



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-SIXTH LEGISLATURE

Bill 98

(2002, chapter 27)

An Act to amend the Act respecting prescription drug insurance and other legislative provisions

**Introduced 8 May 2002
Passage in principle 4 June 2002
Passage 12 June 2002
Assented to 13 June 2002**

**Québec Official Publisher
2002**

EXPLANATORY NOTES

This bill introduces amendments to the basic prescription drug insurance plan.

As concerns the operation of the plan, the bill modifies certain financial provisions pertaining to the determination of the premium, the deductible amount and the maximum contribution, to the coinsurance percentage and to the funding of the prescription drug insurance fund. Other adjustments are made, particularly to prevent a person whose situation changes during a year from paying more than the maximum contribution applicable to that person, to take advance prescription renewals and medication purchases into account in the computation of the contribution payable and to put a ceiling on the contribution payable by persons receiving 94% or more of the maximum amount of guaranteed income supplement.

In addition, the bill establishes the Conseil du médicament, which will replace the current Conseil consultatif de pharmacologie and Comité de revue de l'utilisation des médicaments. The main functions of the new council will be to assist the Minister in updating the list of medications and to promote optimal use of medications. For that purpose, the council will have access to certain information concerning the consumption of prescription medications, which information will be provided by the Régie de l'assurance maladie du Québec in non-nominative form as concerns the persons to whom medications were supplied.

The bill authorizes the Minister of Health and Social Services to enter into agreements with drug manufacturers for the purpose of funding activities promoting improved use of medications.

Lastly, the bill contains technical or consequential amendments and transitional provisions.

LEGISLATION AMENDED BY THIS BILL :

- Health Insurance Act (R.S.Q., chapter A-29);
- Act respecting prescription drug insurance (R.S.Q., chapter A-29.01);
- Act respecting the Ministère du Revenu (R.S.Q., chapter M-31);
- Act respecting the Régie de l'assurance maladie du Québec (R.S.Q., chapter R-5).

Bill 98

AN ACT TO AMEND THE ACT RESPECTING PRESCRIPTION DRUG INSURANCE AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

ACT RESPECTING PRESCRIPTION DRUG INSURANCE

1. Section 8 of the Act respecting prescription drug insurance (R.S.Q., chapter A-29.01) is amended

(1) by replacing “and for” in the sixth line of the first paragraph by “or for”;

(2) by inserting the following sentence at the end of the first paragraph :
“Coverage also includes, in the cases, on the conditions and in the circumstances determined in the regulation, any other medication except medications or classes of medications determined in the regulation.”

2. Section 12 of the said Act is amended by replacing “25%” in the second line by “27.4%”.

3. Section 13 of the said Act is amended by replacing “\$750” in the second line by “\$822”.

4. The said Act is amended by inserting the following section after section 13 :

“**13.1.** The percentage provided in section 12 and the amount provided in section 13 shall be revised on 1 July each year, according to the rate of adjustment fixed annually by the Board pursuant to section 28.1.”

5. Section 14 of the said Act is amended by adding the following paragraphs at the end :

“For the purposes of the deductible amount and maximum contribution, all costs of pharmaceutical services and medications that are borne by the eligible person for a reference period, according to the original plan, shall be taken into account, even if, during that period, there was a change in the person’s status, income level or employee benefit plan, or if another person began providing coverage during that period.

The insurer or employee benefit plan administrator or the Board shall, following a request made within six months by the person affected by such a change, communicate to the person providing coverage after the change the information permitting the application of the deductible amount and the maximum contribution for that period.”

6. Section 19 of the said Act is amended by adding the following paragraph at the end :

“The same applies to persons to whom section 15 applies if they received pharmaceutical services or medications but did not tell the pharmacist that they were registered with the Board. Such persons may apply to the Board for reimbursement of the cost of the services or medications in the manner prescribed in section 33, provided that the services or medications were provided in the three months preceding the application for reimbursement.”

7. Section 23 of the said Act is amended

- (1) by replacing “\$350” in the fourth line of the first paragraph by “\$422” ;
- (2) by striking out the second and third paragraphs.

8. Section 26 of the said Act is amended

- (1) by replacing “\$100” in the first line by “\$109.60” ;
- (2) by striking out the second sentence.

