

---

## Draft Regulations

---

### Draft regulation

An Act respecting health services and social services (chapter S-4.2)

An Act respecting health services and social services for Cree Native persons (chapter S-5)

### **Contribution by users of health and social services institutions and users taken in charge by family-type resources or by intermediate resources and application of the Act respecting health services and social services for Cree Native persons**

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1) and the third paragraph of section 173 of the Act respecting health services and social services for Cree Native persons (chapter S-5), that the Regulation to amend the Regulation respecting the contribution by users of health and social services institutions, the Regulation respecting the contribution of users taken in charge by family-type resources or by intermediate resources and the Regulation respecting the application of the Act respecting health services and social services for Cree Native persons, the text of which appears hereafter, may be made by the government on the expiry of the 60-day period following this publication.

This draft Regulation aims to define the notion of resident used in the Regulation respecting the application of the Act respecting health services and social services for Cree Native persons (chapter S-5, r. 1) in order to standardize it with that used for the purposes of the Health Insurance Act (chapter A-29) and the Hospital Insurance Act (chapter A-28).

In addition, this draft Regulation aims to update the list of income, property and liquid assets not taken into account for the purpose of calculating the contribution of adult users accommodated in health and social services institutions, as well as adult users taken in charge by intermediate resources. This draft Regulation also provides for the update of certain deductions applicable to the calculation of the contribution income.

Then, this draft Regulation aims to implement a process to take into consideration, when calculating the contribution, the rights, property or liquid assets that were the object of a renunciation, alienation or squandering in violation of section 516 of the Act respecting health services and social services (chapter S-4.2).

Finally, this draft Regulation allows for the possibility of applying retroactively the exemption granted by the Minister of Health and Social Services, where applicable, for a period of no more than six months, unless it was impossible in fact to act.

These measures will not have any effects on enterprises and, in particular, on small or medium-sized enterprises.

Additional information concerning this draft Regulation may be obtained by contacting Daniel Labbé, Direction des politiques de financement et de l'allocation des ressources, Ministère de la Santé et des Services sociaux, 1075, chemin Sainte-Foy, 5<sup>e</sup> étage, Québec (Québec) G1S 2M1, telephone: 418 266-7111, email: daniel.labbe@msss.gouv.qc.ca.

Anyone wishing to comment on this draft Regulation may write, before the expiry of the 60-day period mentioned above, to the Minister Responsible for Seniors and Informal Caregivers at 1075, chemin Sainte-Foy, 15<sup>e</sup> étage, Québec (Québec) G1S 2M1.

MARGUERITE BLAIS,  
*Minister Responsible for Seniors  
and Informal Caregivers*

CHRISTIAN DUBÉ,  
*Minister of Health and Social Services*

---

**Regulation to amend the Regulation respecting the contribution by users of health and social services institutions, the Regulation respecting the contribution of users taken in charge by family-type resources or by intermediate resources and the Regulation respecting the application of the Act respecting health services and social services for Cree Native persons**

An Act respecting health services and social services (chapter S-4.2, ss. 512, 513, 1st para. and 516, 2nd para.)

An Act respecting health services and social services for Cree Native persons (chapter S-5, ss. 159, 160, 161, 161.1 and 173)

**1.** The Regulation respecting the contribution by users of health and social services institutions (chapter S-4.2, r. 6) is amended by inserting, after section 1, the following section:

“**1.1.** Where provisions of the first paragraph of section 516 of the Act respecting health services and social services (chapter S-4.2) are violated, the Minister may reduce, refuse or cease to grant an exemption by including in its calculation, the value of the rights, property or liquid assets on the date of renunciation, alienation or squandering, after subtracting the consideration received and, for each month that has passed since that date and during a period of no more than 2 years, the amount corresponding to the monthly subtraction set out in section 175 of the Individual and Family Assistance Regulation (chapter A-13.1.1, r. 1).

A refusal or an omission by an adult or his representative to claim within a reasonable time assistance, a benefit or other advantage that he is entitled to demand *prima facie* and of whose existence he is informed of is deemed a renunciation of a right.

The first and second paragraphs do not apply to an adult user who is receiving, under a last resort assistance program set out in the Individual and Family Assistance Act (chapter A-13.1.1), a benefit that has already been reduced, refused or terminated pursuant to section 175 of the Individual and Family Assistance Regulation.”

