

Draft Regulations

Draft Regulation

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

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

Application of the Act respecting health services and social services for Cree Native persons —Amendment

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 draft Regulation to amend 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 include in the Regulation respecting the application of the Act respecting health services and social services for Cree Native persons (chapter S-5) a definition of the concept of dependent child based on the one provided by the Act respecting prescription drug insurance (chapter A-29.01) to ensure uniform application.

In addition, this draft regulation aims to exclude from the family income taken into account in the calculation of the contribution of adult users accommodated in health and social services institutions, as well as adult users taken in charge by intermediate resources any non-taxable indemnity, pension, annuity, allowance or benefit received exclusively for the benefit of a dependent child or an informal caregiver, or received to compensate for a disability, arising from any source whatsoever.

Finally, this draft regulation aims to update the list of 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 has no effect on enterprises, in particular, on small or medium-sized enterprises.

Further information on 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^e 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^e étage, Québec (Québec) G1S 2M1.

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Regulation to amend the Regulation respecting the application of the Act respecting health services and social services for Cree Native persons

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

Act respecting health services and social services
for Cree Native persons
(chapter S-5, s. 159)

1. 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 inserting, after the heading of SUBDIVISION 2, of DIVISION VII, of PART VI, the following section:

“**357.3.** For the purposes of this Subdivision:

“dependent child” is understood as:

1° a person under age 18 in respect of whom the accommodated adult exercises parental authority;

2° a spouseless person 25 years of age or under who attends or is deemed to attend an educational institution on a full-time basis as a duly registered student, and who is domiciled with the accommodated adult who would exercise parental authority were the person a minor;

“educational institution”: “an educational institution located in Canada designated by the Minister of Education, Recreation and Sports or the Minister of Higher Education, Research, Science and Technology for the application of the Loans and bursaries program established under the Act respecting financial assistance for education expenses (chapter A-13.3).”

2. Section 363.1 of that Regulation is amended by adding, after “whatsoever”, “other than for the exclusive advantage of a dependent child, an informal caregiver, or received to compensate for a disability”.

3. Section 363.2 of that Regulation is amended:

1° by deleting, in the portion before subparagraph 1 of the second paragraph, “excluding paragraph 2, ”;

2° by deleting the last sentence of paragraph 3.

4. Section 363.3 of that Regulation is amended by deleting, in subparagraph 3 of the first paragraph, “who is attending an educational institution full time ”.

5. Section 369.1 of that Regulation is replaced with the following section:

“**369.1.** The total value of the liquid assets referred to in section 369 is determined by excluding the following assets:

1° the sums paid out in the cases referred to in Schedule VI;

2° 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);

3° 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;

4° the cash surrender value of a life insurance policy.

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

6. That Regulation is amended by adding, at the end, the following Schedule:

“SCHEDULE VI
(s. 369.1)

The cases referred to in subparagraph 1 of the first paragraph of section 369.1 of this Regulation are those for which sums have been paid pursuant to:

1. the Japanese Canadian Redress Agreement between the Government of Canada and the National Association of Japanese Canadians;

2. a declaration made to the House of Commons on 14 December 1989 by the Minister of Health and Welfare Canada regarding persons infected by the human immunodeficiency virus following a blood transfusion or use of blood-derived products;

3. the creation of a humanitarian fund by the Government of Québec for hemophiliacs and other persons infected by the human immunodeficiency virus following a blood transfusion, unless the amounts are paid as compensation for loss of income or loss of support;

4. the creation of the extraordinary assistance plan by the Government of Canada for victims of thalidomide (Order in Council P.C. 2019-0271 dated 5 April 2019);

5. the creation of a Government of Canada program respecting *ex gratia* payments to persons depatterned at the Allan Memorial Institute between 1950 and 1965 (Order in Council P.C. 1992-2302 dated 16 November 1992);

6. the creation of a financial assistance program by the Government of Québec for persons infected by the hepatitis C virus following a blood transfusion or use of blood products in Québec before 1 January 1986 or between 2 July 1990 and 28 September 1998 (Order in Council 863-99 dated 28 July 1999);

7. the 1986-1990 Hepatitis C Settlement Agreement dated 15 June 1999, unless the sums are paid to compensate loss of income or loss of support pursuant to paragraphs 4.02 and 6.01 of the compensation plans referred to in the Agreement (Order in Council 663-99 dated 9 June 1999);

8. the creation of the Programme national de réconciliation avec les orphelins et orphelines de Duplessis by the Government of Québec (Order in Council 1153-2001 dated 26 September 2001);

9. judgments rendered by the Superior Court on 6 July 2001 confirming the agreements between the Société québécoise des infrastructures and the Attorney General of Québec following class actions filed by persons who suffered damage because of the Kénogami reservoir flood in July 1996;

