



NATIONAL ASSEMBLY OF QUÉBEC

FIRST SESSION

FORTY-SECOND LEGISLATURE

Bill 83
(2021, chapter 23)

An Act respecting mainly the health insurance plan and prescription drug insurance plan eligibility of certain children whose parents' migratory status is precarious and amending the Act respecting end-of-life care

**Introduced 10 December 2020
Passed in principle 11 May 2021
Passed 10 June 2021
Assented to 11 June 2021**

**Québec Official Publisher
2021**

EXPLANATORY NOTES

The main purpose of this Act is to make certain children whose parents' migratory status is precarious eligible for the health insurance plan and the prescription drug insurance plan. Another purpose of the Act is to amend the Act respecting end-of-life care.

As concerns health insurance plan eligibility, the Act amends the Health Insurance Act and the Regulation respecting eligibility and registration of persons in respect of the Régie de l'assurance maladie du Québec so that all unemancipated minor children who meet the other conditions set out in the Act and who demonstrate their intention to stay in Québec for a period of more than six months following their registration with the Régie de l'assurance maladie du Québec, are considered domiciled in Québec and thus covered by the health insurance plan as residents. In addition, the Act amends the Regulation to add all minor foreign nationals who have no legal status with Canadian immigration authorities and who demonstrate that same intention to the classes of persons eligible for the plan as residents. Moreover, the Regulation is amended to allow all minor children who have been granted entry by Canadian immigration authorities for a stay of more than six months to be covered by the plan, as temporary residents of Québec, regardless of their parents' status.

The Act makes eligible for the health insurance plan and prescription drug insurance plan all children born during the stay, in Québec, of parents who have been granted entry by Canadian immigration authorities for a period of more than six months, even if that authorization is valid for less than six months from the child's date of birth. It amends the Act respecting prescription drug insurance and the Regulation respecting the basic prescription drug insurance plan to make all children who, under the Act, are covered by the health insurance plan eligible for coverage under the basic prescription drug insurance plan. In addition, minor children already covered by the health insurance plan only, that is, dependent children accompanying persons who are temporary residents of Québec and who are themselves covered by that plan, are now eligible for coverage under the basic prescription drug insurance plan.

In addition, the Act eliminates the waiting period for health insurance for all children. It also enables the Régie de l'assurance maladie du Québec to issue a temporary certificate of registration in the cases provided for by regulation.

The Act also allows the Government to determine, by regulation, after consultation with the Board or on its recommendation, the cases in which an application for registration, for renewal of registration or for the replacement of a health insurance card or eligibility card must be authenticated.

Furthermore, the Act amends the Act respecting end-of-life care to set out the conditions under which a physician may administer medical aid in dying to an end-of-life patient who has become incapable of giving consent to care after making a request for medical aid in dying.

Lastly, the Act contains various transitional and consequential provisions.

LEGISLATION AMENDED BY THIS ACT:

- Health Insurance Act (chapter A-29);
- Act respecting prescription drug insurance (chapter A-29.01);
- Act respecting end-of-life care (chapter S-32.0001).

REGULATIONS AMENDED BY THIS ACT:

- Regulation respecting eligibility and registration of persons in respect of the Régie de l'assurance maladie du Québec (chapter A-29, r. 1);
- Regulation respecting the basic prescription drug insurance plan (chapter A-29.01, r. 4).

Bill 83

AN ACT RESPECTING MAINLY THE HEALTH INSURANCE PLAN AND PRESCRIPTION DRUG INSURANCE PLAN ELIGIBILITY OF CERTAIN CHILDREN WHOSE PARENTS' MIGRATORY STATUS IS PRECARIOUS AND AMENDING THE ACT RESPECTING END-OF-LIFE CARE

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

HEALTH INSURANCE ACT

1. Section 5 of the Health Insurance Act (chapter A-29) is amended by replacing the second paragraph by the following paragraph:

“For the purposes of the first paragraph, an unemancipated minor who is not already domiciled in Québec under article 80 of the Civil Code is considered domiciled in Québec in the cases and on the conditions determined by regulation.”

2. Section 9 of the Act is amended by adding the following paragraph at the end:

“The Board may also, in the cases or on the conditions and for the length of time provided for by regulation, issue a temporary certificate of registration to a person in lieu and place of the health insurance card.”