9. Section 27 of the said Act is amended by replacing “25%” by “27.4%”.

10. Section 28 of the said Act is amended

- (1) by replacing “the maximum amount” in the first line of subparagraph 1 of the first paragraph by “94% or more of the maximum amount” ;
- (2) by replacing “\$500” in the first line of the second paragraph by “\$548” ;
- (3) by inserting “below 94%” after “fraction” in the second line of the second paragraph ;
- (4) by replacing “\$750” in the first line of the third paragraph by “\$822”.

11. The said Act is amended by inserting the following section after section 28 :

“28.1. The amounts provided in sections 23, 26 and 28 and the percentage provided in section 27 shall be revised on 1 July each year according to the rates of adjustment fixed annually by the Board pursuant to the rules determined

by regulation of the Government, in order to provide for the increase in the costs of the plan attributable to persons for whom coverage is provided by the Board.

The rates of adjustment and the revised amounts and percentages shall be published by the Board in the *Gazette officielle du Québec* except where the rates of adjustment determined by the Board are nil and the amounts and percentages remain unchanged.”

12. Section 30 of the said Act is amended by inserting the following paragraphs at the end:

“When a prescription filled or renewed in a given month is renewed in advance within the same month even though it would normally have been renewed the following month, the renewal is considered to have taken place in the following month, and the deductible amount and the coinsurance payment for the following month shall, where applicable, be payable at that time.

For the purpose of computing the contribution, when a prescription that exceeds 31 days is filled or renewed for a period of more than 31 days even though it could have been filled or renewed for a shorter period, the prescription is considered to have been filled or renewed as many times as if it had been filled or renewed for periods of not more than 31 days; the deductible amount and the coinsurance payment for that month and for each of the following months shall, where applicable, be payable at that time.”

13. Section 44 of the said Act is amended by replacing “and 13” in the last line of the second paragraph by “, 13 and 13.1”.

14. Section 51 of the said Act is amended by replacing “appropriate” in subparagraph 2 of the second paragraph by “optimal”.

15. The said Act is amended by inserting the following section after section 52:

“52.1. The Minister may make agreements with drug manufacturers for the purpose of funding activities to promote improved use of medications.

The agreements may specify, among other particulars, the sums of money the manufacturers undertake to pay and those that may be added by the Minister, as well as the manner in which the sums are to be managed.”

16. The heading of Division II of Chapter IV and section 53 of the said Act are replaced by the following:

“CONSEIL DU MÉDICAMENT

“53. A medication council, called the “Conseil du médicament”, is hereby established.

The council shall be composed of a president, a vice-president and thirteen other members including five experts in pharmacology, two experts in health economics or epidemiology, four persons who are neither physicians nor pharmacists nor representatives of an insurer, administrator of an employment benefit plan, drug manufacturer or drug wholesaler, a representative of the Minister and a director general.

Three of the five experts in pharmacology must be physicians and the other two must be pharmacists. One of the three physicians must be a general practitioner in clinical practice and another must be a specialist. One of the two pharmacists must be in clinical practice in a hospital and the other in the community.

The director general of the council and the member representing the Minister are not entitled to vote.

The president or the vice-president must be a physician and a member of the Collège des médecins du Québec.”

17. Section 54 of the said Act is amended by adding the following sentence at the end: “No member, except the director general and the representative of the Minister, may serve more than two consecutive terms.”

18. The said Act is amended by inserting the following section after section 54:

“**54.1.** The quorum at meetings of the council shall be seven members, including the president or the vice-president. In the case of a tie-vote, the person presiding the meeting shall have a casting vote.”

19. Section 56 of the said Act is amended by inserting “a director general and” after “assign” in the first line.

20. Section 57 of the said Act is replaced by the following sections:

“**57.** The council shall be responsible for assisting the Minister in updating the list referred to in section 60 and for promoting optimal use of medications.

The functions of the council shall also include making recommendations to the Minister on the establishment and evolution of the prices of medications and on any other matter submitted by the Minister.

“**57.1.** For the purposes of updating the list referred to in section 60, the council shall advise the Minister on the following matters:

- (1) the therapeutic value of each medication;
- (2) the reasonableness of the price charged and the cost effectiveness ratio of each medication;

(3) the impact of the entry of a medication on the list as regards the health of the population and the other components of the health care system; and

(4) the expediency of entering medications on the list with regard to the purpose of the basic prescription drug insurance plan, which is to ensure that all persons have reasonable and fair access to the medications required by their state of health.

