



INSIGHTS

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ISSUED QUARTERLY

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Interpretation of Changes to Private Health Services Plans

Employers currently paying for over-the-counter drugs such as vaccines may no longer be able to do so after recent budget changes, creating an even wider coverage gap for employees.

The budget proposes to limit qualifying medical expenses under the Income Tax Act to drugs that can be lawfully acquired for use by the patient if prescribed by a medical practitioner. A pharmacist must also fill the prescription, record it and give the patient a receipt.

These changes may impact sponsors of private health services plans, which include group health insurance plans and health care spending accounts - because expenses covered under the PHSP must be for items that would qualify as a medical expense under the Income Tax Act.

As a result, it appears that vaccines, such as Gardasil, OTC drugs prescribed by a doctor, such as low-dose Aspirin, and life-sustaining products such as Nitroglycerine, may no longer be covered by private plans.

The Canadian Life and Health Association believes that the proposed change does not apply to group health plans. A preliminary response to a CLHIA request from Finance Canada for clarification supports the CLHIA's interpretation.

It should be noted however, that if

plans continue to cover OTC medications they will be considered to be offside of CRA guidelines, and will not qualify as a private health services plan. The federal government called the medical expense tax credit changes "clarification" of its existing policies. Most of us outside of the government see this as a tightening of their practices.



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The amendments - which came into effect just two days after the budget landed - impact almost every plan in the country. For example, any plan that currently covers vaccines will not be in compliance. (RWAM Insurance Administrators Inc. group plans do not standardly cover vaccines, but you should check with your broker or with RWAM to see if yours does.) According to Health Canada, all biological vaccines - including Gardasil and Twinrix - are not prescription drugs. Therefore, under the new rules,

private health plans are not allowed to cover them.

In an official statement released March 7, the Canadian Life Health Insurance Association announced that discussions with Department of Finance staff confirmed the budget was not intended to change the existing treatment of PHSPs with regards to over the counter drugs.

Nevertheless, it is the CRA that is responsible for enforcing the legislation. A March 28 opinion letter signed by G. Moore for the director of CRA's Business Partnerships division of the Income Tax Ruling Directorate says:

"While the draft legislation in the 2008 budget can be read in a more restrictive way, the accompanying commentary makes it clear that the amendment is designed to respond to court decisions - such as *Berger v. The Queen* - in which the court found that the cost of vitamins qualified as a medical expense for the purposes of the Medical Expense Tax Credit (METC). It is the view of the CRA that the amendment is intended to confirm our previously held practice. Accordingly, we can confirm that our position with respect to qualifying medical expenses, and the private health services plans that cover them, remain unchanged."

I suspect Finance is seeking to avoid more litigation by making it crystal clear that expenses for

continued on reverse...

TAX TIPS

Registered Disability Savings Plans

The 2008 budget proposes to amend the Registered Disability Savings Plan (RDSP) rule that provides for mandatory collapse of the plan if the beneficiary ceases to be eligible for the Disability Tax Credit (DTC). This measure will be effective beginning in 2008 and for future tax years.

The 2007 budget introduced a Registered Disability Savings Plan (RDSP) with a Canada Disability Savings Grant (CDSG) and Canada Disability Savings Bond (CDSB) modeled on the Registered Education Savings Plan. The program is designed to help parents and other save for the long-term financial security of a child

with a severe disability. The implementing legislation has now received Royal Assent and regulations are under development. It is expected that RDSPs will be available through the banks in 2008.

Eligibility for a RDSP is linked to eligibility for the Disability Tax Credit as follows:

- 1 the individual must have one or more severe and prolonged impairments in mental or physical functions, the effects of which meet specified criteria, and
- 1 the certification of a qualified health practitioner attesting to the effects of the impairment must be filed with CRA.

Medical Expense Tax Credit

The Medical Expense Tax Credit (METC) provides tax relief equal to 15 per cent of eligible medical and disability-related expenses above a threshold of the lesser of three per cent of the taxpayer's net income and \$1,962. The 2008 budget proposed to add the following to the list of eligible expenses:

- 1 altered auditory feedback devices for the treatment of a speech disorder;
- 1 electrotherapy devices for the treatment of a medical condition or a severe mobility impairment;
- 1 standing devices for standing therapy in the treatment of a medical condition or a severe mobility impairment; and
- 1 pressure pulse therapy devices for the treatment of a balance disorder.



The 2008 budget also proposes to extend eligibility under METC for the eligible expenses for service animals especially trained to assist an individual who is severely affected by autism or epilepsy in coping with the person's impairment.

Dietitians of Canada - Recipe Analyzer

Part of an employee wellness program includes attention to healthier eating. While nutritional information is available for some packaged meals and certain restaurant chain items, it can be a challenge to assess the calories and nutritional value in a homemade meal.

The Dietitians of Canada have developed a Recipe Analyzer to assess the nutritional profile of any recipe.

An interactive web tool takes the list of ingredients for the recipe and provides a full nutrient profile for a single serving. The analysis lists calories, protein, fat, carbohydrates, sugar, salt and essential vitamins and minerals. The analyzer relates the contents of the recipe to the updated Canadian Food Guide categories of grains, fruit, vegetables, meat and milk to show how the recipe contributes to the total recommended daily servings. There are tips on how to adapt the recipe through substituting healthy ingredients.

The site is designed to promote healthy eating through a variety of resources. Users can create an on-line recipe binder and save their recipes. They can compare recipes to see how they measure up nutritionally. There is a tool to track daily food intake and activity level in the application called EATracker. There are also fact sheets, frequently asked questions and sample recipes. For more information, see: www.dietitians.ca/eatwell.



Interpretations of PHSPs, ...continued from reverse

over-the-counter drugs could not generate a METC. To those who say that over-the-counter drugs are no longer covered under Private Health Services Plans, CRA would answer that they never were.

Those sponsors who wish to continue covering OTC drugs and other non-prescription expenses will continue to argue that the CRA has gotten it wrong. In doing so, however, employers must recognize that they will lose the benefit of tax deductibility under their group life and health benefit plan. They will take their chances if they are ever audited.

RWAM administers very few 'prescribed' drug plans. RWAM will not be altering either its plan designs or coverage as a result of the budget's clarification of the treatment for over-the-counter medications. It remains to be seen whether Finance or the CRA will issue further clarification, or how insurance companies, employers and other stakeholders will respond to the latest developments.

Until the next time...