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AT A GLANCE ...

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GM wrong to cut retiree benefits, court says

An Ontario court has ruled that General Motors Canada was wrong to cut the group life, health and dental insurance of its retired employees in 2009.

In what could potentially be a landmark ruling for the group benefits industry, Ontario Superior Court Justice Edward Belobaba ruled that the auto maker was "not contractually entitled" to make changes to the benefits of its retired salaried employees when it faced financial restructuring during the 2008-09 market crash.

According to Justice Belobaba, GM was too vague in outlining its right to reduce or eliminate group benefits, particularly after the affected employees had stopped working.

GM maintains that its benefits booklets, which were distributed to its salaried workers, clearly specified that the company could *"amend, modify, suspend or terminate the benefit programs at any time."*

However, in reviewing the various benefits documents that had been distributed to the workers, Justice Belobaba noted that GM had repeatedly said that the workers could rely on the company to provide the promised group health care and life insurance benefits.

"The salaried retirees, some of whom had worked for decades at GM, were told repeatedly in the benefits documents that they could rely on the promised health care and life insurance benefits…," the judge noted. *"GM's right to make changes to the benefit programs didn't mean that GM could cut retirement benefits after retirement. If that's what the company intended, GM should have told them while they were still working, in language that was clear and unambiguous."*

Complicating the Court's decision was its ruling that GM did have the right to cut the benefits of its retired executives. In that case, the company had clearly warned those employees that it had the right to reduce or eliminate their benefits.

The ruling affects approximately 3,300 retired salaried workers and 67 retired executives that retired from the company between 1995 and 2011.

GM says that it will appeal the ruling.

For plan sponsors, the Ontario court decision underlines the need for employee booklets and other benefits-related communications to be unequivocally clear regarding the right to change or terminate their plan members' benefit entitlements. In addition, the use of language or statements that imply that benefits and entitlements are permanent should be avoided. ❧

Use of anti-psychotic drugs among children *"growing exponentially"*

The prescribing of anti-psychotic drugs to children less than 18 years of age is growing at an "exponential" rate, a British Columbia Ministry of Health study says.

In an article published in the June 2013 edition of the *Canadian Journal of Psychiatry,* researchers found that the number of prescriptions of powerful "second-generation anti-psychotics" (SGAs) given to children has grown from 315 to 5,432 from 1996 to 2011, an 18-fold increase.

In addition, the number of children receiving other anti-psychotic medications has grown 400 per cent, from 1,583 to 5,791, in the same period.

Prescriptions have been dispensed to children as young as six years old, despite the fact that very few of the drugs have been approved for use among children that young, the study noted.

More worrisome, many of the children are receiving the drugs for diagnoses not approved by Health Canada, the BC researchers say.

The growing use of these medications among the young *"is of grave concern"* considering that their side effects can include rapid weight gain, high blood pressure, diabetes or other conditions that can contribute to increased risk of heart attack or stroke when older, the research group says.

The biggest increases of anti-psychotic drug use occurred among boys age six to 12 and boys and girls age 13 to 18. The most common conditions treated were attention deficit hyperactivity and related disruptive disorders and neurotic disorders including anxiety.

Risperidone, quetiapine and olanzapine were prescribed most frequently.

"These medications seem to be a common 'go to,'" says study author Dr. Dina Panagiotopoulos.

Dr. Panagiotopoulos also noted that SGAs have also been tested on adolescents with depression associated with bi-polar disorder with no improvement in symptoms whatsoever.

"In spite of that, there's a lot of prescribing happening in adolescents for depression," she says.

While the study was confined to British Columbia, it could signal that increased use of anti-psychotic medications among children may be occurring in other jurisdictions.

It should be noted that it is standard insurance industry practice to decline claims for treatments of diagnoses not approved by Health Canada. ❧

Increasing CPP could lead to reduced RRSP contributions

Increasing mandatory contribution levels of the Canada Pension Plan (CPP) may result in lower registered retirement savings plan (RRSP) contributions, the Fraser Institute says.