**2.** The Regulation respecting the contribution of users taken in charge by family-type resources or by intermediate resources (chapter S-4.2, r. 7) is amended by replacing, in the first paragraph of section 1.1, “in subparagraph *b* of the first paragraph of section 375” with “in subparagraph 4 of the first paragraph of section 363.3”.

**3.** Section 1.2 of that Regulation is amended by replacing, in the first paragraph, “in subparagraph *b* of the first paragraph of section 375” with “in subparagraph 4 of the first paragraph of section 363.3”.

**4.** Section 5 of that Regulation is amended by replacing, in the first paragraph, “361 to 370 and 373 to 375 of the Regulation apply” with “361 to 369.1, 373 and 374 of the Regulation and section 1.1 of the Regulation respecting the contribution by users of health and social services institutions (chapter S-4.2, r. 6) apply”.

**5.** The Regulation respecting the application of the Act respecting health services and social services for Cree Native persons (chapter S-5, r. 1) is amended by adding, at the end of the third paragraph of section 355, the following sentence:

“They are rounded to the nearest dollar.”

**6.** That Regulation is amended by adding, at the end of section 360, the following section:

“For the purposes of this Subdivision, a “Québec resident” is understood as a person who is residing in Québec or who is residing in Québec temporarily within the meaning of sections 5 to 8 of the Health Insurance Act (chapter A-29).”

**7.** Section 362 of the French version of that Regulation is amended by replacing, “exemption” with “exonération”.

**8.** That Regulation is amended by replacing section 363 with the following sections:

“**363.** The contribution income is calculated according to the following formula:

$$\text{Contribution income} = (A + B) - C$$

A = Family income established in keeping with the provisions of section 363.1;

B = Increase for property established in keeping with the provisions of section 363.2;

C = Sum of the deductions granted in keeping with the provisions of section 363.3.

Where the result is negative, the income contribution is nil.

Notwithstanding the provisions of sections 363.1 to 363.3, the following factors must not be taken into consideration for the purpose of establishing the contribution income:

(1) the presence of a spouse or a child with respect to whom a contribution may be required pursuant to section 159 of the Act or section 512 of the Act respecting health services and social services (chapter S-4.2) as a beneficiary or user who is accommodated in an institution referred to in one of these statutes or who is taken in charge by a resource referred to one of these statutes;

(2) the benefit to an adult consisting in relief in whole or in part from payment for his accommodation;

(3) the amount of the benefit received under a last resort assistance program in accordance with the Individual and Family Assistance Act (chapter A-13.1.1) as well as the interest produced by the liquid assets of the accommodated adult and his spouse, if applicable, whose value does not exceed the exclusion amounts set out in the first paragraph of section 369;

(4) the expenses incurred to maintain a dwelling or residence;

(5) the payments referred to in paragraph 29 of section 111 of the Individual and Family Assistance Regulation (chapter A-13.1.1, r. 1), up to the maximum amount set out therein.

**363.1.** Family income includes the income of the adult and that of his spouse, if applicable, for the preceding month, within the meaning of section 28 of the Taxation Act (chapter I-3), as well as any non-taxable indemnity, pension, annuity, allowance or benefit arising from any source whatsoever.

**363.2.** The increase for property is equal to 1% of the amount by which the value of the property of the accommodated person and his spouse, if applicable, exceeds \$5,000 if the accommodated adult has a dependent spouse or child, and \$2,500, in all other cases.

For the purpose of calculating this increase, the total value of the property is determined in accordance with sections 145, 146, excluding paragraph 2, 148 and 150 of the Individual and Family Assistance Regulation (chapter A-13.1.1, r. 1), given the necessary adaptations and excluding the total value of the following property from the calculation of the increase:

(1) the value of a residence or farm during the longer of the following periods:

(a) a period of one year from the time when a contribution may be required of the adult pursuant to section 159 of the Act, as a beneficiary who is accommodated in an institution;

(b) the period during which the dependent spouse or child of the accommodated adult lives in or operates this residence or farm on a continuous basis;

(2) the capital from an indemnity paid as compensation for immovable property following an expropriation, fire or other disaster, act of war, attack or criminal act if it is used in the 2 years following its receipt for the repair or replacement of this property or for the operation of an enterprise;

(3) the capital from the sale of a residence if it is used to purchase a new one or have a new one built within 6 months of the sale;

(4) the capital from an indemnity paid as compensation for movable property following a fire or other disaster, act of war, attack or criminal act if it is used within 90 days of its receipt;

(5) the value of the property used within the scope of self-employment or the operation of a farm.

