

1989, chapter 50
**AN ACT TO AMEND THE HEALTH INSURANCE ACT
AND OTHER LEGISLATION**

Bill 139

Introduced by Madam Thérèse Lavoie-Roux, Minister of Health and Social Services

Introduced 15 May 1989

Passage in principle 1 June 1989

Passage 20 June 1989

Assented to 22 June 1989

Coming into force: 22 June 1989, except the provisions of section 3 and of section 39 to the extent that they enact subparagraph f of section 72 of the Health Insurance Act, which will come into force on 1 November 1989

Acts amended:

Hospital Insurance Act (R.S.Q., chapter A-28)

Health Insurance Act (R.S.Q., chapter A-29)

Act respecting the Commission des affaires sociales (R.S.Q., chapter C-34)

Act respecting the Régie de l'assurance-maladie du Québec (R.S.Q., chapter R-5)

Act respecting health services and social services (R.S.Q., chapter S-5)



CHAPTER 50

An Act to amend the Health Insurance Act and other legislation

[Assented to 22 June 1989]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

c. A-29,
s. 1, am.

1. Section 1 of the Health Insurance Act (R.S.Q., chapter A-29) is amended

(1) by inserting the words “, wheel chairs” after the word “apparatus” in the second line of subparagraph *a*;

(2) by inserting the figure “, 77.0.1” after the figure “77” in the fifth line of subparagraph *e*;

(3) by inserting the words “or deemed resident” after the word “resident” in the first line of subparagraph *g.1*;

(4) by replacing the words “Medical Care Act (Statutes of Canada)” in the third and fourth lines of subparagraph *h* by the words “Canada Health Act (R.S.C. 1985, chapter C-6)”;

(5) by replacing the words and figure “with section 69” in the first and second lines of subparagraph *k* by the words and figures “with section 69 or 72”.

c. A-29,
s. 1, am.

2. Section 3 of the said Act, amended by section 1 of chapter 23 of the statutes of 1985, is again amended

(1) by inserting the words “, a resident in medicine” after the word “physician” in the fifth line of the part of the third paragraph which precedes subparagraph *a*;

(2) by inserting the words “, a resident in medicine” after the word “physician” in the fifth line of the fourth paragraph;

(3) by inserting the words “, wheel chairs” after the word “apparatus” in the third line of the fifth paragraph;

(4) by inserting the words “, wheel chairs” after the word “apparatus” in the second line of the eighth paragraph and by replacing the words “Medical Care Act” in the fifth line of the same paragraph by the words “Canada Health Act”.

c. A-29,
s. 3.1, added **3.** The said Act is amended by inserting, after section 3, the following section:

Contract
with
supplier

“3.1 The Board may make, with a supplier of wheel chairs or hearing aids, a contract setting out the terms and conditions of supply to dispensers of services of which the cost is to be assumed by the Board.

Call for
tenders

Every such contract shall be preceded by a call for tenders made according to the terms and conditions and in the manner prescribed by the Board.”

c. A-29,
s. 5, am.

4. Section 5 of the said Act is amended by adding, after the first paragraph, the following paragraphs:

Residency

“A person becomes a resident of Québec from the time prescribed by regulation and ceases to be a resident in the cases, conditions and circumstances prescribed by regulation.

Deemed
resident

However, a person who does not reside in Québec is deemed to be a resident of Québec in the cases, conditions and circumstances prescribed by regulation.”

c. A-29,
s. 5.1, added **5.** The said Act is amended by inserting, after section 5, the following section:

Resident
status
retained

“5.1 A resident of Québec who is absent in cases, on conditions and in circumstances prescribed by regulation shall retain his status as a resident of Québec.”

c. A-29,
s. 6,
replaced

6. Section 6 of the said Act is replaced by the following section:

Resident
status
continued

“6. Every person who leaves Québec to settle in a province of Canada where there is a similar plan shall continue to be a resident of Québec for the period determined by regulation.”

c. A-29,
s. 7, am.

7. Section 7 of the said Act is amended by striking out the first paragraph.

c. A-29,
s. 9,
replaced

8. Section 9 of the said Act is replaced by the following section:

Registration **“9.** Every person who is a resident or deemed to be a resident of Québec must register with the Board in accordance with the terms and conditions prescribed by regulation.

Health insurance card The Board shall issue health-insurance cards to persons so registered.”

c. A-29,
s. 9.0.1,
added **9.** The said Act is amended by inserting, after section 9, the following section:

Registration **“9.0.1** Every person contemplated in subparagraph *a* of paragraph 2 of the first paragraph of section 10 or in section 10.1 of the Act respecting the Ministère de la Santé et des Services sociaux (R.S.Q., chapter M-19.2) who benefits from all or part of the services provided for by this Act must register with the Board in accordance with the terms and conditions prescribed by regulation.

