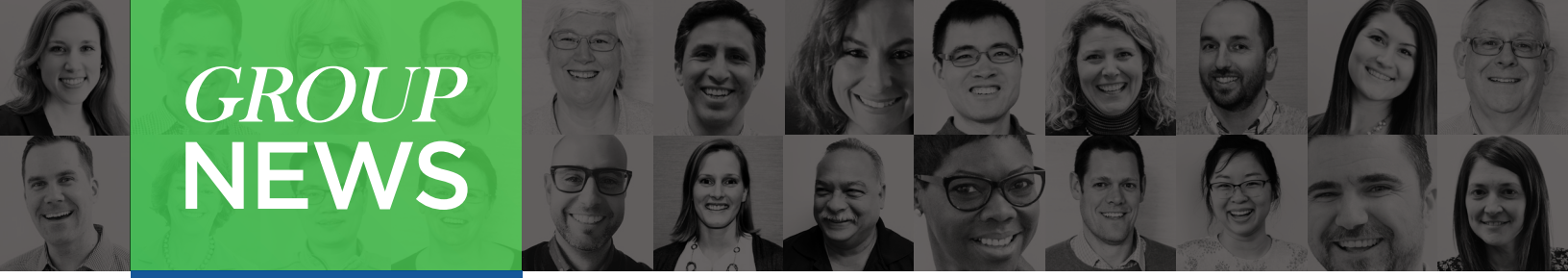


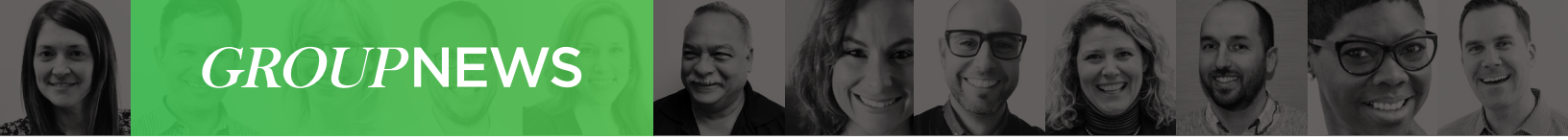
GROUP NEWS

November 2018

Eckler's *GroupNews* monthly newsletter provides commentary on news and issues affecting Canadian group benefit plans.

Here's what you'll read on the following pages:

- ***Canada Revenue Agency guidance on Private Health Services Plans***
- ***2019 CPP maximums announced***
- ***Update on the new BC Employer Health Tax***
- ***Update on PTSD benefits for first responders in Nova Scotia***
- ***Saskatchewan expands pharmacists' scope of practice***
- ***Cannabis update***
- ***Manitoba adds 154 drugs to Pharmacare list***



Benefit plan management

Canada Revenue Agency guidance on Private Health Services Plans

On October 17, 2018, the Canada Revenue Agency (CRA) issued a technical interpretation TI-2016-0636871E5, providing guidance on benefits that may be provided through a Private Health Services Plan (PHSP).

Prior to 2015, the CRA's position was that **all** medical expenses covered under a plan had to be eligible for the Medical Expense Tax Credit (METC) in order for the plan to qualify as a PHSP.

In 2015, the CRA revised its position regarding what qualifies as a PHSP and prescribed that in order to qualify as a PHSP, "substantially all" (90% or more) of the benefits paid must qualify for the METC under the *Income Tax Act*. This implied that the remaining 10% could be used for other benefits. However, the CRA did not provide any guidance in 2015 regarding the type of benefits that would be acceptable as "other benefits".

Three key clarifications outlined in the technical interpretation issued on October 17, 2018 follow, offering guidance related to benefits that may be provided through a PHSP.

Clarification that the 10% of "other benefits" must be:

- a medical or hospital expense, or
- an expense that is incurred in connection with a medical or hospital expense (a *connected expense*)
    i. There is no specific listing of what would qualify as a *connected expense,* so discretion must be applied when determining if the *connected expense* criteria is met.
    ii. An example of a *connected expense* is a plan that covers the transportation of an employee's vehicle to their home when an emergency out-of-country accident occurs.
    iii. It is now clear that if the benefit is not considered a *connected expense*, it will not be included within the allowable "other benefits" category.
- The *connected expense* must be incurred within a reasonable period of time following the medical or hospital expense.

