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FEATURE



Pharmacare plan could cost \$10 billion+

A national program to cover catastrophic drug expenses will cost as much as \$10.3 billion to implement, according to a report released by Canada's provincial health ministers.

The report, released September 21, 2006, projects costs will range from \$6.6 billion to \$10.3 billion, depending on the co-payment percentage the program ultimately adopts.

The provincial ministers recommended that co-payment schedules vary by income and that some costs be open to private health care coverage.

While the strategy document represents an important first step in the development of a national pharmacare strategy to cover the large costs associated with catastrophic drug care regimes, the country is still far from having a national drug plan, the ministers concede.

At best, the report provides a platform for future discussions between the federal and provincial governments. Areas covered in the report include: establishing when drugs create undue financial hardship for patients; paying for drugs for rare diseases; creating a national list of approved medications; reducing drug costs; and product safety and testing.

The report by the health ministers follows the 2004 health funding agreement signed by the provinces and the federal government. That agreement included a provision that called for the estimation of the costs of a national pharmacare program over the long term.

The establishment of a national pharmacare plan to cover the costs of catastrophic drugs formed a major part of both the Kirby and Romanow reports on health care reform in 2002. (See the November 2002 and December 2002 editions of the *Coughlin Courier* for more details.)

New addition to Coughlin's consulting team



Tari Duguay, Consultant

Coughlin & Associates Ltd. is pleased to announce the appointment of **Tari Duguay** to its consulting team in Ottawa.

Tari joins Coughlin after a five-year association as consultant with another Ottawa-based group benefits consulting firm and three years as representative of the Government of Manitoba in its government relations office in Ottawa.

In her new role at Coughlin, Tari will be responsible for the development, management and servicing of group benefits programs for a number of key clients in the national capital region.

Tari is a graduate of the University of Ottawa and has a Bachelor of Commerce degree with Honours in both Marketing and International Management.

She is licensed to provide life insurance services in the province of Ontario.

Important news regarding Ontario Bill 102

This summer, the Ontario legislature passed Bill 102, *the Transparent Drug System for Patients Act*. This new law will have a direct impact on both the Ontario Drug Benefit (ODB) plan and plan sponsors that are members of the Coughlin & Associates Ltd. Preferred Provider Network (PPN).

Highlights of Bill 102 include the following:

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LEGAL UPDATES

Supreme Court backs grievance process in pension dispute

The Supreme Court of Canada has come out in favour of labour arbitrators and the labour grievance process over class action suits in settling pension disputes in unionized workplaces.

In a tight 4-3 decision this past July, the Court ruled that class action suits are *"inappropriate"* and *"incompatible with the exclusive jurisdiction of grievance arbitrators and the representative function of unions."*

The case involved a Concordia University employee and union member who objected to recent amendments to the university's pension plan and its plan to take contribution holidays. The employee planned to file the action in the Superior Court of Quebec but, before he could do so, was challenged by the university's faculty association, which held that

the Superior Court had no jurisdiction in this area. The faculty association, one of nine unions in the university, maintained that the dispute fell within the jurisdiction of grievance arbitrators and that the employee *"interfered unduly with the unions' ability to represent their members."*

The Superior Court agreed with the union but was later overruled by the Quebec Court of Appeal. The case was then appealed to the Supreme Court.

In its judgement, the nation's highest court noted that based on the employee's collective agreement, the only recourse he had to address Concordia's failure to comply with its pension obligations was to file a grievance through his union. The employee's use of the class action process amounted to an attempt to bypass the representation and grievance resolution mechanisms

established under Quebec law, the Court said.

"A class action cannot have the effect of conferring jurisdiction on the Superior Court over a group of cases that would otherwise fall within jurisdiction of another court or tribunal," the Court concluded.

For union members, the judgement affirms the supremacy of collective agreements and dispute mechanisms over individual civil actions. It also frees both unions and plan sponsors from the prospect of facing protracted class action suits when major adjustments are made to pension plans and labour agreements. However, it should be noted that arbitrators' rulings would not apply to those not covered by a labour agreement, such as non-union members and third parties such as insurers, third party administrators and other suppliers. The courts will still have jurisdiction in these cases.