In its study entitled *RRSPs and an expanded Canada Pension Plan,* the Institute says that, based on CPP and RRSP contribution patterns from 1993 to 2008, individual RRSP contributions declined when mandatory savings requirements of the CPP increased.

"Increasing mandatory CPP contributions is a policy reform that may have unintended consequences," says Fraser Institute Associate Director of Tax and Budget Policy Charles Lammam. *"By forcing Canadians to save more for retirement through the CPP, the government inadvertently encourages them to change their behaviour and reduce their voluntary retirement savings elsewhere."*

In its review of retirement savings patterns of Canadians, the Institute found that retirement savings dropped significantly among those between the ages of 45 and 65 earning between $10,000 and $50,000 annually, when mandatory CPP contributions rose. For example, in 1993, 40.2 per cent of tax filers in that group contributed to RRSPs. However, as mandatory CPP contributions increased from 5.0 per cent to 9.9 per cent from 1993 to 2008, the percentage of those making RRSP contributions slipped to 26 per cent. Similar declines were recorded among those in the same age bracket earning between $50,000 and $100,000 per year. Contribution declines were also recorded among people under age 45 in both income groups.

In addition, the Institute says, the proportion of income channelled to RRSPs declined from 4.4 per cent to 2.8 per cent during that time for the age 45-65 group earning between $10,000 and $50,000 annually. Similar declines were noted in the other demographic groups studied.

In effect, as the contribution requirements for the CPP increased, the overall proportion of those contributing to RRSPs and the amounts directed to the retirement savings plans, decreased.

"The key to providing retirement income through savings is a set of rules that allows for an optimal mix of savings for different people in different stages of life," Mr. Lammam says. *"There may be benefits to compulsory expansion of the CPP, but these benefits need to be weighed against the costs, which, as our analysis shows, could include a reduction in voluntary RRSP savings."*

The ratio of the declining proportion of RRSP contributors to the increased CPP contribution levels is illustrated below:

RRSP contributors as a percentage of tax filers by age and income groups and the CPP contribution rate, 1993–2008

	Under 45		45 to 65 years		
Year	**$10,000–$50,000**	**$50,000–$100,000**	**$10,000–$50,000**	**$50,000-$100,000**	**CPP contribution rate (%)**
1993	31.6%	66.8%	40.2%	70.4%	5.0%
1994	32.8%	67.8%	38.7%	67.2%	5.2%
1995	36.3%	72.0%	41.4%	72.6%	5.4%
1996	38.7%	75.2%	42.1%	72.8%	5.6%
1997	38.8%	75.2%	42.4%	73.7%	6.0%
1998	38.2%	74.6%	40.3%	72.0%	6.4%
1999	37.4%	73.8%	39.4%	70.9%	7.0%
2000	36.0%	72.9%	38.6%	70.0%	7.8%
2001	34.1%	69.8%	37.2%	67.6%	8.6%
2002	31.3%	67.0%	34.3%	64.4%	9.4%
2003	29.7%	64.3%	33.0%	62.2%	9.9%
2004	28.9%	64.0%	32.7%	62.0%	9.9%
2005	27.7%	62.7%	31.3%	61.2%	9.9%
2006	26.9%	62.0%	30.6%	60.6%	9.9%
2007	24.4%	59.3%	27.8%	58.7%	9.9%
2008	23.3%	57.3%	26.1%	56.5%	9.9%

Note: CPP contribution rate combines rates of employees and employers.
Sources: Canada Revenue Agency (various issues); Canada Revenue Agency (2013a);
Revenue Canada (1995, 1996, 1997);
Service Canada (2013); calculations by authors.

Reproduced from *RRSPs and an expanded Canada Pension Plan: A preliminary analysis,* Fraser Institute, 2013. ❧

Big 10 public pensions dominate retirement system

The dominance of Canada's 10 largest public pension funds was confirmed recently in a study by the Boston Consulting Group (BCG).