3. Section 9.0.4 of the Act is replaced by the following section:

“9.0.4. Every application for registration, for renewal of registration or for the replacement of a health insurance card or eligibility card must be authenticated in the cases and in accordance with the terms and conditions determined by regulation.

The first paragraph does not apply to applications for which the Board may issue a health insurance card or an eligibility card that does not include the insured person's photograph and signature.”

4. The Act is amended by inserting the following section after section 65:

“65.0.0.1. Despite section 65, it is prohibited to communicate or use the personal information collected under this Act and to confirm the existence of such information for the purpose of determining a person's immigration status, except with the consent of the person concerned.

Where such information has been communicated to a third person for another purpose, it remains subject to the requirements provided for in the first paragraph.

This section does not restrict the communication of documents or information required by a subpoena, warrant or order issued by any person or body having the power to compel their communication.”

5. Section 69 of the Act is amended, in the first paragraph,

(1) by replacing subparagraph *j* by the following subparagraph:

“(j) determine, for the purposes of section 5, the conditions to be met by a person referred to in that section, the cases or conditions in which an unemancipated minor who is not already domiciled in Québec under article 80 of the Civil Code is considered domiciled in Québec, the time at which and the conditions subject to which a person becomes a resident of Québec as well as the time at which and the conditions subject to which the person ceases to be one, and determine any class of persons referred to in subparagraph 5 of the first paragraph;”;

(2) by inserting the following subparagraph after subparagraph *l*:

“(l.01) determine in which cases or on which conditions and for which length of time a temporary certificate of registration may be issued;”;

(3) by replacing subparagraph *l.2* by the following subparagraph:

“(l.2) determine the cases in which and the terms and conditions according to which an application for registration, for renewal of registration or for the replacement of a health insurance card or eligibility card must be authenticated;”.

ACT RESPECTING PRESCRIPTION DRUG INSURANCE

6. Section 5 of the Act respecting prescription drug insurance (chapter A-29.01) is amended by adding the following paragraph at the end:

“The classes of persons determined by a government regulation made under subparagraph 1.1 of the first paragraph of section 78 are also eligible for the plan.”

7. Section 24 of the Act is amended by adding the following paragraph at the end:

“(4) a person under 18 years of age in whose respect a parent or tutor exercises parental authority and to whom paragraph 4 of section 15 applies.”

8. Section 78 of the Act is amended by replacing subparagraph 1.1 of the first paragraph by the following subparagraph:

“(1.1) determine, for the purposes of the second paragraph of section 5, classes of persons eligible for the basic plan as well as the conditions those persons must meet to be eligible;”.

ACT RESPECTING END-OF-LIFE CARE

9. Section 29 of the Act respecting end-of-life care (chapter S-32.0001) is amended by adding the following paragraphs at the end:

“If an end-of-life patient has become incapable of giving consent to care after making the request, the physician may nonetheless administer medical aid in dying to the patient, provided that, at the time the patient was at the end of life and before they became incapable of giving consent to care,

(1) all the conditions prescribed in the first paragraph had been met; and

(2) the patient had given consent, in writing and in the presence of a health professional, and within 90 days before the date of administration of the medical aid in dying, to receiving the aid even if they were to become incapable of giving consent to care before the administration of the aid.

Any refusal to receive medical aid in dying expressed by a patient referred to in the preceding paragraph must be respected and it is prohibited to disregard it in any manner.”

REGULATION RESPECTING ELIGIBILITY AND REGISTRATION OF PERSONS IN RESPECT OF THE RÉGIE DE L'ASSURANCE MALADIE DU QUÉBEC

10. Section 2 of the Regulation respecting eligibility and registration of persons in respect of the Régie de l'assurance maladie du Québec (chapter A-29, r. 1) is amended by adding the following paragraph at the end:

“(5) minor foreign nationals who have no legal status with Canadian immigration authorities and who demonstrate their intention to stay in Québec for a period of more than 6 months in the year following the date of their registration.”

11. The Regulation is amended by inserting the following section after section 2:

2.1. For the purposes of the second paragraph of section 5 of the Act, minor children not already domiciled in Québec under article 80 of the Civil Code are considered domiciled in Québec if they demonstrate their intention to stay in Québec for a period of more than 6 months in the year following the date of their registration.”