Eligibility card The Board shall issue an eligibility card to a person so registered, entitling him to all or part of the said services.

Applicable provision Section 22.0.1, adapted as required, shall apply to such a person.”

c. A-29,
s. 9.1,
replaced **10.** The said Act is amended by replacing section 9.1 by the following section:

Transfer prohibited **“9.1** In no case may a beneficiary or a person contemplated in section 9.0.1 entrust, lend, give or sell his health-insurance card or eligibility card to, or otherwise alienate it in favour of, a third person, and no person may require or accept that a beneficiary or any such person entrust, lend, give or sell his card to him or that it be otherwise alienated in his favour.

Exception However, every beneficiary or person contemplated in section 9.0.1 may entrust his health-insurance card or eligibility card to an establishment, and an establishment may require or receive that card.”

c. A-29,
s. 10, am. **11.** Section 10 of the said Act is amended by adding, after the second paragraph, the following paragraph:

Claim for amount actually paid “Notwithstanding the second paragraph, a beneficiary may exact the amount actually paid for medical services in the cases and on the conditions fixed by regulation.”

c. A-29,
s. 11, am. **12.** Section 11 of the said Act is amended by adding, after the second paragraph, the following paragraph:

Payment
of amount
claimed

“Notwithstanding the second paragraph, it may assume payment of the amount claimed for medical services in the cases and on the conditions fixed by regulation.”

c. A-29,
s. 12, am.

13. Section 12 of the said Act is amended by replacing the words “prescribed in accordance with section 72” in the fourth and fifth lines of the first paragraph by the words “the form of which is accepted by the Board and the content of which is in conformity with the regulations”.

c. A-29,
s. 13, am.

14. Section 13 of the said Act is amended by inserting the words “, wheel chairs” after the word “apparatus” in the third line of the first paragraph and by replacing the words “prescribed in accordance with section 72” in the tenth line of the same paragraph by the words “the form of which is accepted by the Board and the content of which is in conformity with the regulations”.

c. A-29,
s. 13.1, am.

15. Section 13.1 of the said Act is amended by replacing the words “prescribed under section 72” in the sixth line of the first paragraph by the words “the form of which is accepted by the Board and the content of which is in conformity with the regulations”.

c. A-29,
s. 13.2, am.

16. Section 13.2 of the said Act is amended by replacing the words “prescribed under section 72” in the seventh line of the first paragraph by the words “the form of which is accepted by the Board and the content of which is in conformity with the regulations”.

c. A-29,
s. 13.3, am.

17. Section 13.3 of the said Act is amended by replacing the words “prescribed under section 72” in the second line by the words “the form of which is accepted by the Board and the content of which is in conformity with the regulations”.

c. A-29,
s. 14, am.

18. Section 14 of the said Act is amended

(1) by replacing the word and figure “and 13.1” in the fourth line of the first paragraph by the word and figures “, 13.1 and 22.0.1”;

(2) by inserting the words “, wheel chair” after the word “apparatus” in the third line of the second paragraph.

c. A-29,
s. 14.1, am.

19. Section 14.1 of the said Act is amended by inserting the words “or deemed to be a resident” after the word “resident” in the first line of the first paragraph.

c. A-29,
s. 14.2,
added

20. The said Act is amended by inserting, after section 14.1, the following section:

Time
limit

“14.2 A beneficiary is not entitled to exact from the Board the payment or reimbursement, as the case may be, of the cost of an insured service unless he transmits his claim to the Board within two years of the date on which he received the insured service.

Late
claim

The Board may agree to consider a claim transmitted after the expiry of that period if the beneficiary demonstrates that he was in fact unable to make his claim sooner.”

c. A-29,
s. 15, am.

21. Section 15 of the said Act is amended by inserting the words “or a deemed resident” after the word “resident” in the fourth line of the first paragraph.

c. A-29,
s. 18, am.