Notwithstanding the first paragraph, with respect to the property referred to in subparagraphs 1 to 3 of the second paragraph, the increase for property applicable at the end of the time periods set out therein is equal to 1% of the amount by which the total value of the property exceeds the amount provided for in the first paragraph of section 164 of the Individual and Family Assistance Regulation. As well, with respect to automobiles, the increase for property is equal to 1% of the amount by which the value of these automobiles exceeds \$10,000.

**363.3.** The following monthly deductions are granted to an accommodated adult in the cases and conditions indicated:

(1) \$1,252 where the accommodated adult has a spouse;

(2) \$501 for each dependent child under age 18;

(3) \$629 for each dependent child age 18 or over who is attending an educational institution full time;

(4) \$260 as a personal expense allowance, where the deduction set out in subparagraph 1 is not granted to the accommodated adult;

(5) a deduction for the payment of the rent indicated in the lease of the dwelling that the accommodated adult was occupying before his admission to an institution and which he is required to fulfil, up to the portion of the monthly lease assumed by this adult. For the purposes of determining the rent that the adult is required to pay,

services other than those referred to in the provisions of the third paragraph of section 1974 of the Civil Code are not taken into consideration. This deduction may be granted only for the first two contribution months on presentation of documents establishing the obligation to continue paying rent and the amount to be paid.

The amounts referred to in subparagraphs 1 to 4 of the first paragraph are indexed on 1 January of each year on the basis of the Pension Index established in accordance with section 117 of the Act respecting the Québec Pension Plan (chapter R-9). They are rounded to the nearest dollar.”

**9.** Section 365 of that Regulation is replaced with the following section:

“**365.** The adult who must pay a monthly rate may, in addition to the exemption he benefits from under section 362, be granted a supplementary exemption if he is in one of the situations referred to in section 366 or 368.”

**10.** Section 366 of that Regulation is replaced with the following section:

“**366.** The Minister shall grant a supplementary exemption to the adult who does not benefit from any of the deductions referred to in subparagraphs 1, 2 and 3 of the first paragraph of section 363.3 if his contribution income is less than twice the monthly rate that he has to pay.

The exemption referred to in the first paragraph is then equal to the difference between the amount which the adult would be exempt from paying, in accordance with section 362, if he only had to pay one-half of his contribution income as monthly rate, and the amount for which he is actually benefiting from an exemption under this section.”

**11.** Section 367 of that Regulation is amended by replacing “the personal expense allowance prescribed by section 375” with “the personal expense allowance prescribed in subparagraph 4 of the first paragraph of section 363.3”.

**12.** Section 368 of that Regulation is replaced with the following section:

“**368.** The Minister shall grant a supplementary exemption to the adult who benefits from one of the deductions referred to in subparagraphs 1, 2 and 3 of the first paragraph of section 363.3 if his contribution income is less than four times the monthly rate that he has to pay.

The exemption referred to in the first paragraph is then equal to the difference between the amount which the adult would be exempt from paying, in accordance with section 362, if he only had to pay 1/4 of his contribution income as monthly rate, and the amount for which he is actually benefiting from an exemption under this section.”

**13.** Section 369 of that Regulation is replaced with the following sections:

“**369.** The amount of the exemption granted to an accommodated adult is reduced by the amount by which the value of his liquid assets and those of his spouse, if applicable, exceed \$5,000, if the accommodated adult has a dependent spouse or child, and \$2,500, in all other cases.

Subject to section 369.1, the total value of the liquid assets is determined in accordance with sections 128 and 129 of the Individual and Family Assistance Regulation (chapter A-13.1.1, r. 1), taking into consideration the necessary adaptations.

Notwithstanding the first paragraph, in the case of an adult whose accommodation predates 1 July 1975, the amount by which the value of his liquid assets and those of his spouse, if applicable, exceeds the exclusion amounts referred to therein is added instead to the value of his property for the purposes of the provisions of section 363.2.