“57.2. For the purpose of promoting optimal use of medications, the council may, in particular,

(1) engage in or support procedures for the review of the use of medications ;

(2) propose, or contribute to the development and implementation of, training, information and awareness strategies to improve drug prescribing and dispensing practices in cooperation and in conjunction with the various intervenors, including health services and social services institutions ;

(3) make recommendations to the various intervenors and to health care professionals in order to improve the use of medications, without encroaching upon their respective responsibilities ;

(4) propose or contribute to the development and implementation of public information and awareness strategies ; and

(5) see to the assessment of problems related to the use of medications and the implementation of measures to prevent and correct such problems.

To that end, the council shall consult the Collège des médecins du Québec and the Ordre des pharmaciens du Québec at least once a year.

The council may, on request, obtain from the Board the following information, in non-nominative form as concerns the person to whom a medication was provided :

(1) a sequential number ;

(2) the person’s date of birth and sex ;

(3) the profession and the specialty, if any, of the prescriber and the first three characters of the postal code of the prescriber’s professional address ;

(4) the name of the medication and the quantity dispensed ;

(5) the prescription number and type, whether the prescription is a new prescription or a renewal, whether the prescription is a written or verbal prescription, the number of renewals authorized or the date of expiry, the dosage and the duration of the treatment ; and

(6) the date on which the service was dispensed.

In addition to the information listed in the third paragraph and provided the physician or pharmacist concerned has not objected thereto, the council may, on request, obtain the following information from the Board for the sole purpose of sending the physician or pharmacist an individual practice profile for informational purposes :

- (1) the pharmacy number and the dispensing pharmacist's number ; and
- (2) the prescriber's number or, in the absence thereof, the prescriber's surname and the initial of the prescriber's given name.

In addition, the council may, on request, obtain from the Board any other data in non-nominative form that is necessary to promote optimal use of medications.

“57.3. The council shall assess the measures implemented within the framework of its functions.

“57.4. The council may form committees to study any matter within its area of jurisdiction and determine their powers and duties.”

21. The said Act is amended by inserting the following section after section 59:

“59.1. The council shall provide all information required by the Minister regarding its operations.

The council shall, each year, submit to the Minister the plan of its activities and, not later than 31 July each year, a report on its activities for the year ending on the preceding 31 March.”

22. Section 60 of the said Act is amended

(1) by replacing “Conseil consultatif de pharmacologie” in the second line of the first paragraph by “Conseil du médicament”;

(2) by replacing “and for” in the second line of the fifth paragraph by “or for”;

(3) by inserting the following paragraph after the fifth paragraph :

“The list shall, in addition, set out the conditions, cases and circumstances on or in which the cost of any other medication, except medications or classes of medications specified in the list, is covered.”

23. Section 63 of the said Act is amended

(1) by replacing “Conseil consultatif de pharmacologie” in the first and second lines of the first paragraph by “Conseil du médicament”;

(2) by striking out “, insurers and the administrators of employee benefit plans” in the first and second lines of the third paragraph.

24. Section 64 of the said Act is replaced by the following section :

“**64.** A manufacturer or wholesaler referred to in section 63 shall, before the end of the period of temporary withdrawal, repay to the Board,

(1) in the case of a manufacturer, the difference between the selling price as defined in the manufacturer’s commitment prescribed by ministerial regulation and the actual price of a medication sold by the manufacturer, based on the list of medications drawn up under section 60 ;

(2) in the case of a wholesaler, the difference between the selling price as defined in the wholesaler’s commitment prescribed by ministerial regulation and the actual price of a medication sold by the wholesaler, based on the list of medications drawn up under section 60 ;

(3) in either case, the expenses incurred to advise health care professionals of the temporary withdrawal of the manufacturer’s or wholesaler’s accreditation.

The failure of a manufacturer or wholesaler to comply with the first paragraph is deemed to constitute a breach of commitment.”

25. Section 65 of the said Act is amended by replacing “Conseil consultatif de pharmacologie” in the first and second lines by “Conseil du médicament”.