22. Section 18 of the said Act is amended

(1) by inserting the words “or to be furnished” after the word “furnished” in the third line of subsection 1;

(2) by inserting, after subsection 2, the following subsection:

Notifica-
tion to
the Board

“(2.1) An insurer of a third person’s liability shall notify the Board in writing as soon as he begins negotiations to settle a claim for any injury susceptible of entailing the payment of insured services;”.

c. A-29,
ss. 18.1-
18.4, added

23. The said Act is amended by inserting, after section 18, the following division:

“DIVISION II.1

“REVIEW AND APPEAL

Application
for review

“18.1 A beneficiary or person eligible for a plan or programme administered by the Board under subparagraph *b* of the first paragraph of section 2 of the Act respecting the Régie de l’assurance-maladie du Québec who believes he has been wronged by a decision of the Board may apply for a review of the decision. A person whom the Board refuses to consider a beneficiary may also apply for a review of such a decision.

Procedure

“18.2 An application for review shall be made by means of a written notice to the Board stating the reasons for the application. The application must be made within six months after the date on which the applicant was notified of the decision.

Late
application

The Board may consider an application for review transmitted after the expiry of that period if the applicant demonstrates that he was in fact unable to apply sooner.

Decision with reasons **“18.3** Within 90 days of receipt of the application for review, the Board shall review the case and render a decision with reasons. It shall notify the applicant in writing of its decision and of his right to appeal therefrom in accordance with this Act.

Appeal **“18.4** An applicant who believes he has been wronged by a decision rendered by the Board under section 18.3 may appeal from the decision to the Commission des affaires sociales in accordance with the Act respecting the Commission des affaires sociales (R.S.Q., chapter C-34).”

c. A-29, s. 19.1, am. **24.** Section 19.1 of the said Act is amended by replacing the words “interns or resident physicians” in the second line of the first paragraph by the words “residents in medicine” and by replacing the words “interns or resident physicians” in the third and fourth lines of the said paragraph by the words “residents in medicine”.

c. A-29, s. 20, am. **25.** Section 20 of the said Act is amended by replacing the words “the making” in the second line by the words “the coming into force”.

c. A-29, s. 21, am. **26.** Section 21 of the said Act is amended by replacing the words “interns and resident physicians” in the first and second lines of the second paragraph by the words “residents in medicine”.

c. A-29, s. 22, English text, am. **27.** The English text of section 22 of the said Act is amended by replacing subparagraph *d* of the second paragraph by the following subparagraph:

“(d) where the beneficiary is sheltered in a reception centre or a hospital centre for long term care;”.

c. A-29, s. 22.0.1, added **28.** The said Act is amended by inserting, after section 22, the following section:

Reimbursement of unwarranted payment **“22.0.1** Whenever the Board believes that a professional in the field of health or a third person has exacted payment from a beneficiary in contravention of this Act, where nothing in the regulations or agreements so permits, it shall reimburse the amount so paid by the beneficiary and notify the professional or the third person in writing thereof. The Board shall make such a reimbursement solely where the beneficiary applies therefor in writing within six months after the date of payment.

Recovery of amount reimbursed An amount so reimbursed and the administrative costs prescribed constitute a debt toward the Board and may be recovered

from the professional in the field of health or third person by compensation or otherwise, on the expiry of a period of 30 days from the date of the notice.

Appeal by
professional

Within six months of the compensation, the professional in the field of health may appeal from the Board's decision before a court of civil jurisdiction or, in the case of a question of interpretation or application of an agreement, before a council of arbitration established under section 54."

c. A-29,
s. 22.1, am.

29. Section 22.1 of the said Act is amended by replacing the words "prescribed under section 72" in the third line of the first paragraph by the words "the form of which is accepted by the Board and the content of which is in conformity with the regulations."

c. A-29,
s. 24, am.

30. Section 24 of the said Act is amended by replacing the second paragraph by the following paragraph:

Frequency

"The Board shall not determine the frequency of an act for which payment may be made. However, the Board may, whenever it refers a matter to the revisory committee contemplated in section 47, invoke the frequency of an act for which a professional presents a statement of fees."

c. A-29,
s. 29, am.

31. Section 29 of the said Act is amended by inserting the words "or deemed residents" after the word "residents" in the first line.

c. A-29,
s. 38, am.

32. Section 38 of the said Act is amended

(1) by replacing the first paragraph by the following paragraph:

Prescription

38. Subject to the second paragraph of section 18.2, any recourse against the Board pursuant to this Act, a regulation or an agreement is prescribed by six months from the decision of the Board giving rise thereto. The period ceases to run while a dispute resulting from the decision is referred to a council of arbitration.";

(2) by striking out the second paragraph.

c. A-29,
s. 50, am.

33. Section 50 of the said Act is amended by adding, at the end of the first paragraph, the following sentence: "The notice transmitted to the professional must be accompanied with a copy of the recommendation of the revisory committee."

c. A-29,
s. 51.1, am.

