

Compulsory deduction of drug insurance premiums: a new obligation for employers

By **Philippe Frère and France Legault**

*Do you offer your employees group insurance? If so, since January 1, 2007, under the **Act respecting prescription drug insurance**, you must deduct directly from the remuneration paid to each of your employees his or her portion of the premium applicable to the basic prescription drug insurance coverage stipulated in the group insurance contract.*

*The **Act respecting prescription drug insurance** (R.S.Q., c. A-29.01) (hereinafter the "APDI") was amended recently¹ to provide for the obligation for employers to deduct at the source, for all eligible employees, the portion assumed by the employees of the group insurance premium applicable to the basic prescription drug insurance coverage stipulated in the group insurance contract.*

¹ Act to amend the Act respecting prescription drug insurance and other legislative provisions (S.Q., chapter 40), section 14.



Since 1997, the basic prescription drug insurance plan assures the entire Quebec population of basic coverage regarding the cost of certain medications and pharmaceutical services. The purpose of the general plan is to guarantee every eligible person who is a resident of Quebec, within the meaning of the *Health Insurance Act* (R.S.Q. c. A-29) and who is duly registered with the Régie d'assurance maladie du Québec, payment of the cost of the pharmaceutical services and medications covered by the plan. The coverage stipulated by the basic prescription drug insurance plan is assumed either by the Régie d'assurance maladie du Québec, or by an insurer transacting group insurance or by an administrator of a private-sector employee benefit plan.

The Régie d'assurance maladie du Québec does not assume that coverage of eligible persons who are not required, under the APDI, to enroll in a group insurance contract or in a private-sector employee benefit plan. Indeed, the APDI stipulates that all persons under age 65 who have access to prescription drug insurance coverage assumed either by an insurer offering group insurance or by an administrator of a private-sector employee benefit plan are required to enroll in it, at least for the coverage stipulated in the basic prescription drug insurance plan.

The new amendments made to the APDI are thus intended to ensure that only the persons eligible for the basic plan who do not benefit from coverage assumed either by an insurer transacting group insurance or by an administrator of a private-sector employee benefit plan will be covered by the Régie d'assurance maladie du Québec.



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Compulsory membership

The *APDI* stipulates that an insurer or a plan administrator who offers a group insurance contract or an employee benefit plan which includes coverage of payment of the cost of pharmaceutical services and medications for the benefit of a group in the private sector, for example, in the work environment, has the obligation to cover all the eligible persons, their children or their spouse.

However, it is important to remember that an employer offering group insurance coverage to employees is not obliged to cover those who are otherwise excluded from the employer's plan. Indeed, the group insurance contract may provide for eligibility criteria; for example, it may exclude part-time, casual or contractual employees.

The *APDI* also stipulates that when an employer offers prescription drug insurance coverage, whether through group insurance or through an employee benefit plan, the eligible employee **must enroll**, at least for the coverage provided by the basic plan, unless they are already covered by another group insurance contract or private-sector employee benefit plan.

Employees are also required to have their children and spouse benefit from the coverage offered by their employer, unless they are already covered by another group insurance contract or employee benefit plan.

Deduction of the premium: a new obligation

Since January 1, 2007, the *APDI* obliges employers to deduct the eligible employees' portion of the prescription drug insurance premium directly from their remuneration, unless the employees prove that they are beneficiaries of coverage at least equivalent to the basic plan coverage under another group insurance contract or employee benefit plan:

"44.1. The employer of the members of a group referred to in section 16 and formed on the basis of employment status must deduct the premium or assessment pertaining to the basic plan coverage stipulated in a group insurance contract or employee benefit plan to be paid by each employee concerned from the employee's remuneration, and remit the deducted sums to the insurer or plan administrator.

However, an employee who submits proof of status as the beneficiary of coverage at least equivalent to the basic plan coverage under another group insurance contract or employee benefit plan is exempted from the deduction of the premium or assessment, except if membership under the employer's contract or plan is a condition of employment."

However, this is not an option for the employers concerned but an obligation under the *APDI*. It is up to the employee concerned to prove that he can be exempted from deduction. For this purpose, the employee may, for example, provide one of the following documents:

- a photocopy of the employee's group insurance card;
- letter from the employee's spouse's employer confirming that the spouse is covered by that employer's group insurance contract;
- a letter from another employer, an association or a professional order confirming that the employee is covered by the prescription drug insurance contract offered by that other employer, association or professional order.

However, it must not be forgotten that a letter confirming that the employee is covered by the Régie de l'assurance maladie du Québec does not allow the employee to be exempted from deduction of the premium from his remuneration. Indeed, from the time that a person becomes eligible for a group insurance contract or an employee benefit plan guaranteeing coverage at least equivalent to the basic plan coverage, this person ceases to be eligible for the coverage assumed by the Régie d'assurance maladie du Québec.

Periodic reminders

After this new provision comes into force, the Régie de l'assurance maladie du Québec suggests that employers provide all their employees with an explanatory document concerning their obligations under the basic prescription drug insurance plan. You will find this document on the Régie web site at www.ramq.gouv.qc.ca under "Drug Insurance".

However, the status of an exempted employee may change during the year and he may then become obliged to enroll in the group insurance contract because of this change, at least for the coverage pertaining to the basic plan. The employee then must be covered by the group insurance contract offered by his employer effective from the date when he loses the coverage that would have justified his exemption.

To be sure of compliance with the *APDI*, an employer would thus be advised to send periodic reminders to the exempted employees, indicating that they must inform the employer of any change in their prescription drug insurance coverage. For greater certainty, an employer may also periodically request the exempted employees to give written confirmation, by way of a form or otherwise, that their initial declaration regarding their prescription drug insurance coverage remains unchanged.

Penal provisions

The *APDI* has also been amended to impose harsher penalties on negligent employers. Any employer who refuses, neglects or fails to deduct insurance premiums or assessment from the remuneration of eligible employees or who refuses, neglects or fails to remit the deducted sums to the insurer or the plan administrator is guilty of an offence under the *APDI* and is liable to a fine of not less than \$1,000 and not more than \$10,000.

Every person who helps, incites, advises, encourages, authorizes or orders another person to commit one of the above-mentioned offences is also liable to a fine of not less than \$1,000 and not more than \$10,000.

However, these penal provisions are not yet in force. They will come into force on a date to be determined by the government.

Conclusion

The purpose of these new amendments is to allow more efficient management of the basic prescription drug insurance plan by avoiding that persons eligible for a group insurance contract or an employee benefit plan guaranteeing coverage at least equivalent to the basic plan coverage can benefit from the coverage assumed by the Régie de l'assurance maladie du Québec. When an employer offers employees prescription drug insurance coverage at least equivalent to the basic plan coverage, their membership in this group insurance contract is compulsory, at least for the coverage pertaining to the basic plan, subject to membership in another group insurance contract or another private-sector employee benefit plan. This is not an option but a legal obligation, both for the employer and for the employee.

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