In the first of its kind review of the impact of these plans on the Canadian financial system, the BCG study concluded that the 10 pension funds *"contribute significantly to national prosperity and also provide Canadians with one of the strongest retirement income systems in the world."*

The 10 pension funds include: the Canada Pension Plan Investment Board; the Caisse de dépôt et placement du Québec; the Ontario Teachers' Pension Plan; the British Columbia Investment Management Corporation; the Public Sector Pension Investment Board; the Ontario Municipal Employees Retirement System; Healthcare of Ontario Pension Plan; Alberta Investment Management Corporation; the Ontario Pension Board; and the OPSEU Pension Trust.

Some facts about the big 10 pension funds:

- They control 35 per cent of Canada's total retirement assets.
- Despite the major market correction in 2008-09, their net assets grew by 100 per cent from 2003 to 2011.
- They have invested $400 billion in Canada.
- They account for four of the top 20 global commercial real estate investors.
- Collectively, they employ more than 10,000 financial and real estate investment professionals. ❧

Private drug plans provide better coverage

Private drug plans offer significantly better access to new medications than public plans, according to a study by the Canadian Health Policy Institute (CHPI.)

In a review of federal, provincial and private drug plans, CHPI researchers suggest that private plans covered more new drugs and take less time to access newly approved medications than government drug plans.

The CHPI review says that from 2004 to 2011, only 20.5 per cent of new drugs approved by Health Canada were made available in public plans. That compared to 81 per cent for private insurance plans. It took 659 days for new drugs to be accessible through public plans compared to 127 days for private plans, it noted.

The federal government operates five separate public drug plans covering approximately 1 million people. The provinces manage a number of different plans covering almost 10.3 million individuals.

More than 23 million Canadians have private drug coverage, mostly through employee benefit plans. ❧

Atlantic drug coverage changes

Two Atlantic provinces have announced the following changes to their respective drug plans:

Prince Edward Island has announced plans to introduce a catastrophic drug plan for the residents of that province. Under the new drug regime, costs for prescription medications will be capped at the following rates:

Family income	Percentage of income
$0-$20,000	3.0%
$20,001-$50,000	5.0%
$50,001-$100,000	8.0%
$100,000+	12.0%

The provincial government will cover any eligible individual or family drug expense once their total drug spending reaches the capped amount.

New Brunswick announced that, effective June 1, 2013, the maximum dispensing fee to be charged under that province's Prescription Drug Program will be $10.50. In addition, the mark-up on selected drugs will be set at 8.0 per cent. It also says that it will introduce a catastrophic drug plan by September 2014. ❧

Subsidizing smoking cessation would reduce health costs, group says

More Canadians would likely quit smoking if they had group insurance coverage for smoking cessation products, a report by the Cancer Advocacy Coalition of Canada (CACC) says.

In its review of the economic impact of smoking in Canada, the advocacy group urged the adoption of smoking cessation coverage by employers as a low-cost and effective way to reduce incidence rates of cancer.

According to the CACC, Canada has a *"postal code lottery of cancer prevention"* where the availability of smoking cessation modalities varies widely by province and by employers. The group was particularly critical of Newfoundland & Labrador and New Brunswick, neither of which has directed public funding toward nicotine replacement products or smoking cessation drugs. Coverage for these products is available in the other provinces and territories. However, coverage maximums and treatment durations vary considerably by jurisdiction.

"An estimated 53 per cent of Canadians have prescription drug coverage through publicly funded plans," according to a CACC report entitled *Discrepancies in public and private funding for smoking cessation products. "Persons who are not eligible for provincial drug plans may rely on group benefits offered by their employer or a family member's employer, if such a benefit exists and the employee is eligible."*

However, the group adds, restrictions by insurers, such as plan deductibles, co-payments, annual or lifetime caps or exclusions prevent many individuals from taking full advantage of drug benefit plans to help them quit smoking.

However, in areas such as Atlantic Canada, where fewer employers offer group drug coverage, the opportunity to take advantage of smoking cessation products or medications is especially limited.