12. Section 3 of the Regulation is amended

(1) by inserting “18 years of age or over” after “any dependant” in paragraph 6;

(2) by adding the following paragraphs at the end:

“(7) minor foreign nationals who have been granted entry by Canadian immigration authorities for a stay of more than 6 months; and

“(8) children born in Québec if the parent with whom the child lives on a permanent basis has been granted entry by Canadian immigration authorities for a stay of more than 6 months, even if that authorization is valid for a period of less than 6 months from the child’s date of birth.”

13. Section 4 of the Regulation is replaced by the following section:

“**4.** Unless otherwise provided in this Regulation, a person shall become a resident or a temporary resident of Québec from

(a) the first day of the third month following the reference date, in the case of a person of full age; or

(b) the reference date, in the case of a minor child.”

14. Section 4.2 of the Regulation is amended

(1) by striking out “or, in the case of a minor child only, by subparagraph *a* of paragraph 1 of that section” in paragraph 5.1;

(2) by striking out paragraph 6.

15. Section 4.5 of the Regulation is amended

(1) by replacing paragraph 1 by the following paragraph:

“(1) a child born in Québec; and”;

(2) by striking out paragraphs 3 and 4.

16. Section 4.6 of the Regulation is replaced by the following section:

“**4.6.** The following shall become temporary residents of Québec from their date of birth:

(1) a minor foreign national referred to in paragraph 7 of section 3, if the parent with whom he lives on a permanent basis since birth is a temporary resident of Québec at that time, for the period of the stay authorized by Canadian immigration authorities following the child’s birth; and

(2) a child referred to in paragraph 8 of section 3, for the remainder of the stay authorized by Canadian immigration authorities for the child's parent with whom he lives on a permanent basis since birth."

17. Section 15 of the Regulation is amended, in the first paragraph,

(1) by inserting the following subparagraphs after subparagraph 1:

"(1.1) in the case of a minor foreign national referred to in paragraph 5 of section 2, the following documents:

(a) an attestation of school attendance, if he is attending school or, if not attending school, an affidavit by the parent with whom he lives on a permanent basis or by the person who has the care or custody of him, establishing the parent's or person's intention and that of the minor foreign national to stay in Québec for a period of more than 6 months in the year following the minor foreign national's date of registration; and

(b) the original of the minor foreign national's birth certificate or, if the certificate is not in French or in English, or in its absence, in accordance with the order of priority that follows:

i. a passport in French or in English;

ii. an authorization to stay in Canada issued by Canadian immigration authorities, which has expired; or

iii. an affidavit by the parent with whom he lives on a permanent basis or by the person who has the care or custody of him, confirming his official name, date of birth and place of birth;

"(1.2) in the case of a minor child referred to in section 2.1, in addition to one of the documents referred to in any of the subparagraphs of this paragraph applicable to the minor child's situation, one of the following documents, in accordance with the following order of priority:

(a) the original of the authorization issued by Canadian immigration authorities attesting that the parent with whom the child lives on a permanent basis is authorized to stay in Québec for a period of more than 6 months from the child's date of registration;

(b) an attestation of school attendance; or

(c) an affidavit by the parent with whom the child lives on a permanent basis or by the person who has the care or custody of the child, establishing the parent's or person's intention and that of the child to stay in Québec for a period of more than 6 months in the year following the child's date of registration;";

(2) in subparagraph 3,

(a) by inserting “, except a minor foreign national referred to in paragraph 5 of section 2” at the end of the introductory clause of subparagraph *a*;

(b) by adding the following subparagraphs at the end of subparagraph *b*:

“iv. the original of the authorization issued by Canadian immigration authorities for a stay of more than 6 months, in the case of a minor foreign national referred to in paragraph 7 of section 3;

“v. the original of the authorization issued to the parent with whom the child lives on a permanent basis by Canadian immigration authorities for a stay of more than 6 months, in the case of a child referred to in paragraph 8 of section 3;”;

(3) by inserting “18 years of age or over” after “a dependant” in the introductory clause of subparagraph 4.

18. Section 18 of the Regulation is amended by replacing “or, if the resident is a person referred to in paragraph 1 or 2 of section 2, he shall, to renew his registration, apply” in the second paragraph by “or, in the case of a person referred to in paragraph 1, 2 or 5 of section 2, the registration must be renewed”.

19. Section 19.1 of the Regulation is amended by replacing “in paragraph 1 or 2” by “in paragraph 1, 2 or 5”.

20. Section 22 of the Regulation is amended, in the first paragraph,

(1) by replacing “or 2” in the introductory clause by “, 2 or 5”;

(2) by inserting the following subparagraph after subparagraph 2.1:

“(2.1.1) if the applicant is a minor foreign national referred to in paragraph 5 of section 2, the documents listed in subparagraph 1.1 of the first paragraph of section 15;”.