26. Section 66 of the said Act is amended by replacing paragraphs 1 and 2 by the following paragraphs :

“(1) in the case of a manufacturer, the difference between the selling price as defined in the manufacturer’s commitment prescribed by ministerial regulation and the actual price of a medication sold by the manufacturer, based on the list of medications drawn up under section 60 ;

“(2) in the case of a wholesaler, the difference between the selling price as defined in the wholesaler’s commitment prescribed by ministerial regulation and the actual price of a medication sold by the wholesaler, based on the list of medications drawn up under section 60 ;”.

27. Division IV of Chapter IV of the said Act, entitled “COMITÉ DE REVUE DE L’UTILISATION DES MÉDICAMENTS” and comprising sections 71 to 77, is repealed.

28. Section 78 of the said Act is amended

(1) by replacing subparagraph 7 of the first paragraph by the following subparagraph :

“(7) determine, for the purposes of sections 13.1 and 28.1, the rules pursuant to which rates of adjustment are to be fixed annually and specify the class of persons to which each rate is applicable, where that is the case;”;

(2) by striking out subparagraph 8 of the first paragraph.

29. Section 80 of the said Act is amended by replacing “Conseil consultatif de pharmacologie” in the second line by “Conseil du médicament”.

30. The said Act is amended by inserting the following section after section 86:

“36.1. Before the percentages and amounts set out in sections 12, 13, 23 and 26 to 28 are modified on 1 July 2005 and at the latest on 1 January 2005, the Minister shall report to the Government on the application of sections 13.1 and 28.1 and on the advisability of amending them.

The report shall be tabled in the National Assembly within the next 15 days or, if the Assembly is not sitting, within 15 days of resumption. It shall be examined by the appropriate committee of the Assembly.”

31. The French text of the said Act is amended by removing the hyphen from the expression “assurance-médicaments” wherever it occurs in the title and in sections 1, 51, 78 and 116.

The said Act is amended by replacing “advisory council” wherever that expression appears in the English text of sections 54, 55, 56, 58 and 59 by “council”.

HEALTH INSURANCE ACT

32. Section 67 of the Health Insurance Act (R.S.Q., chapter A-29), amended by section 144 of chapter 60 of the statutes of 2001, is again amended by adding the following paragraphs at the end:

“Nor does it prohibit the disclosure of information obtained for the carrying out of this Act to the Minister of Revenue

(1) for the purposes of Division I.1 of Chapter IV of the Act respecting the Régie de l'assurance maladie du Québec (chapter R-5), to enable the Minister of Revenue to verify the amounts payable pursuant to sections 37.6 and 37.8 of that Act;

(2) for the purposes of paragraph *m* of section 69.1 of the Act respecting the Ministère du Revenu (chapter M-31) to enable the Board to verify whether a person is a resident or a temporary resident of Québec within the meaning of this Act, or whether a person was required to register for the prescription drug insurance plan established by the Act respecting prescription drug insurance (chapter A-29.01); or

(3) for the purposes of section 28.1 of the Act respecting prescription drug insurance to enable the Board to obtain statistical information in non-nominative form from the Minister of Revenue with a view to establishing the maximum amount referred to in section 23.

Nor does it prohibit the disclosure to the Conseil du médicament, in non-nominative form as concerns the persons to whom a medication was provided, of the information referred to in the third and fourth paragraphs of section 57.2 of the Act respecting prescription drug insurance, or the disclosure, in non-nominative form, of any other necessary data referred to in the fifth paragraph of that section.”

ACT RESPECTING THE MINISTÈRE DU REVENU

33. Section 69.1 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31), amended by section 136 of chapter 9 of the statutes of 2001 and by section 12 of chapter 5 of the statutes of 2002, is again amended by replacing “resident or is deemed to be resident in” in subparagraph *m* of the second paragraph by “a resident or a temporary resident of”.