34. The said Act is amended by inserting, after section 51, the following section:

51.1 Whenever the Board refers a matter to the revisory committee concerning a professional in the field of health in respect of which it has already rendered a decision in accordance with section 50 within the past 60 months, it may suspend in whole or in part the payment of the cost of insured services rendered by the professional provided there remains no other recourse against the decision it had rendered.

The suspension shall remain effective until the decision of the Board is rendered.”

35. Section 64 of the said Act is amended by replacing the words “Medical Care Act (Statutes of Canada)” in the tenth and eleventh lines of the second paragraph by the words “Canada Health Act”.

36. Section 67 of the said Act is amended by inserting the words “, wheel chairs” after the word “apparatus” in the third line of the third paragraph and by replacing the words “subparagraph *c* of the first paragraph, the second paragraph, the third paragraph or the fifth paragraph” in the fifth and sixth lines of the third paragraph by the words “subparagraph *b* or *c* of the first paragraph or the second, the third, the fifth, the sixth or the seventh paragraph”.

37. Section 69 of the said Act is amended

(1) by inserting the words “, wheel chairs” after the word “apparatus” in the first line of subparagraph *h* of the first paragraph;

(2) by replacing subparagraph *j* of the first paragraph by the following subparagraph:

“(j) determine the time from which persons or categories of persons become residents of Québec and the cases, conditions or circumstances in which they cease to be residents of Québec;”;

(3) by inserting, after subparagraph *j* of the first paragraph, the following subparagraphs:

“(j.1) determine the cases, conditions and circumstances in which a person who is not a resident of Québec is deemed to be a resident of Québec;

“(j.2) determine the cases, conditions and circumstances in which a person who is a resident of Québec retains his status as a resident of Québec despite his absence;

“(j.3) determine the period of extension of eligibility for persons who are resident of Québec who settle in another Canadian province;”;

(4) by striking out subparagraph *k* of the first paragraph;

(5) by replacing subparagraph *m* of the first paragraph by the following subparagraph:

“(m) determine the conditions upon which health-insurance cards may be renewed or replaced, and the cases in which they must be returned to the Board, and fix the expiration date thereof;”;

(6) by inserting, after subparagraph *m* of the first paragraph, the following subparagraph:

“(m.1) determine the conditions upon which eligibility cards may be renewed or replaced, and the cases in which they must be returned to the Board, and fix the expiration date thereof;”;

(7) by adding, after subparagraph *u* of the first paragraph, the following subparagraph:

“(v) determine the cases in which and the conditions on which the Board may reimburse or assume payment of an amount effectively claimed for insured medical services.”

c. A-29,
ss. 69.0.1 and
69.0.2, added

38. The said Act is amended by inserting, after section 69, the following sections:

No obliga-
tion to
publish

“69.0.1 Regulations adopted under subparagraph *h* or *h.2* of the first paragraph of section 69 following a contract with a supplier pursuant to section 3.1 are not subject to the provisions concerning the obligation of publication and the date of coming into force which are set out in sections 8 and 17 of the Regulations Act (R.S.Q., chapter R-18.1).

No obliga-
tion to
publish

“69.0.2 Regulations adopted under subparagraph *u* of the first paragraph of section 69 are not subject to the provisions concerning the obligation of publication and the date of coming into force which are set out in sections 8 and 17 of the Regulations Act.”

c. A-29,
s. 72, am.

39. Section 72 of the said Act is amended

(1) by replacing the words “the form and tenor” in the first line of subparagraph *a* of the first paragraph by the words “the content” and by inserting the words “or deemed resident” after the word “resident” in the fourth line of the same subparagraph;

(2) by adding, after subparagraph *b* of the first paragraph, the following subparagraphs:

“(c) fix the amount of the costs exigible for the replacement of a health-insurance card before its expiry, and the categories of persons who may be exempt from the payment of such costs;

“(d) fix the amount of the costs exigible for the replacement of an eligibility card before its expiry, and the categories of persons who may be exempt from the payment of such costs;

“(e) fix the amount of the administrative costs exigible by the Board where it believes that payment has been exacted from a beneficiary where nothing in this Act, the regulations or the agreements so permits;

“(f) prescribe the terms, conditions and procedure applicable to calls for tenders for the supply of wheel chairs or hearing aids.”

c. A-29,
s. 77.0.1,
added

40. The said Act is amended by inserting, after section 77, the following section:

Order of
non-
participation

“77.0.1 The Board may issue an order of non-participation for six months in respect of a professional in the field of health where

(1) a matter concerning the professional is referred to a revisory committee and, in the last 60 months, a decision pursuant to section 50 has been rendered by the Board against the professional;

(2) there remains no other recourse against the decision of the Board rendered in respect of the second matter referred to the revisory committee.