10. the creation of the financial relocation assistance program by the Government of Québec for the residents of Aylmer Sound (Order in Council 546-2005 dated 8 June 2005);
11. the creation of the National Reconciliation Program for Duplessis Orphans who were Residents of Certain Institutions Order in Council 1198-2006 dated 18 December 2006);
12. the conclusion of the Indian Residential Schools Settlement Agreement between the Attorney General of Canada and the other parties concerned, effective as of 19 September 2007;
13. the conclusion of the Pre-1986/Post-1990 Hepatitis C Settlement Agreement between the Attorney General of Canada and the other parties concerned;
14. the Supreme Court of Canada decision in *Public Curator of Québec v. Syndicat national des employés de l'hôpital St-Ferdinand*, delivered on 3 October 1996;
15. an agreement following a breast implant class action;
16. recommendations in the report drawn up following the mandate given by the Government of Québec under *Recommandation du Curateur public de mesures appropriées pour évaluer les pertes financières causées aux personnes représentées et les réparer* (Order in Council 931-98, 8 July 1998), regarding damage suffered by certain persons represented by the Public Curator;
17. the Court of Appeal of Québec judgment in *Centre d'accueil Pavillon Saint-Théophile Inc. v. the Commission des droits de la personne*, rendered on 21 September 1998;
18. the Nova Scotia Memorandum of Understanding regarding Compensation for Survivors of Institutional Abuse regarding damage suffered by certain residents of provincially-operated institutions;
19. the Superior Court judgment rendered on 14 September 2001 confirming the agreement with the Canadian Red Cross Society following the class action brought by persons who received a blood transfusion contaminated by the hepatitis C virus and who were infected by the virus before 1 January 1986 or between 1 July 1990 and 28 September 1998;
20. the Superior Court judgment rendered on 25 April 2003 approving the agreement with *Centerpulse Orthopedics Inc. and Centerpulse Ltd* following the class action brought by persons who received a defective hip prosthesis;
21. the agreement concluded between the Commission des droits de la personne et des droits de la jeunesse and the Douglas Mental Health University Institute, on 21 June 2007, in respect of the former residents of Pavillon des Pins;
22. the resolution process between the Government of Canada and the Sayisi Dene First Nation owing to the relocation of persons of that Nation in the 1950s and the 1960s;
23. the Entente concernant la reconnaissance par le Québec de l'effet sur la société inuite de l'abattage de Qimiit (chiens de traîneau) du Nunavik entre 1950 et 1970, approved by Décret 795-2011 dated 3 August 2011, amended by Décret 175-2012 dated 21 March 2012;
24. the constitution on 6 March 1996 of the High Arctic Relocatee Trust (HART Trust), amended by the Superior Court judgment rendered on 23 August 2010, concerning the relocation of certain persons to the High Arctic;
25. the Superior Court judgment rendered on 22 December 2005 and amended in part by the Court of Appeal on 7 August 2007 following a class action brought against several residential and long-term care centres concerning persons who resided in those centres and who did not receive free laundry services;
26. the Superior Court judgments rendered on 18 March and 21 May 2009 approving the transactions following a class action brought against the Institut Philippe-Pinel de Montréal and the Attorney General of Québec concerning users of the institute between 1999 and 2002;
27. the Superior Court judgment rendered on 25 September 2009 approving the settlement agreement established following a class action brought against several hospital centres concerning persons who had to wait for radiotherapy treatments;
28. the Superior Court judgment rendered on 1 April 2010 approving an agreement following a class action brought against *St. Jude Medical inc. and St. Jude Medical Canada inc.* concerning persons who suffered problems following a heart valve implant;
29. the Superior Court judgment rendered on 18 June 2010 approving the transaction following a class action brought against *Eli Lilly Canada inc. and Eli Lilly and Company* concerning persons who were prescribed and who took Zyprexa;
30. the Superior Court judgment rendered on 9 December 2011 approving the agreement following a class action brought against the Attorney General of Québec and the Agence du Revenu du Québec concerning the fuel tax paid by registered Indians;

31. the Superior Court judgment rendered on 4 October 2012 approving the transaction following a class action brought in particular against Merck & Co inc. concerning the medication Vioxx;

32. the Settlement Agreement of 2 April 2013 between the Government of Canada and the Nipissing First Nation concerning the claim regarding the boundaries of Nipissing Indian Reserve No. 10 (Order in Council P.C. 2013-0952 dated 27 September 2013);

33. the Ontario Superior Court of Justice judgment rendered on 8 May 2013 approving the agreement following a class action brought against Pfizer Canada inc. and Pfizer inc. concerning persons who were prescribed and who took Neurontin;

34. the Superior Court judgment rendered on 28 May 2013 approving the agreement and transaction following a class action brought against Résidence St-Charles-Borromée concerning users who suffered damage between 1 January 1995 and 3 March 2006;

35. the Superior Court judgement rendered on 23 April 2013 approving the agreement following a 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;