"The majority of the uninsured reside in Atlantic Canada, where an estimated 24 to 30 per cent of the population does not have public or private drug insurance," the CACC report notes. *"What remains clear is that access to smoking cessation products through private insurance is inconsistent and depends greatly upon where you live and your employer's choice of plans."*

The CACC report also focuses on the anomalies within the public health care system. For example, Ontario spends $10-15 million per year on the smoking cessation medications bupropion (commonly marketed as Zyban®) and varenicline (Champix®), yet spends $1.6 billion annually on tobacco-related illnesses. Directing more money to products and medications that help current smokers to stop smoking could result in large savings for the public health system, it says.

"The expenditure needed for coverage of smoking cessation pharmacotherapy is very small compared to the billions of dollars' worth of prescription drugs covered by private insurers for the treatment of smoking-related illnesses," the CACC reports concludes.

The costs of smoking

Following are some of the costs of smoking, according to the Cancer Advocacy Coalition of Canada:

- 21 per cent of deaths in Canada are related to smoking.
- Costs incurred by Canadian employers due to increased absenteeism, higher life and health insurance premiums and decreased productivity: $4 billion annually.
- Lost income resulting from premature deaths from smoking: $6.4 billion. ❧

Almost half of fathers don't know about their life insurance coverage

Almost half of Canadian fathers do not know how much life insurance they own or how much life insurance their families may need, according to an RBC Insurance poll.

An Ipsos Reid poll of 1,127 Canadian fathers conducted for RBC Insurance indicates that 70 per cent of men who own life insurance policies make the financial decisions for their families, yet 40 per cent of them have no idea of how much their life insurance policies are worth.

While most respondents considered the purchase of life insurance to be the responsible thing to do, the Ipsos Reid survey found that key life events, such as marriage or the birth of a child, tended to trigger the insurance buying or upgrading decision, rather than a traditional needs analysis where a family's long-term coverage needs are compared against its liabilities.

"Dads view purchasing of life insurance as the responsible thing to do," says RBC Insurance Life and Health Vice-President Cathy Preston. *"Our survey found that it's the big life events, such as marriage and having children, that trigger their investment in life insurance."*

The RBC survey said that 40 per cent of men purchased or upgraded their insurance when they got married while 76 per cent enhanced their coverage after they became a father. Approximately half of the men surveyed said they estimated the value of their policies at between $100,000 and $500,000, with most believing they should have approximately $380,000 of coverage to feel secure.

The survey found that 30 per cent of fathers carried no life insurance. Approximately half of that group, 44 per cent, felt that their investments or assets would be enough to protect their family in the event of their death.

"It's clear from the findings that far too many Canadians don't know how much their life insurance policy is worth or how much they need," Ms. Preston says.

Not knowing your family's total life insurance coverage requirements, or purchasing inadequate amounts of coverage, could result in financial hardship for a family should the unexpected happen to either parent.

Coughlin & Associates Ltd.'s Individual Financial Services Department can conduct a complimentary analysis of your personal life insurance needs and develop a comprehensive insurance program based on your family's total coverage requirements. For more information, contact **Matt Picciano** at 613-231-2266, Extension 334 (email: mpicciano@coughlin.ca) or **Richard Séguin** at 613-231-2266, extension 204 (email: rseguin@coughlin.ca) ❧

Disability accommodation is a two-way street

A British Columbia Human Rights Tribunal decision has stressed the need for both employers and employees to communicate their accommodation policies and requirements when an employee is disabled.

The case involves an employee who lost a portion of his foot in 2007. He returned to work in 2008. However, in 2011, the company moved his office to another building approximately 300 metres from where he performed most of his duties. The relocation resulted in significant pain and discomfort for the man as he frequently had to walk from building to building and climb stairs. He then filed a complaint with the Human Rights Commission alleging that his company discriminated against him based on his physical disability.