Terms and
conditions

Such an order of non-participation shall be rendered in accordance with the terms and conditions provided for in section 77.”

c. A-29,
ss. 104.0.1
and 104.0.2,
added

41. The said Act is amended by inserting, after section 104, the following division:

“DIVISION XII.1

“PROGRAMMES

Remunera-
tion
or payment
prohibited

“104.0.1 A professional in the field of health contemplated in a plan or programme administered by the Board under subparagraph *b* of the first paragraph of section 2 of the Act respecting the Régie de l'assurance-maladie du Québec shall not require or receive

(1) any other remuneration from the Board than that provided for in the plan or programme for services mentioned therein;

(2) any payment whatsoever from any eligible person for services provided under the plan or programme, except in the cases and on the conditions mentioned therein.

Offence
and
penalty

Any professional in the field of health who contravenes the first paragraph is guilty of an offence and is liable to a fine of not less than \$1 000 and not more than \$2 000 in the case of a first offence and for each subsequent conviction to a fine of not less than \$2 000 and not more than \$5 000.

Provisions
applicable

"104.0.2 Sections 22.1 and 22.0.1, adapted as required, apply to a professional contemplated by section 104.0.1."

HOSPITAL INSURANCE ACT

c. A-28,
s. 10, am.

42. Section 10 of the Hospital Insurance Act (R.S.Q. chapter A-28) is amended

(1) by inserting the words "or to be furnished" after the word "furnished" in the fourth line of subsection 1;

(2) by inserting, after subsection 3, the following subsection:

Notifica-
tion to
the Board

"(3.1) An insurer of a third party's liability shall notify the Board in writing as soon as he begins negotiations to settle a claim for any injury susceptible of entailing the payment of insured services;"

(3) by inserting, after subsection 5, the following subsection:

Subrogation

"(6) The rights acquired by the effect of a subrogation under this section belong to the public domain of Québec from the day they arise and are subject to the rules applicable to rights belonging to the public domain of Québec; however, any right of action resulting therefrom is prescribed by three years."

ACT RESPECTING THE COMMISSION DES AFFAIRES SOCIALES

c. C-34,
s. 21, am.

43. Section 21 of the Act respecting the Commission des affaires sociales (R.S.Q., chapter C-34), amended by section 108 of chapter 51 and by section 86 of chapter 85 of the statutes of 1988 and by section 9 of chapter 4 of the statutes of 1989, is again amended by replacing the words "under section 50" in paragraph 1 by the words "under section 18.4 or 50".

ACT RESPECTING THE RÉGIE DE L'ASSURANCE-MALADIE DU QUÉBEC

c. R-5,
s. 2, am.

44. Section 2 of the Act respecting the Régie de l'assurance-maladie du Québec (R.S.Q., chapter R-5), amended by section 121 of chapter 51 of the statutes of 1988, is again amended

(1) by replacing the words "third paragraph" in the third line of the fourth paragraph by the words "subparagraph *b* of the first paragraph or under the third, the sixth or the seventh paragraph";

(2) by inserting the words " , wheel chairs" after the word "apparatus" in the third line of the fifth paragraph.

ACT RESPECTING HEALTH SERVICES AND SOCIAL SERVICES

c. S-5,
s. 151, am.

45. Section 151 of the Act respecting health services and social services (R.S.Q., chapter S-5) is amended

(1) by inserting the words "or to be assumed" after the word "assumed" in the third line of the first paragraph;

(2) by inserting, after the third paragraph, the following paragraph:

Notifica-
tion to
the Board

"An insurer of a third party's liability shall notify the Board in writing as soon as he begins negotiations to settle a claim for any injury susceptible of entailing the payment of insured services."

Suspension
of payment

46. Suspension of the payment of insured services provided for in section 51.1 of the Health Insurance Act, enacted by section 34 of this Act, may be effected against any professional in the field of health having been the subject of a decision of the Board rendered under section 50 of the Health Insurance Act from 22 June 1989.

Regulations
in force

47. The regulations made pursuant to subparagraph *j* of the first paragraph of section 69 and subparagraph *a* of the first paragraph of section 72 of the Health Insurance Act remain in force until they are replaced or repealed.

Coming into
force

48. The provisions of this Act come into force on 22 June 1989, except the provisions of section 3 and of section 39 to the extent that they enact subparagraph *f* of section 72 of the Health Insurance Act, which will come into force on 1 November 1989.