Can a child have three or more parents?

Court ponders expanded parental definitions

Can the term "*biological parent*" apply to both members of a same-sex relationship? And, if so, what about the member of the opposite sex who helped create the child in the first place?

The Ontario Court of Appeal is now considering these questions.

The provincial court has agreed to review an application by a lesbian couple to have both members of their relationship recognized as parents of a five-year old boy in addition to the boy's biological father. If accepted by the Court, the definition of "*parent*" and "*family*" will be radically altered.

Today, parental definitions include father, mother, step-father and step-mother and are still based on traditional male-female relationships. In the Ontario case, the appellants argue that both women should be recognized as mothers of the child and the biological father recognized as the father. In effect, a child could have three parents -- or even more.

The case involves two London-area women who have been in a conjugal relationship since 1992. When they agreed to have a child, they asked a male friend to be the biological father. He agreed and has continued to maintain a close and supportive relationship with both women and the child.

According to the applicants' submission, same-sex couples require assisted human reproduction --an individual of the opposite sex-- to have a child. Therefore, their equality rights under the Charter of Rights and Freedoms are being violated when the law confines parental definitions to only two people.

"It is discriminatory when one of them, the biological mother, gets legally recognized but the non-biological mother, who is equally part of the process, can't be recognized," the couple's lawyer argued. *"They both decided to have a child, arranged for the procreation and birth of the child and jointly parent the child... The reality for the child is that he has three parents; that's an everyday experience for him..."*

The appeal is being opposed by a number of religious organizations, which have intervener status at the hearings. According to submissions by the Evangelical Fellowship of Canada, children can only have two parents, even in cases of separation, divorce or remarriage. The presence of a third individual in the relationship, even one that readily assumes a parental role, is no different than that of a step-parent or other caring relative, the Fellowship says. As well, the group stated, parliament or the provincial legislature should be the body legally defining parental relationships, not the courts.

"This would be a significant change to the law and it wouldn't be appropriate for the court to do this," they said. *"You would need to have full hearings in the provincial parliament and it should be a legislated change."*

However, precedence may not be on the side of supporters of the traditional parental definitions.

For example, the acceptance of same-sex marriage was first defined by provincial courts prior to the enactment of same-sex legislation by lawmakers.

While it is likely that the Supreme Court of Canada will eventually hear this dispute, plan sponsors should be aware that, if accepted, the terms and definitions used for parents and dependants may be radically changed or expanded in the near future.

Important news regarding Ontario Bill 102

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- an increase in the ODB maximum dispensing fee from the current level of \$6.54 per prescription to \$7.00; and
- the reduction in the allowable mark-up from 10 per cent to eight per cent.

PPN agreements will be amended to conform to these new requirements.

The new rules also expand the interchangeability of generic and brand name drugs, which may result in increased requests for generic drug substitution at the time of purchase.

As announced in the June edition of the *Coughlin Courier*, the new legislation will make the ODB the *second payer* for the federal Public Service Health Care Plan and for working seniors with private drug plan coverage. This will affect more than 91,000 retired members of the federal public service, Armed Forces, RCMP and judiciary.

The legislation was scheduled to become effective on October 1, 2006.

PENSIONS

Alberta allows access to locked-in funds

Alberta has passed legislation that allows up to 50 per cent of funds held in locked-in retirement accounts (LIRAs) to be transferred into retirement income products such as life income funds (LIFs), pensions and non-commutable life annuities.

The new measure, which goes into effect on November 1, 2006, allows LIRA owners a one-time option to unlock their funds and transfer up

to half their value to a retirement income product. The option is available only to Alberta LIRA holders age 50 or older. The consent of the member's spouse or common-law spouse is also required. The law does not apply to federally regulated pension plans such as those covering federal employees, the military, police or those working in federally regulated industries.