According to the worker, he complained about the pain and discomfort to his supervisor. He also noted that many supervisors had observed his difficulty walking and using stairs. In his submission to the Human Rights Tribunal, he asserted that the company did nothing to accommodate his needs.

In its defence, the man's employer noted that it did not know and could not have reasonably known that the man required accommodation for his disability as he had not expressly told the firm of his need for accommodation. In addition, it said, he never objected to his office being relocated to a building some distance from where he did most of his work. It then filed for the case to be dismissed.

In its review of the case, the Tribunal denied the application for dismissal, citing that the company should have been aware of the adverse effect the office relocation would have on the man's injury. Furthermore, it said, the company had a duty to inquire whether the relocation would have had an adverse effect on the employee.

However, while it did support the employee's position, the Tribunal also noted that an employee must engage in processes to encourage accommodation for a disability and not rely entirely on an employer's duty to inquire about accommodation.

"There is nothing in the nature of [the man's] disability which would prevent him from expressly advising his employer that he needed an accommodation with respect to their request that he occupy an office on the second floor of the building," the Tribunal ruled.

The British Columbia case confirms that the duty to accommodate disabilities is a two-way street. While an employer must make every effort to accommodate an individual's disability "to the point of undue hardship," it cannot be expected to assume that accommodation is necessary when there is an absence of information or circumstances that would trigger it to make inquiries about a disabled employee's situation or need for accommodation.

Ultimately, both employers and employees must each take responsibility for the disability accommodation process. ❧

Federally regulated LTD plans must be insured

The federal government has passed legislation amending the Canada Labour Code to require federally regulated industries to insure their long-term disability (LTD) plans.

Under Bill C-38, federally regulated industries such as the banking and telecommunications sectors, will be required to insure their employees' LTD coverage. The measure is designed to protect the long-term disability benefits of disabled employees in the event their employer goes bankrupt.

Fines for violating the new law range from $5,000 to $250,000.

The new rules will go into effect on July 1, 2014. ❧

PPN update

- **Embrun Medical Pharmacy** has joined the Coughlin & Assoicates Ltd. Preferred Provider Network (PPN). It is located at 934 Notre-Dame Street in Embrun, Ontario. Its phone number is: 613-443-2999.
- The following **Metro Pharmacies** have joined the Coughlin PPN. They are all affiliated with the Metro and Food Basics grocery stores in Ontario.

City	Address	Phone
Belleville	110 North Front Street	613-962-0545
Bowmanville	243 King Street E.	905-623-4447
Brampton	10088 McLaughlin Road	905-846-9212
Brampton	20 Great Lakes Drive	905-789-6464
Brampton	25 Peel Centre Drive	905-793-0600
Brantford	371 St. Paul Avenue E.	519-758-0300
Cambridge	980 Franklin Boulevard, Building A	519-620-4466
Collingwood	640 First Street Extension	705-446-2002
Georgetown	367 Mountainview Road S.	905-702-1131
Hamilton	1161 Barton Street E.	905-545-7796
London	1030 Adelaide Street N.	519-672-9205
London	395 Wellington Road	519-680-2375
London	1244 Commissioners Road W.	519-641-4646
Milton	1050 Kennedy Circle	905-878-3111
Napanee	35 Alkenbrack Street	613-354-2882
Niagara Falls	3770 Montrose Road	905-356-1100
North Bay	390 Lakeshore Drive	705-840-2999
Oakville	1A-280 North Service Road W.	905-337-7694
Orillia	70 Front Street N.	705-323-9334
Sarnia	1375 London Road	519-542-1551
Sault Ste. Marie	248 Northern Avenue E.	705-945-1006
Sault Ste. Marie	150 Churchill Boulevard	705-254-7070
Stouffville	5612 Main Street	905-642-8600
Sudbury	1933 Regent Street S.	705-523-9994
Thunder Bay	640 River Street	807-344-1040
Trenton	53 Quinte Street	613-394-2525
Whitby	70 Thickson Road S.	905-668-5334
Whitby	4111 Thickson Road N.	905-655-1553

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