ACT RESPECTING THE RÉGIE DE L'ASSURANCE MALADIE DU QUÉBEC

34. Section 37.1 of the Act respecting the Régie de l'assurance maladie du Québec (R.S.Q., chapter R-5) is amended by inserting the following definitions in the proper alphabetical order :

““contribution rate” means the percentage applicable from 1 July of a particular year in respect of each of subparagraphs i and ii of subparagraphs *a* and *d* of the second paragraph of section 37.6, which

(a) for the year 2002,

i. in the case of subparagraph i of the said subparagraph *a*, is equal to 2.19% ;

ii. in the case of subparagraph ii of the said subparagraph *a*, is equal to 4.38% ;

iii. in the case of subparagraph i of the said subparagraph *d*, is equal to 3.29% ; and

iv. in the case of subparagraph ii of the said subparagraph *d*, is equal to 6.58% ; and

(b) for any year subsequent to 2002, is equal to the percentage applicable at 1 July of the year preceding that subsequent year or to such percentage as may be determined on 1 July of that subsequent year according to the rate of adjustment fixed annually by the Board pursuant to section 28.1 of the Act

respecting prescription drug insurance, rounded to the nearest whole percentage point or, if equidistant from two percentage points, to the higher of the two ;

““average contribution rate” for a particular year means, for the purposes of any of subparagraphs i and ii of subparagraphs *a* and *d* of the second paragraph of section 37.6, the contribution rate applicable from 1 July of the particular year in respect of that subparagraph added to the contribution rate applicable from 1 July of the preceding year in respect of that subparagraph, divided by two and rounded to the nearest whole percentage point or, if equidistant from two percentage points, to the higher of the two ;”.

35. Section 37.6 of the said Act is amended

(1) by replacing subparagraph *a* of the first paragraph by the following subparagraph :

“(a) the aggregate, for each month of the year during which the individual is a beneficiary other than a beneficiary referred to in section 37.7, of

i. for each of those months from January to June, 1/12 of \$422 or of such amount as may be determined on 1 July of the year preceding that year, for the purposes of section 23 of the Act respecting prescription drug insurance (chapter A-29.01), in accordance with the first paragraph of section 28.1 of that Act ; and

ii. for each of those months from July to December, 1/12 of \$422 or of such amount as may be determined on 1 July of that year, for the purposes of section 23 of the Act respecting prescription drug insurance, in accordance with the first paragraph of section 28.1 of that Act ; and” ;

(2) by replacing subparagraphs *a* and *b* of the second paragraph by the following subparagraphs :

“(a) A is

i. the average contribution rate applicable for the year in respect of this subparagraph, if the individual has an eligible spouse for the year ; or

ii the average contribution rate applicable for the year in respect of this subparagraph, in all other cases ;

“(b) B is the lesser of the family income of the individual for the year and \$5,000 or such other amount as may be prescribed for the year ;” ;

(3) by replacing subparagraphs *d* and *e* of the second paragraph by the following subparagraphs :

“(d) D is

i. the average contribution rate applicable for the year in respect of this subparagraph, if the individual has an eligible spouse; or

ii. the average contribution rate applicable for the year in respect of this subparagraph, in all other cases;

“(e) E is the amount by which the family income of the individual for the year exceeds \$5,000 or such other amount as may be prescribed for the year.”

36. The said Act is amended by inserting the following section after section 40.1:

“**40.1.1.** In addition to the sums paid pursuant to section 40.1, the Minister of Finance shall pay into the prescription drug insurance fund, out of the consolidated revenue fund and according to the development of needs as established within the scope of section 40.4, sums for a total amount which, combined with the sums paid pursuant to section 40.1, must be sufficient to meet the obligations referred to in section 40.2.

However, the sums added by the Minister of Finance under the first paragraph shall not exceed the sums and administration costs necessary to pay for the pharmaceutical services and the medications provided to a person referred to in paragraph 1, 2 or 3 of section 15 of the Act respecting prescription drug insurance.”

37. Section 40.2 of the said Act is amended by replacing “in paragraph 4 of” in the second line of paragraph *a* by “in”.

38. Section 40.3 of the said Act is amended by replacing “with section 40.1” in the first and second lines by “with sections 40.1 and 40.1.1”.

39. Section 40.4 of the said Act is amended

(1) by replacing “first day of December preceding” in the third and fourth lines by “first day of June following”;

(2) by inserting “, 40.1.1” after “40.1” in the fifth line.

40. Section 40.8 of the said Act is amended by replacing “in section 40.1” in the first line by “in sections 40.1 and 40.1.1”.