The bulletin also clarified that if it is concluded that the plan meets the PHSP criteria, the employer contributions would be excluded from the employee's income (i.e., not taxable to the employee), provided the employee is not receiving the benefit in his/her capacity as a shareholder.

The technical interpretation further clarified that if there are two or more plans covered by the same insurance policy, the CRA will consider them to be separate plans when the plans are administered separately (e.g., having separate accounting for claims, premiums and administration charges), or if there is no cross-subsidization between the plans and the level of benefits and other terms/conditions of the plan are not dependent on the existence of any of the other plans. If the plans are determined to be separate, they cannot subsequently be combined for the purpose of determining whether the PHSP criteria have been met.

Impact: Plan sponsors should review their PHSPs and trust agreements to make sure they remain compliant with the CRA's recent clarification regarding PHSP eligibility. It is also important that other PHSPs, i.e., Health and Welfare Trusts (HWTs) and Employee Life and Health Trusts (ELHTs), also assess whether the benefits being provided qualify under the ELHT rules and the criteria of a PHSP.

It is debatable whether the recent clarification from the CRA would mean broadening the type of expenses that would be considered eligible as "other benefits" and qualify as the 10% under the current PHSP rules.

2019 CPP maximums announced

The Canada Revenue Agency (CRA) ***announced*** the Canada Pension Plan (CPP) maximum pensionable earnings, the basic exemption amount and the maximum employer and employee contributions for 2019 (outlined in the chart below).

	2019	2018
Maximum pensionable earnings	$57,400	$55,900
Basic exemption	$3,500	$3,500
Maximum contribution – Employer	$2,748.90	$2,593.80
Maximum contribution – Employee	$2,748.90	$2,593.80
Maximum contribution – Self-employed	$5,497.80	$5,187.60

Impact: The 2019 employee and employer contribution rates will each be 5.1% (and 10.2% for the self-employed). This is an increase from 4.9% and 9.9%, respectively, in 2018 and is due to the implementation of the CPP enhancement.

Employers need to ensure that their payroll and HR systems are updated to reflect the new limits (note, the 2019 basic exemption amount remains unchanged).

Legal & legislative news

Update on the new BC Employer Health Tax

Bill 44, ***Budget Measures Implementation (Employer Health Tax) Act, 2018***, received Royal Assent in the British Columbia Legislative Assembly on November 8, 2018. The province had previously announced that it would:

- cut Medical Services Plan (MSP) premiums by 50% effective January 1, 2018;
- eliminate all MSP premiums in the future; and
- introduce a new Employer Health Tax (EHT) to make up for the resulting lost revenue.

For a discussion of these announcements, please refer to the July 2018 edition of ***GroupNews***.

The EHT will be paid by employers on their "BC remuneration", which includes the total of any payments to employees reporting to work at a permanent establishment of the employer in the province, and any payment to employees who do not report to work at such an establishment but are paid from a permanent establishment in the province. Remuneration is defined to include all payments, benefits and allowances regarded as income for an individual under the *Income Tax Act*, and includes salary and wages, bonuses, commissions and taxable benefits, etc. Employer-paid contributions that are not taxable, such as registered pension plan and private health services plan contributions, and pension paid to a former employee after retirement are not included in remuneration.

