

1997

CHAPTER 49

An Act to amend *The Saskatchewan Assistance Act* and to make consequential amendments to another Act

(Assented to May 21, 1997)

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 Assistance Amendment Act, 1997*.

R.S.S. 1978, c.S-8 amended

2 *The Saskatchewan Assistance Act* is amended in the manner set forth in this Act.

Section 2 amended

3 Section 2 is amended:

(a) by repealing clause (c);

(b) by adding the following clause before clause (c.1):

“(c.01) ‘**income-tested program**’ means a program to provide assistance, whether established pursuant to this Act or any other Act, that is designated in the regulations as an income-tested program”;

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

“(f.1) ‘**program Act**’ means an Act pursuant to which an income-tested program is established;

“(f.2) ‘**program benefit**’ means any form of assistance provided pursuant to an income-tested program;

“(f.3) ‘**program manager**’ means a person designated by the minister to administer an income-tested program;

“(f.4) ‘**program regulations**’ means regulations enacted pursuant to this Act or any other program Act with respect to income-tested programs”; **and**

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

“(i) ‘**unit administrator**’ means:

(i) a person designated or appointed by the minister as a unit administrator; or

(ii) a person designated or appointed as a unit administrator by an Indian band, municipality or agency with which the minister has entered into an agreement pursuant to subsection 8(2.1)”.

Section 3 repealed

4 Section 3 is repealed.

Section 4 amended

5 Subsection 4(1) is repealed.

Section 7 amended

6 Subsection 7(1) is amended by striking out “A unit” and substituting “Subject to any program Act or program regulations, a unit”.

Section 8 amended

7(1) Clauses 8(1)(b) and (c) are repealed.

(2) Subsection 8(2) is repealed.

Section 10 repealed

8 Section 10 is repealed.

Section 13 amended

9 Section 13 is amended by striking out “the director” and substituting “a unit administrator or program manager”.

Section 14 amended

10(1) Subsection 14(1) is amended:

(a) in clause (d):

(i) by adding “or authorized to be released” after “furnished”; and

(ii) by adding “or while assistance is being given” after “is given”;

(b) in clause (e) by adding “or continue receiving assistance” after “assistance”;

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

“(i.1) for the purposes of clause 2(c.01), designating programs as income-tested programs”;

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

“(l.1) governing:

(i) the appointment of adjudicators to consider and determine appeals against decisions with respect to income-tested programs; and

(ii) the powers of adjudicators appointed pursuant to subclause (i)”;

(e) in clause (m) by striking out “assistance” and substituting “program benefits or assistance in a form other than program benefits”;

(f) by repealing clause (n) and substituting the following:

“(n) prescribing procedures to be followed in making appeals mentioned in clause (m) and in conducting and determining those appeals”;

(g) by repealing clause (o) and substituting the following:

“(o) prescribing the manner in which records shall be kept by units”;

(h) in clause (p) by striking out “the director or officers of the department authorized by him” and substituting “officers of the department authorized by the minister”;

(i) by adding the following clause after clause (p):

“(p.1) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act or any other program Act”;

(j) by repealing clause (q); and**(k) by repealing clauses (t), (u), (v) and (w).****(2) Subsection 14(1.1) is repealed and the following substituted:**

“(1.1) The Lieutenant Governor in Council may, in the regulations, delegate any of the powers set out in subsection (1) to the minister, a unit administrator, any official of the department or any unit.

“(1.2) Where, in the opinion of the Lieutenant Governor in Council, it is necessary or desirable for the better administration of programs that provide assistance to persons in need, the Lieutenant Governor in Council may, in regulations made pursuant to this Act:

(a) exercise, with respect to an income-tested program established pursuant to any other program Act, any of the regulation-making powers conferred on the Lieutenant Governor in Council by the program Act; and

(b) exercise any of the regulation-making powers conferred on the Lieutenant Governor in Council by this Act with respect to an income-tested program established pursuant to any other program Act”.

Section 15 amended

11 Section 15 is amended by striking out “The minister” and substituting “Subject to section 17.1, the minister”.

Section 17 amended

12 Section 17 is amended by striking out “A person, including a director” and substituting “Subject to sections 17.1 and 29.6, a person, including a unit administrator”.