TRANSITIONAL AND FINAL PROVISIONS

41. Unless the context indicates otherwise, in any Act, regulation, contract or other document,

(1) the hyphen in the expression “assurance-médicaments” in the French text is removed; and

(2) the expression “Conseil consultatif de pharmacologie” is replaced by the expression “Conseil du médicament”.

42. The term of office of the members of the Conseil consultatif de pharmacologie ends on (*insert here the date preceding the date of coming into force of section 16*).

The term of office of the members of the Comité de revue de l’utilisation des médicaments ends on (*insert here the date preceding the date of coming into force of section 27*).

43. Persons who are employees of the Réseau de revue d’utilisation des médicaments on 8 May 2002 become employees of the Ministère de la Santé et des Services sociaux to the extent that they are covered by a decision of the Conseil du trésor made before (*insert here the date occurring six months after the date of coming into force of section 16*), subject to the terms and conditions specified in that decision, provided they are still employees of the Réseau de revue d’utilisation des médicaments at the time of the transfer. Employees so transferred are deemed to have been appointed in accordance with the Public Service Act (R.S.Q., chapter F-3.1.1).

The Conseil du trésor may determine the classification, remuneration and any other condition of employment applicable to employees to whom the first paragraph applies.

44. Within the framework of a pilot project established by the Conseil du médicament and approved by the Minister of Health and Social Services, a pharmacist who provides a medication contained in the list of medications drawn up under section 60 of the Act respecting prescription drug insurance to a person to whom coverage is provided by the Régie de l’assurance maladie du Québec and who consents thereto may communicate to the Régie, in the manner set out in the pilot project, the therapeutic intent indicated on the prescription.

45. Section 37.1 of the Act respecting the Régie de l’assurance maladie du Québec, amended by section 34, applies from the year 2003 and section 37.6 of the Act respecting the Régie de l’assurance maladie du Québec, amended by section 35, applies from the year 2002.

However, where the said section 37.6 applies to the year 2002, it shall read

(1) as though subparagraph *a* of the first paragraph were replaced by the following subparagraph:

“(a) the aggregate, for each month of the year during which the individual is a beneficiary other than a beneficiary referred to in section 37.7, of 1/12 of \$385 for each of those months from January to June and of 1/12 of \$422 for each of those months from July to December;”;

(2) as though subparagraphs i and ii of subparagraph *a* of the second paragraph were replaced by the following subparagraphs :

“i. 2.10%, if the individual has an eligible spouse for the year ; or

“ii. 4.19%, in all other cases ;” ;

(3) as though subparagraphs i and ii of subparagraph *d* of the second paragraph were replaced by the following subparagraphs :

“i. 3.15%, if the individual has an eligible spouse for the year ; or

“ii. 6.29%, in all other cases ;”.

46. Notwithstanding paragraph 1 of section 8 and section 9 of this Act, the deductible amount shall remain at \$100 per year and the coinsurance percentage shall remain at 25% for the following persons until changes are made in their respect under sections 13.1 and 28.1 of the Act respecting prescription drug insurance :

(1) persons 65 years of age and over receiving the maximum amount of guaranteed monthly income supplement under the Old Age Security Act (Revised Statutes of Canada, 1985, chapter O-9); and

(2) persons to whom paragraph 2 or 3 of section 15 of the Act respecting prescription drug insurance applies and who are not exempted under section 29 of that Act.

47. The accumulated deficit as at 31 March 2002 of the Fonds de l'assurance médicaments, established by section 40.1 of the Act respecting the Régie de l'assurance maladie du Québec, shall be paid out of the consolidated revenue fund.

The Minister of Finance shall pay to the Fonds de l'assurance médicaments, out of the consolidated revenue fund, the sums required for that purpose.

48. The provisions of this Act come into force on the date or dates to be fixed by the Government, except paragraph 1 of section 1, sections 2, 3 and 6 to 9, paragraphs 2 and 4 of section 10, paragraph 2 of section 22, paragraph 2 of section 23, sections 24 and 26, the first paragraph of section 31, the first paragraph of section 32, sections 33 to 40, paragraph 1 of section 41 and sections 45 and 46, which come into force on 1 July 2002, and sections 4, 11, 13, 28 and 30, which come into force on 2 July 2002.