As independent contractors are not in an employment relationship with the business that hires them, amounts paid for their services will not be subject to the EHT. The EHT will be assessed as follows:

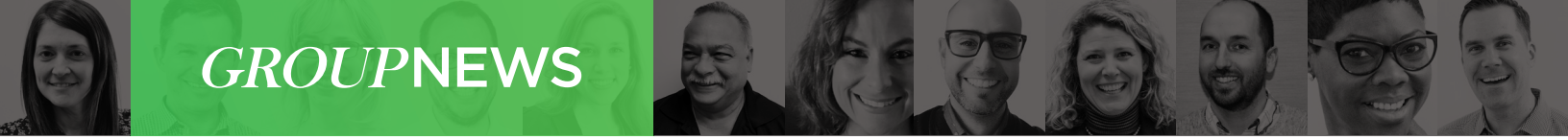
Regular Employers

Annual BC Payroll	Tax Rate
< $500,000	0%
$500,000.01-$1,500,000	2.925% on payroll over $500,000
> $1,500,000	1.95% of total BC payroll

Registered Charities and Non-Profit Employers*

Annual BC Payroll	Tax Rate
< $1,500,000	0%
1,500.01-$4,500,000	2.925% on payroll over $500,000
> $4,500,000	1.95% of total BC payroll

*Registered charities as defined in the *Income Tax Act* or non-profit organizations.



Registration for filing and paying the proposed tax will begin on January 7, 2019. Quarterly installment payments are required for employers with an EHT of greater than $2,925 in the previous calendar year – for 2019, this is based on what EHT would have been payable had the legislation been in effect from January 1, 2018. Refer to ***the Employer Health Tax Overview*** for more information on the administration of the EHT.

Impact: As MSP premiums will not be eliminated until January 1, 2020, employers with BC payroll and who pay some or all of MSP premiums for their employees will be paying both the reduced MSP premiums and the new EHT in 2019. Some multi-employer group benefit plans that are funded by defined contributions cover MSP premiums for their members. As these plans will not be subject to the EHT, the elimination of MSP premiums may result in a positive impact to their net revenue, depending on the terms of their bargaining agreement(s).

Update on PTSD benefits for first responders in Nova Scotia

Nova Scotia is the most recent province to make it easier for frontline and emergency response workers diagnosed with post-traumatic stress disorder to access workers compensation benefits. The ***changes*** to the Workers' Compensation Act provide that covered workers diagnosed with PTSD are presumed to have the disorder caused by a workplace incident.

Eligible employees include police officers, paid and volunteer firefighters, paramedics, nurses, correctional officers, continuing case assistants and emergency response dispatchers with a PTSD diagnosis received on or after October 26, 2013. Even if they were previously denied benefits, they can now refile a claim.

Ontario, Manitoba, and British Columbia have also recently amended legislation to provide presumptive benefits to emergency workers suffering from PTSD.

Impact: Employers with eligible employees in Nova Scotia may see increased workers' compensation claims.

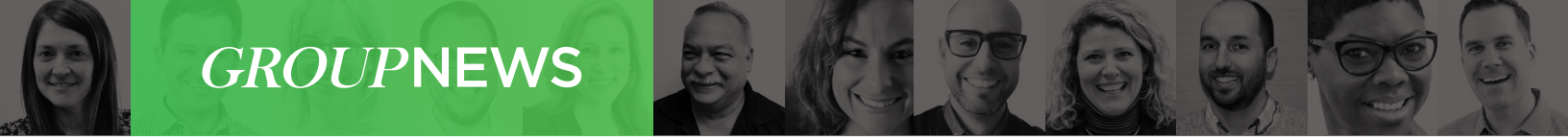
Saskatchewan expands pharmacists' scope of practice

The Saskatchewan Pharmacists Association has reached an ***agreement*** with the government to expand the scope of services that pharmacists may provide. Under the agreement, pharmacists can prescribe for minor ailments such as:

- emergency contraceptives,
- obesity,
- conjunctivitis (pink eye),
- fungal nail infections, and
- shingles.

This change also allows pharmacists to administer flu shots to children ages five to eight, and to people living in personal care homes and assisted-living apartments.

Impact: Plan sponsors may see an increase in prescription drug costs as a result of plan members' added convenience of more readily receiving prescriptions from a pharmacist for many common ailments for which they may not otherwise have sought care from a doctor. This change may also result in employees' requiring fewer scheduled medical appointment which may reduce the number, frequency and length of employee absences during work hours.



Cannabis update

GroupNews has researched on how the insurer community is addressing the provision of medical cannabis (MC) for plan sponsors that wish to provide this coverage to their plan members.