New section 17.1

13 The following section is added after section 17:

“Appeals from decisions re income-tested programs

17.1(1) Notwithstanding section 10 of *The Department of Social Services Act*, the minister shall, in accordance with the program regulations, appoint one or more adjudicators to consider and determine appeals from decisions with respect to income-tested programs.

(2) A person who is aggrieved by a decision of a program manager with respect to an income-tested program may appeal the decision in accordance with the program regulations only on a ground of appeal specified in the program regulations.

(3) Subject to section 29.6, the decision of an adjudicator is final, and there is no further right of appeal”.

Section 21 repealed

14 Section 21 is repealed.

Section 23 amended

15 Section 23 is amended by striking out “director’s” and substituting “unit administrator’s”.

Section 24 amended

16 Section 24 is amended by striking out “or the director” and substituting “, a unit administrator or a program manager”.

Section 28 amended

17 Subsection 28(2) is repealed.

Section 29 repealed

18 Section 29 is repealed.

New sections 29.1 to 29.6

19 The following sections are added before section 30:

“Interpretation of sections 29.1 to 29.6

29.1 In this section and in sections 29.2 to 29.6:

- (a) **‘basic assistance’ or ‘basic program benefit’** means:
- (i) with respect to a person whose circumstances have changed, the amount of assistance or program benefits, as the case may be, that the person is entitled to receive after the change in circumstances;
 - (ii) with respect to a person who refuses to provide or authorize the release of information, the amount of assistance or program benefits, as the case may be, that the person is entitled to receive in relation to matters for which the person has provided or authorized the release of sufficient information to establish his or her entitlement;
 - (iii) with respect to a person who provides incorrect or misleading information or who conceals information, the amount of assistance or program benefits, as the case may be, that the person is entitled to receive in relation to matters for which the person has provided correct information to establish his or her entitlement;
 - (iv) with respect to a person who receives an overpayment as a result of any other reason, the amount of assistance or program benefits, as the case may be, that the person is entitled to receive in the absence of that other reason;
- (b) **‘excess assistance’ or ‘excess program benefit’** means:
- (i) with respect to a person whose circumstances have changed, the amount by which the assistance or program benefits, as the case may be, paid to the person after the change in circumstances exceeds the amount of the person’s basic assistance or basic program benefit;
 - (ii) with respect to a person who refuses to provide or authorize the release of information, the amount by which the assistance or program benefits, as the case may be, paid to the person after the refusal to provide or authorize the release of information exceeds the amount of the person’s basic assistance or basic program benefit;
 - (iii) with respect to a person who provides incorrect or misleading information or who conceals information, the amount by which the assistance or program benefits, as the case may be, paid to the person after the provision of incorrect or misleading information or after the concealing of information exceeds the amount of the person’s basic assistance or basic program benefit;

- (iv) with respect to a person who receives an overpayment as a result of any other reason, the amount by which the assistance or program benefits, as the case may be, paid to the person after the event giving rise to the other reason exceeds the amount of the person's basic assistance or basic program benefit;
- (c) **'other assistance'** means assistance in any form other than in the form of program benefits;
- (d) **'person who receives program benefits'** or **'person who receives other assistance'** includes:
 - (i) a trustee to whom payments are made on behalf of another person who is entitled to receive program benefits or other assistance, as the case may be; and
 - (ii) a spouse, as defined in the applicable regulations, who, at the relevant time, is included in the family unit of the person to whom payments of program benefits or other assistance, as the case may be, are made.

“Provision of information

29.2(1) A person who receives program benefits pursuant to an income-tested program shall, in accordance with the program regulations:

- (a) notify the program manager of any change in his or her circumstances that affects his or her eligibility for program benefits or the amount of those benefits; and
- (b) provide or authorize the release of any information prescribed in the program regulations on the request of the program manager.

(2) A person who receives other assistance shall, in accordance with the regulations:

- (a) notify the unit administrator of any change in his or her circumstances that affects his or her eligibility for assistance or the amount of that assistance; and
- (b) provide or authorize the release of any information prescribed in the regulations on the request of the unit administrator.