The unlocking option can be exercised only when income starts to be withdrawn from locked-in retirement savings. This occurs when funds from a LIRA or eligible pension plan are transferred to a life annuity, LIF or defined contribution retirement income account

(DC-RIA). Unlocked assets can be transferred to another tax-sheltered vehicle like a registered retirement savings plan or taken as a cash payout that is subject to taxation.

Holders of an existing LIF or locked-in retirement income fund (LRIF) also have the option of unlocking 50 per cent the fund's value, but must make their decision by December 31, 2007. After that date, unlocking can only be done when a person opens a new LIF, life annuity or DC-RIA. As well, LIF owners are no longer required to purchase an annuity at age 80.

A brief summary of the impact of these changes on LIRAs, LIFs and LRIFs follows:

LIRAs

New features:

- Member can transfer 50 per cent to a LIF and remaining 50 per cent can be transferred to a tax-deferred plan such as an RRSP or taken as cash and subject to taxation.
- Cannot receive funds from a LIF or DC-RIA.

Transfers to LIRAs can come from:

- Pension plans other than DC-RIA plans.
- Other LIRAs.

Transfers from LIRAs can only go to:

- Other LIRAs.
- A pension plan.
- A LIF.
- A DC-RIA.

Up to 50 per cent may be unlocked and withdrawn in cash, subject to tax, or rolled into an RRSP or RRIF.

LIFs

New features:

- No requirement to purchase an annuity at age 80.
- No transfer back to a LIRA or pension plan, other than to a DC-RIA.
- Spouse may waive beneficiary status.
- New maximums established, based on the greater of: the Income Tax Act minimum; a term certain annuity to age 85; or the investment earnings for the year.

Transfers to LIFs can come from:

- A pension plan.
- Another LIF.

- A LIRA.
- An LRIF.

Transfers from LIFs can go to:

- Another LIF.
- The purchase of an annuity.
- A pension plan to purchase a DC-RIA.

Up to 50 per cent may be unlocked and withdrawn in cash, subject to tax, or rolled into an RRSP or RRIF. Such transactions must be completed by December 31, 2007.

LRIFs

- To be discontinued after December 31, 2007.

Detailed information on these changes can be found at the government of Alberta website at: www.finance.gov.ab.ca/business/pensions/.

Gap in retirement savings rates widens

New data from Statistics Canada suggests that the rich are getting richer while the poor are getting poorer -- and that difference is being reflected in retirement savings rates.

According to the government fact finder, income levels and retirement savings plan contributions of the top 20 per cent of income earners jumped significantly between 1986 and 2003 while incomes and retirement savings rates for those in the lowest 20 per cent income range stagnated or declined.

The average earnings for two-parent families in the top 20 per cent of income earners between the ages of 35 and 54 increased from \$123,000 per year in 1986 to \$170,000 in 2003. Their registered retirement savings plans (RRSP) and registered pension plan (RPP) savings rates increased correspondingly, from \$8,000 per year to \$11,300. Meanwhile, average incomes of those at the bottom end of the income scale remained unchanged in the 17 years between 1986 and 2003 at \$25,000. Their retirement contribution levels also remained unchanged at \$1,200 per year.

The income gap wasn't confined to two-parent households. According to Statistics Canada, similar disparities were reported among single individuals as well as single parent families. For example, single mothers in the top 20 per cent of income earners contributed an average of \$3,600 per year to retirement plans in 1986 and \$4,900 per year in 2003. This is in contrast to single mothers in the lowest income range, whose retirement savings contributions dropped from \$300 a year in 1986 to \$200 in 2003.

The income and savings variance will likely be reflected in greater income inequalities in the future when these groups retire, the report said.

"...The growing inequality in contributions towards retirement among families could make the distribution of family income more unequal in years to come," Statistics Canada says.

It may also reinforce the importance of social programs such as the Canada Pension Plan and Old Age Security in providing income sources to lower income Canadians at retirement.