21. The Regulation is amended by adding “AND TEMPORARY CERTIFICATE OF REGISTRATION” after “CARD” in the heading of Division IV.

22. Section 23 of the Regulation is amended

(1) in the first paragraph,

(a) by adding the following subparagraph after subparagraph *d* of subparagraph 1:

“(e) following the registration or renewal of the registration of a minor foreign national referred to in paragraph 5 of section 2;”;

(b) by replacing “in paragraph 1 or 3” in subparagraph *b* of subparagraph 3 by “in paragraph 1, 3 or 7”;

(c) by inserting the following subparagraph after subparagraph 5:

“(5.0.1) for the period of validity specified in the document issued by Canadian immigration authorities to the parent with whom the child lives on a permanent basis, following the registration of a child referred to in paragraph 8 of section 3;”;

(2) by adding the following paragraph at the end:

“Likewise, the Board may not issue to a minor foreign national referred to in paragraph 5 of section 2 or in paragraph 7 of section 3 a health insurance card if the card’s expiry date is later than the day preceding the date of his eighteenth birthday.”

23. Section 23.2 of the Regulation is amended by adding the following paragraph at the end:

“Notwithstanding the first paragraph, the health insurance card of a minor foreign national referred to in paragraph 5 of section 2 and in paragraph 7 of section 3 expires on the last day of the month indicated on the card or on the day preceding the minor foreign national’s eighteenth birthday, whichever occurs first.”

24. The Regulation is amended by inserting the following section after section 24:

“24.1. The Board may issue a temporary certificate of registration to an insured person whose health insurance card has been lost, damaged or stolen. The certificate is valid for a maximum of 45 days.

The Board also issues such a certificate to a child born in Québec, where neither parent is eligible for health insurance, as soon as the Board is informed of the child’s birth. The certificate is valid for a period of 45 days.”

REGULATION RESPECTING THE BASIC PRESCRIPTION DRUG INSURANCE PLAN

25. The Regulation respecting the basic prescription drug insurance plan (chapter A-29.01, r. 4) is amended by adding the following division before Division I:

“DIVISION 0.1

“ELIGIBILITY FOR THE BASIC PRESCRIPTION DRUG INSURANCE PLAN

“0.1. In addition to the persons referred to in section 5 of the Act respecting prescription drug insurance (chapter A-29.01), persons under 18 years of age who are referred to in paragraph 7 or 8 of section 3 of the Regulation respecting eligibility and registration of persons in respect of the Régie de l’assurance maladie du Québec (chapter A-29, r. 1) and who are duly registered with the Board in accordance with that Regulation are eligible for the basic prescription drug insurance plan.”

26. Section 7 of the Regulation is amended by adding the following paragraph at the end:

“However, a person referred to in paragraph 4 of section 24 of the Act respecting prescription drug insurance need not provide the information required under subparagraphs 6.1 to 12 of the first paragraph. A person who registers a person to whom this paragraph applies must also specify in which capacity the person is doing so, that is, as father, mother or tutor.”

TRANSITIONAL AND FINAL PROVISIONS

27. Despite sections 4, 4.5 and 4.6 of the Regulation respecting eligibility and registration of persons in respect of the Régie de l’assurance maladie du Québec (chapter A-29, r. 1), as amended by sections 13, 15 and 16, respectively, for the purposes of the Health Insurance Act (chapter A-29), the Act respecting prescription drug insurance (chapter A-29.01) and their regulations,

(1) a child who, on the date of coming into force of section 1 of this Act, becomes a resident of Québec within the meaning of section 5 of the Health Insurance Act, as amended by section 1, is deemed to have become a resident of Québec on that date;

(2) a child who, on the date of coming into force of section 12 of this Act, was not already covered by paragraph 6 of section 3 of the Regulation respecting eligibility and registration of persons in respect of the Régie de l’assurance maladie du Québec as it read before that date, and who becomes covered by paragraph 7 or 8 of section 3 of the Regulation respecting eligibility and registration of persons in respect of the Régie de l’assurance maladie du Québec, enacted by section 12, is deemed to have become a temporary resident of Québec on that date.

28. This Act comes into force on the date determined by the Government, except section 9, which comes into force on 11 June 2021.