“Overpayments

29.3 Where a person contravenes section 29.2 or where a person obtains program benefits or other assistance by providing incorrect or misleading information or by concealing information or where a person obtains excess program benefits or excess assistance as a result of any other reason:

- (a) all amounts of excess program benefits or excess assistance received by the person are deemed to be an overpayment; and
- (b) the person is not entitled to receive any program benefits in addition to the basic program benefits or any other assistance in addition to the basic assistance until he or she provides proof to the satisfaction of the program manager or the unit administrator, as the case may require, of his or her eligibility for additional program benefits or additional other assistance.

“Notices of decisions

29.4(1) Where a program manager or unit administrator determines that a person has received an overpayment, the program manager or unit administrator shall:

- (a) send a notice of the decision to the person stating the amount of the overpayment; and
- (b) on request, provide the person with written reasons for the decision.

(2) Subject to subsection (4), where a program manager or a unit administrator determines that a person is not eligible for program benefits or other assistance, the program manager or unit administrator shall:

- (a) send a notice of the decision to the person stating the amount, if any, of the program benefits or other assistance for which the person is eligible; and
- (b) on request, provide the person with written reasons for the decision.

(3) A notice pursuant to subsection (1) and a notice pursuant to subsection (2) may be combined in the same document.

(4) Where the amount of program benefits or other assistance that a person is eligible to receive ordinarily varies from month to month or is reduced as a result of variations in circumstances:

- (a) the cheque stub sent to the person with the payment is deemed to be a notice that the program manager or unit administrator has made a decision regarding the amount, if any, of program benefits or other assistance for which the person is eligible; and
- (b) on request, the program manager or unit administrator shall provide the person with reasons for the decision.

(5) The program manager or unit administrator shall advise a person to whom this section applies of any rights of appeal pursuant to section 15, 17 or 17.1 that the person has.

“Recovery of overpayments

29.5(1) Where an overpayment to a person of program benefits or other assistance occurs for any reason, the overpayment is a debt due to the Crown in right of Saskatchewan and, in addition to any other manner in which it may be recovered, may be recovered:

- (a) by deducting the amount of the overpayment from future payments of program benefits or other assistance for which the person is eligible; or
- (b) subject to subsection (2), by filing a certificate of the minister certifying the amount of the overpayment with the local registrar of the Court of Queen’s Bench at any judicial centre.

(2) A certificate may be filed pursuant to clause (1)(b) where:

- (a) 30 days have elapsed after the person to be named in the certificate has been given written notice of his or her right to appeal a determination respecting the existence or amount of an overpayment and no appeal has been commenced; or

(b) 30 days have elapsed after the determination of an appeal respecting the existence or amount of an overpayment.

(3) A certificate filed pursuant to clause (1)(b) has the same effect as if it were a judgment obtained in the Court of Queen's Bench for the recovery of a debt in the amount specified in the certificate.

(4) A unit administrator or program manager who files a certificate pursuant to clause (1)(b) shall promptly serve the person named in the certificate with a notice setting out:

- (a) the amount of the overpayment;
- (b) the judicial centre at which the certificate was filed;
- (c) the date on which the certificate was filed; and
- (d) the person's right of review pursuant to section 29.6.

(5) A notice required by subsection (4) must be served personally or by registered mail and, when sent by registered mail, is deemed to have been served on the person to whom it was mailed on the seventh day after the notice was mailed.

“Review of certificate

29.6(1) A person named in a certificate filed pursuant to clause 29.5(1)(b) may, within 30 days after being served with the notice mentioned in subsection 29.5(4), apply by notice of motion to a judge of the Court of Queen's Bench at the judicial centre where the certificate was filed for a review, on a question of law or jurisdiction, of the certificate or the decision on which the certificate was based.

(2) On an application pursuant to subsection (1), the judge may make any amendment to the certificate that is necessary to make the certificate accord with the judge's decision.

(3) There is no appeal from a decision made pursuant to this section”.

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

20(1) Section 18.02 of *The Saskatchewan Medical Care Insurance Act* is amended in the manner set forth in this section.

(2) Clause 18.02(1)(c) is repealed and the following substituted:

“(c) a person who is receiving program benefits pursuant to an income-tested program, as defined in *The Saskatchewan Assistance Act*, that is designated in the regulations”.

(3) The following subsection is added after subsection 18.02(2):

“(3) The Lieutenant Governor in Council may make regulations designating income-tested programs for the purposes of clause (1)(c)”.

Coming into force

21 This Act comes into force on proclamation.