The widening retirement savings gap	1986	2003
Income, top 20%, two-parent families	\$123,000	\$170,000
Retirement contributions/year	\$8,000	\$11,300
Income, bottom 20%, two-parent families	\$25,000	\$25,000
Retirement contributions/year	\$1,200	\$1,200
Average retirement contributions, all two parent families/year	\$3,900	\$5,300
Average annual retirement contributions, single mothers, top 20% of income	\$3,600	\$4,900
Average annual retirement contributions, single mothers, lowest 20% of income	\$300	\$200
Percentage of wives in two-parent families contributing to a RPP	20%	29%

Health Canada approves sleep apnea implant

Health Canada has approved a new implant device to treat obstructive sleep apnea.

Patients suffering from the sleep disorder can now receive 18-millimetre long polyester implants to stiffen their palates to prevent the snoring and breathing problems associated with the condition.

The new Pillar palatal implant procedure can be conducted in doctors' offices using local anaesthetic.

A significant number of the 16,000 patients worldwide who have received the implants have reported fewer sleep interruptions and breathing problems within 60 days of undergoing the procedure.

The procedure is expected to cost \$1,500 to \$2,000 and, to date, is not covered by provincial health care plans. As a result, plan sponsors and benefits administrators should expect to receive claims from those suffering from obstructive sleep apnea to cover the cost of the procedure.

Many employee benefits plans cover all or part of the costs of sleep apnea monitors, also known as continuous positive airway pressure (CPAP) machines. Patients using the monitors are required to wear a mask during sleep while the machine pumps air into the mouth and nose to regulate breathing. While CPAP machines have a high success rate, many sleep disorder sufferers object to being hooked to a machine during sleep.

It is estimated that more than two million Canadians suffer from obstructive sleep apnea.

List of compassionate leave qualifiers expands

The federal government has drastically expanded the definition of *family member* for the Compassionate Care Benefit program.

Under the program, employees may take a temporary leave of absence from work of up to six weeks to care for a seriously ill family member and receive an Employment Insurance benefit. The ill family member must face a significant risk of death within 26 weeks. Until now, *family member* was defined as: an employee's spouse or common-law partner; an employee's child or child of his/her spouse or common-law partner; and an employee's parent or the parent of his/her spouse or common-law partner.

The definition has been expanded to include the following:

- ▶ a child of the individual's parent or the child of the spouse or common-law partner's parent;
- ▶ the grandparent of the individual or his/her spouse or common-law partner, or the spouse or common-law partner of the individual's grandparent;
- ▶ the grandchild of the individual or his/her spouse or common-law partner, or the spouse or common-law partner of the individual's grandchild;



- ▶ the spouse or common-law partner of the individual's child, or the child of the individual's spouse or common-law partner;
- ▶ the parent, or spouse or common-law partner of the parent of the individual's spouse/partner;
- ▶ the spouse or common-law partner of a child of the individual's parent, or the child of the spouse or common-law partner of the parent;
- ▶ a child of a parent of the individual's spouse or common-law partner or a child of the spouse or common-law partner of the parent of the individual's spouse or common-law partner;
- ▶ an individual's uncle or aunt, or the uncle or aunt of his/her common-law partner, or the spouse or common-law partner of the individual's uncle or aunt;
- ▶ an individual's niece or nephew, or the niece or nephew of his/her common-law partner, or the spouse or common-law partner of the individual's niece or nephew;
- ▶ the current or former foster parent of the individual or his/her spouse or common-law partner;
- ▶ the current or former foster child of the individual or the spouse or common-law partner of that child;
- ▶ a current or former ward of the individual or of the individual's spouse or common-law partner;
- ▶ a current or former guardian of the individual or the spouse or common-law partner of the guardian; and
- ▶ a person who is not related by blood, adoption, marriage or common-law relationship whom the individual considers to be like a close relative.

PPN UPDATE

Kanata Drug Mart, 64 Stonehaven Drive, has changed its name to **Bridlewood Drug Mart**. Their telephone number remains 613-254-9918.

