LEGISLATIVE UPDATE

June 17, 2015

SUMMARY OF THE IMPACT OF BILL 28 ON PRIVATE GROUP INSURANCE PLANS

On November 26, 2014, Quebec Minister of Finance Carlos Leitão introduced Bill 28: an act created mainly to implement certain provisions of the Budget Speech of June 4, 2014 and to return to a balanced budget in 2015-2016. The key objective of this omnibus bill was to introduce measures protecting the province's financial health. However, this bill also impacts private group insurance plans.

Special consultations and public hearings were held from late January to mid-February 2015, and briefs were tabled by various groups. The Regroupement des assureurs de personnes à charte du Québec (RACQ), in collaboration with its counterpart The Canadian Life and Health Insurance Association, drafted and submitted a brief to the Minister during these consultations. Following the consultations, Bill 28 was amended during the parliamentary committee's detailed consideration of the bill which came to a close in late April 2015.

Even though the bill was passed on April 20, 2015, with formal assent on April 21, 2015, the measures with the greatest impact on private group insurance plans will not come into effect until October 1, 2015. We eagerly await the publication of the implementing regulation, which should be released by shortly and will provide additional details on the mechanics of this Act.

HIGHLIGHTS OF THE BILL

The following Bill 28 provisions have a direct impact on prescription drug insurance:

- **Generic substitution**: as of October 1, 2015, private plans with a generic substitution clause will be able to reimburse for brand name medications based on the lowest medication price (i.e. the price of the generic equivalent) instead of 67.5% of the price of the medication claimed. This change now allows plan sponsors to fix reimbursement to the lower cost equivalent which will reduce claims costs. Mandatory generic substitution is typically expected to reduce claim cost by 1% to 3% but any form of predictive modelling absent the regulations would be premature.

- **Pharmaceutical services**: elsewhere in the bill, certain existing services were delisted from the provincial reimbursement formulary. As a countermeasure, pharmacies will now be able to offer new, specific medical services (to be determined by regulation) for which they will have to bill and receive compensation (fees covered by the Act respecting prescription drug insurance). These new services include the ability for a pharmacist to prescribe certain medications under specific conditions, and the ability to renew a prescription in lieu or requiring a physician's direction to renew the prescription. There will be no obligation for private plans to cover consultative pharmaceutical services; however it would be reasonable to expect pharmacy as an industry to mount a public campaign for reimbursement to compensate for the lost revenue from the delisted services.

- **Agreement with manufacturers**: the province approved the establishment of confidential listing agreements with manufacturers. There is no obligation to disclose the details of the financial arrangements. No guidelines have been suggested on which medications would be subject to such negotiation. To the extent that the negotiation relates to an already approved medication, the process calls for the drug to be temporarily delisted from the Régie de l'assurance maladie du Québec (RAMQ) and thus not available to the public during the negotiation process. Private plans will not benefit from the agreements negotiated for the public plan. Conversely, private plans can expect to see upward pressure to redress the discounts negotiated by the RAMQ.

There were two additional recommendations from the Regroupement des assureurs which were acknowledged, but not accepted by the Minister:

- **Transparency in terms of billing details** (to keep the price of the medication separate from preparation/pharmacist fees). Quebec remains the only jurisdiction in Canada to allow bundled billing.

- **Significant price differences for medication between private plans and the public plan** administered by the RAMQ. Based on preliminary information, Bill 28 appears to exacerbate rather than bridge the price gaps, driving more of the drug cost burden onto the shoulders of private plans.

SUBSEQUENT COMMUNICATIONS

Currently, insurers are still in discussion with the Minister about the application of Bill 28. Accordingly, we cannot yet confirm the administrative issues, provide a fee structure, nor assess the financial impact of mandatory generic substitution. The insurers have also requested to meet with the Minister to obtain more details.

PBI Actuarial Consultants Ltd. will publish a memo when the Act comes into effect and the implementing regulation is published, once all the insurers have concluded their discussions with the Minister. For now, much remains to be confirmed in terms of the implementation of these measures and their financial impact on private plans.

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