistance Act*.

(2) No chiropractor or optometrist who provides a service to a client for which a payment is made pursuant to *The Saskatchewan Assistance Plan Supplementary Health Benefits Regulations*, being Saskatchewan Regulations 65/66, shall demand or accept payment for that service in an amount that the chiropractor or optometrist knows exceeds the amount that the chiropractor or optometrist may charge under those regulations for that service from all or any of the client, the minister or any other person.

"Deemed payments

18.03 For the purposes of sections 18.01 and 18.02, any amount that a chiropractor or optometrist requires a beneficiary or client to pay or to have paid as a condition of receiving a service, whether that amount is to be or has been paid to the person who provides the service or to any other person, is deemed to be a payment for that service".

Section 22 repealed**9 Section 22 is repealed.****New section 32.2****10 The following section is added after section 32.1:****"Liability of certain third parties and insurers**

32.2(1) Where, as a result of the negligence or any other wrongful act of any other person, a beneficiary suffers personal injuries for which the beneficiary receives insured services paid for under this Act, the beneficiary has the same right to recover the sum paid for those services from the person guilty of the negligence or other wrongful act as the beneficiary would have had if he or she had been required to pay for the services.

(2) On recovering all or any part of the sum paid mentioned in subsection (1), the beneficiary shall immediately pay the amount recovered to the minister.

(3) On payment being made under this Act for insured services to a beneficiary mentioned in subsection (1), the minister shall be subrogated to all rights of recovery of the beneficiary from any person with respect to the cost of those insured services and may bring an action in the name of the beneficiary to enforce those rights.

(4) Nothing in subsection (1) or (3) restricts the right of the beneficiary to recover any sum with respect to the personal injuries in addition to the sum paid for insured services under this Act.

(5) Where the beneficiary brings an action to recover any sum with respect to the personal injuries mentioned in subsection (4), the beneficiary shall, on behalf of the minister, include in his or her claim a claim for the sum paid under this Act.

(6) Except with the written consent of the minister, no action in which a claim for the sum paid under this Act has been included on behalf of the minister shall be settled without provision being made for payment in full of that sum.

(7) The minister may bear the proportion of the taxable costs payable by a beneficiary conducting any action mentioned in this section that bears the same ratio to the total of those costs as the amount claimed on behalf of the minister bears to the total amount claimed, but the portion of the taxable costs borne by the minister shall not exceed 50% of the amount claimed on the minister's behalf.

(8) An insurer who is liable to the beneficiary with respect to those personal injuries shall pay to the minister the lesser of:

- (a) the amount for which the insurer is liable; or
- (b) the amount paid under this Act with respect to the injuries.

(9) A payment to the minister under subsection (8) shall, to the extent of the amount paid, discharge the liability of the insurer to the beneficiary”.

Section 48 amended

11 The following clauses are added after clause 48(1)(i):

“(i.1) for the purposes of subsection 14(2), prescribing services that are to be insured services;

“(i.2) for the purposes of section 18.01, prescribing insured services to which that section applies and prescribing the amount that a chiropractor may charge a beneficiary or any other person in excess of the payment that may be made for those services pursuant to the regulations made under clause (c);

“(i.3) prescribing any other matter or thing required or authorized by this Act to be prescribed in the regulations”.

New section 52

12 Section 52 is repealed and the following substituted:

“Offence and penalty

52(1) Every person who contravenes subsection 18(1.1) or section 18.01 or 18.02 is guilty of an

offence and liable on summary conviction to a fine of not more than \$5,000.

(2) Every person who contravenes any provision of this Act for which no penalty is prescribed is guilty of an offence and liable on summary conviction to a fine of not more than \$100.

(3) Where a person is convicted of an offence mentioned in subsection (1), the convicting judge shall order the person to pay into court, in addition to any fine which may be imposed, an amount equal to the amount by which any payment accepted by the person for a service exceeded the payment to be made or the amount that may be charged, as the case may be, for that service.

(4) The convicting judge shall direct payment of the amount mentioned in subsection (3) to the beneficiary or to any other person that the convicting judge may direct.

(5) No prosecution for an offence mentioned in subsection (1) shall be instituted without the prior consent of the Attorney General.

Coming into force

13 This Act comes into force on a day to be fixed by proclamation of the Lieutenant Governor but, on proclamation, is retroactive and is deemed to have been in force on and from June 1, 1992.