FAST FACTS

The number of job-related deaths in Canada declined in 2004 to 928 from 963 in 2003, according to the Association of Workers' Compensation Boards of Canada. However, 10-year trends show a disturbing 32 per cent increase in work-related deaths over the decade, the Association notes. Fatalities totalled 703 in 1996. Canada has some of the highest rates of occupational deaths and injuries in the developed world.

Despite warnings and news articles on the potential problem posed by pension underfunding, pensions are not a major issue for most companies, the Dominion Bond Rating Service (DBRS) reports. In a report issued August 29, 2006, the DBRS says that the forestry industry and unionized manufacturers with large work forces remain vulnerable to funding pressure. Some of Canada's largest companies have pension deficiencies exceeding 20 per cent of their assets.

Average number of drug prescriptions received by seniors being treated by two doctors, according to Medco Health Solutions Inc.: 27.

Number of times an incorrect dose or a drug incompatible with other medicines is prescribed: 10.

Number of different prescriptions dispensed when five doctors were involved: 42.

Number of potential drug errors: 16.

Percentage of seniors receiving treatment from five or more doctors: 25 per cent.

The Prostate Cancer Research Foundation of Canada has developed an on-line tool to help individuals assess the likelihood of their having cancer based on their own clinical test results. All the individual has to do is load his test result scores, including the levels of prostate specific antigen (PSA), following the initial PSA test and rectal exam for an easy-to-understand assessment. The Foundation hopes the site will educate patients and help them take important "next steps" following a prostate exam. More than 20,000 Canadian men will be diagnosed with prostate cancer this year; 4,200 will die from the disease. More information can be found at www.prostatecancer.ca

The Office of the Superintendent of Financial Institutions (OSFI) is looking for a new superintendent. Nicholas Le Pan announced in July that he would leave the post on October 13 of this year.

Percentage of Canadians with mild to moderate dementia still operating a motor vehicle three years after diagnosis, according to Toronto's Sunnybrook Health Sciences Centre: 23 per cent. Number of Canadians expected to have Alzheimer's disease or another form of dementia by 2021: 500,000; by 2031: 750,000.

Percentage of Americans in lowest income range in poor to fair health: 31 per cent. Percentage of Canadians in similar economic situation with same health status: 23 per cent. (*Joint Canada/United States Survey of Health 2002-2003*)

Health Canada reports that 21 per cent of youth in grades five through nine had tried a tobacco product in 2004. This represents a 50 per cent reduction over the 10-year period from 1994.

Pension executives endorse outsourcing

A survey by the SEI Global Institutional Group of 302 North American executives responsible for the management of defined benefit pensions indicates that the majority would consider outsourcing at least one aspect of the management of their pension plan.

Over 80 per cent of those surveyed said they would consider outsourcing while 89 per cent of those with frozen or closed pensions said they would switch to outside administrators.

In addition, 29 per cent of respondents warned that they plan to close, freeze or terminate their defined benefit pensions by the end of 2007.

The 302 executives surveyed were responsible for pension plans ranging in size from \$40 million to \$3.5 billion.

Coughlin & Associates Ltd.

We're more than a group benefits provider!



Coughlin & Associates Ltd. is Ottawa's largest employee benefits firm with 85 employees in Ottawa as well as 28 employees in its Winnipeg office. Its clients number among Canada's leading union, corporate, and public organizations, including members of the high-tech community, hospitals, school boards, municipal governments, national retailers, unions and community organizations.

In addition to providing employee benefits, we offer **individual and corporate financial services:**

- ▶ Estate planning
- ▶ Individual insurance needs analysis
- ▶ Executive compensation arrangements
- ▶ Individual pension plans
- ▶ Corporate keyperson insurance
- ▶ Buy/Sell agreement funding options:
 - ▶ Shareholder buyout at death
 - ▶ Disability buyout
- ▶ Disability top up to group long-term disability plans
- ▶ Group registered retirement savings plans



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