36. the Superior Court judgment rendered on 9 September 2014 approving the agreement following a class action brought against Hôpital Rivière-des-Prairies concerning persons who were admitted or registered from 1985 to 2000;

37. the agreement on 8 November 2014 between Ontario Power Generation and the Gull Bay First Nation, in Ontario, following floods caused by the construction of dams on the Nipigon River and the diversion of the Ogoki River in the 1918s;

38. the Superior Court judgment rendered on 26 March 2015, following a class action brought against the Société d'habitation du Québec concerning the reduction of a subsidy provided for in rent supplement programs between July 2004 and January 2015;

39. the agreement on 29 April 2015 between the Government of Canada and the Listuguj Mi'gmaq First Nation concerning the loss of use of ancestral lands;

40. the Superior Court judgment rendered on 15 May 2015 approving the agreement following a class action brought against the Centre hospitalier régional du Suroît de Valleyfield concerning persons who were subject to isolation or restraint measures from 11 June 2005 to 11 June 2008;

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

42. the Ontario Superior Court of Justice judgment rendered on 28 April 2016 approving and agreement following a class action brought against the province of Ontario concerning persons with developmental disorders or delays, for damages suffered between the 1960s and 1990s in various institutions intended to provide, in particular, hospital care and activities;

43. the Superior Court judgment rendered on 1 June 2016 approving the transaction following a class action brought against Hôpital Lachine concerning the incomplete cleaning process of an instrument used for bariatric surgeries between March 2012 and March 2014;

44. the Superior Court judgment rendered on 4 July 2016 approving the transaction following a class action brought in particular against Zimmer inc. concerning persons who had problems with the Durom Cup hip prosthesis;

45. the implementation on 9 March 2017 of the 1974 Valcartier Grenade Incident Program for health care support and financial recognition for the victims of the 1974 accidental grenade explosion at the Canadian Forces Base Valcartier cadet camp;

46. the Federal Court judgment rendered on 28 March 2018 approving the final settlement agreement following a class action brought against the Attorney General of Canada concerning the current and former members and employees of the Canadian Armed Forces, the Royal Canadian Mounted Police and the federal public service targeted by policies between 1 December 1955 and 20 June 1996 because of their sexual orientation, their gender identity or their gender expression;

47. the judgments rendered by the Federal Court on 11 May 2018 and the Ontario Superior Court of Justice on 20 June 2018 approving the national settlement following various class actions brought against the Attorney General of Canada for compensating survivors for wrongs suffered during the "Sixties Scoop";

48. the Superior Court judgment rendered on 22 May 2018 approving the settlement agreement following a class action brought against Johnson & Johnson inc. and Depuy Orthopaedics inc. concerning persons who received a defective hip prosthesis between July 2003 and August 2010;

49. the Superior Court judgment rendered on 11 December 2018 approving a transaction following a class action brought against, in particular, the Centre intégré universitaire de santé et de services sociaux de la Capitale-Nationale and the Attorney General of Québec concerning an outbreak of legionellosis in Ville de Québec;

50. the settlement agreement in January 2019 following a class action brought against the Government of Canada concerning failures respecting Canada's fiduciary obligations and its obligations of disposition of land of the Kitigan Zibi Anishinabeg Reserve to develop Ville de Maniwaki;

51. the Federal Court judgment rendered on 30 January 2019 approving the settlement agreement following a class action concerning the reduction of an allowance paid to the members and veterans of the Canadian Armed Forces between 1 April 2006 and 29 May 2012, owing to the deduction of the disability benefits under the Pension Act (R.S.C., 1985, chapter P-6);

52. the Federal Court judgment rendered on 19 August 2019 approving the settlement agreement following a class action brought against the Attorney General of Canada concerning the wrongs suffered by persons attending federal Indian day schools;

53. the judgment rendered by the Ontario Superior Court of Justice on 4 October 2019 approving the settlement agreement following a class action brought against, among others, American Medical Systems Canada Inc., concerning woman's pelvic mesh devices;

54. the individual agreements in 2020 with Bard Canada inc., concerning the problems caused by IVC filters (inferior vena cava filters);

55. the Ontario Superior Court of Justice judgment rendered on 2 March 2020 approving the settlement agreement following a national class action brought against Medtronic inc. and Medtronic of Canada Ltd concerning persons who received certain models of Sprint Fidelis leads;

56. the Superior Court judgment rendered on 19 April 2021 approving the transaction following a class action brought against the Attorney General of Québec concerning the compensation of inmates who were strip searched following a release order.”

7. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

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The draft Regulation provides for the increase, in addition to the annual indexation, of the personal expense allowance of users of full age sheltered in health and social services institutions and users of full age taken in charge by intermediate resources or family-type resources for 2023.

There is no impact on enterprises, including small and medium-sized businesses.

Further information on the 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^e étage, Québec (Québec) G1S 2M1; telephone: 418 266-7111; email: daniel.labbe@msss.gouv.qc.ca.

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