**369.1.** For the purposes of section 369, the following amounts are not taken into consideration when establishing the total value of the liquid assets:

(1) the value of the sums referred to in sections 135 and 136 of the Individual and Family Assistance Regulation (chapter A-13.1.1, r. 1);

(2) the value of the sums paid out pursuant to the judgment rendered by the Superior Court on 28 May 2013, confirming the agreement following the class action on behalf of users of résidence St-Charles-Borromée (CHSLD Centre-Ville);

(3) the value of the sums paid out pursuant to the judgment rendered by the Superior Court on 23 April 2014, confirming the agreement following the class action on behalf of the users of 89 residential and long-term care centres with respect to the laundry service for their personal garments;

(4) the value of the sums paid out pursuant to the judgment rendered by the Superior Court on 9 September 2014, confirming the agreement following the class action on behalf of users of hôpital Rivière-des-Prairies;

(5) the value of the sums paid out pursuant to the judgment rendered by the Superior Court on 15 May 2015, confirming the agreement following the class action on behalf of users of centre hospitalier régional du Suroît de Valleyfield;

(6) the value of the sums paid out in 2015 by Centre d'hébergement et de soins de longue durée (CHSLD) Jeanne-Le Ber to users of this centre, toward the reimbursement of financial losses resulting from irregular operations into their bank accounts;

(7) the value of the sums paid out pursuant to the settlement agreement, approved by the Federal Court in June 2018, following the class action filed on behalf of members of the Canadian Armed Forces, members of the Royal Canadian Mounted Police and employees of the federal public service having suffered prejudice due to their sexual orientation, gender identity or gender expression;

(8) the value of the sums paid out pursuant to the judgment rendered by the Federal Court on 30 January 2019, confirming the settlement agreement following the class action filed on behalf of war veterans receiving various benefits, including a disability pension;

(9) the sums accrued in a registered retirement savings plan, where the holder of the plan has not reached the age of eligibility for a full pension under the Old Age Security Act (R.S.C. 1985, c. O-9);

(10) the sums accrued in a registered disability savings plan, including those paid into it in the form of Canada disability savings bonds or Canada disability savings grants for the benefit of the adult, his spouse or one of his dependent children and which he cannot dispose of in the short term without incurring a penalty, according to the rules applicable to that plan.

The exclusions set out in subparagraphs 1 to 8 of the first paragraph apply as of the date of payment of these sums and only for the person who is entitled thereto.”

**14.** Section 370 of that Regulation is repealed.

**15.** Section 371 of that Regulation is replaced with the following section:

“**371.** The Minister shall grant, upon application of the adult accommodated in a reception centre, regardless of section 369 and the increase for property referred to in section 363.2, a supplementary exemption equal to the difference between the monthly rate payable to the reception centre less the exemption and the monthly rate that he would pay if he were accommodated in a hospital centre.”

**16.** Section 372 of that Regulation is amended by inserting, in the first and second paragraphs and after “section 369”, “and the increase for property referred to in section 363.2”.

**17.** Section 374 of that Regulation is replaced by the following section:

“**374.** An application for exemption must be addressed to the Minister using the appropriate form supplied to this end. The adult who files an application for exemption must transmit all information and documents necessary to process this application, including the documents necessary to establish the adult’s income and, if applicable, that of his spouse, as well as the total value of their property and liquid assets.

An exemption may be granted retroactively only up to six months preceding the receipt of the application for exemption by the Minister. However, the Minister may extend this time limit where it was impossible for the adult to file an application sooner.

The adult must notify the Minister of any change regarding the information or documents transmitted in support of an application for exemption within 30 days of such a change.”

**18.** Section 375 is replaced with the following:

“**375.** For the purposes of this Subdivision, the expression “reception centre” does not refer to a reception centre which operates without receiving sums of money derived from the Consolidated Revenue Fund.”

**19.** Section 376 of that Regulation is amended:

(1) by replacing, in the first paragraph, “in subparagraph *b* of the first paragraph of section 375” with “in subparagraph 4 of the first paragraph of section 363.3”;

(2) by replacing, in the second and third paragraphs, “in paragraph *b* of section 375” with “in subparagraph 4 of the first paragraph of section 363.3”.

**20.** Section 377 of that Regulation is amended by replacing “in paragraph *b* of section 375” with “in subparagraph 4 of the first paragraph of section 363.3”.

**21.** This Regulation comes into force on 1 January 2021.

104534