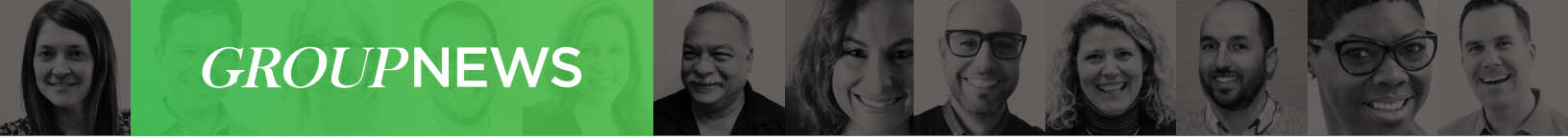
All insurers appear to require prior authorization, similar to that needed for high-cost specialty drug prescriptions, and the product must be supplied by a licensed provider/producer to ensure patients are adhering to the Access to Medical Cannabis for Medical Purposes Regulation (ACMPR), as legal access to medical cannabis is controlled in Canada. Green Shield Canada (GSC) has gone farther to require that to be eligible for coverage, plan members must have tried and failed with all other standard treatments available, including commercially-available, pharmaceutical-grade cannabinoids (e.g., nabilone, nabiximol). That means MC will be considered as a last-treatment option. According to GSC, this approach is consistent with the most up-to-date clinical evidence, prescribing guidelines, and policy statements from national and provincial regulatory bodies. Having implemented a different approach, Manulife is using Shoppers Drug Mart's case managers to assist individuals navigate their requirements.

The table below summarizes the eligible conditions for which MC is approved for use by a number of widely used insurers. Note that not all insurers are represented, as insurer-specific information is not available at this time. The summary also provides an indication of the annual maximum available in the market.

	Co-operators	Green Shield Canada	Manulife	Medavie Blue Cross	Pacific Blue Cross	SSQ Insurance	Sun Life
Refractory neuropathic pain	✓	✓	✓	✓	✓	✓	✓
Refractory pain in palliative care				✓ Cancer only	✓		✓
Cancer-related pain		✓				✓	
Chemotherapy induced nausea and vomiting	✓	✓	✓	✓	✓	✓	✓
Spasticity in multiple sclerosis and spinal cord injury	✓	✓	✓	✓	✓	✓	✓
HIV/AIDS with anorexia or neuropathic pain							✓
Annual maximum, with optional limits of	Ranging from $1,500 to $6,500						
Available through HSA, not subject to management techniques	✓	✓	✓	✓	✓	✓	✓
Available through benefit plan and subject to PA and other management techniques	✓	✓	✓	✓	✓	✓	✓

Impact: To-date, many insurers and plan sponsors are allowing MC to be reimbursed through Healthcare Spending Accounts (HSAs). With respect to making MC more broadly available through plans, many plan sponsors are taking a "wait and see" approach, comforted by the fact that MC is not a drug and, therefore, the plan is not obliged to offer coverage.

However, simply allowing it to be covered through an HSA does not particularly provide any guidance to the member, nor does it ensure that individuals are taking it for clinically sound reasons. Plan sponsors certainly have much to think about and are encouraged to seek expert advice regarding extending coverage for medical cannabis.



Drug news

Manitoba adds 154 drugs to Pharmacare list

On October 18, 2018, the Manitoba government ***announced*** the addition of 154 new drugs to the province's Pharmacare Program. Some noteworthy additions include:

- Tresiba, a long-acting insulin used to control high blood sugar for Type 1 and Type 2 diabetics, and
- Renflexis, for the treatment of certain types of arthritis, psoriasis, Crohn's disease and colitis.

The insulin drugs Lantus, Levemir and Basaglar will move from Part 3 to Part 1 of the formulary, enhancing access for people with diabetes as physicians will no longer need to apply for coverage of these drugs before the patient gets it from their pharmacy.

Impact: This may have a positive impact on private plans that previously paid for the cost of these drugs.

This publication has been prepared by the GroupNews *editorial board for general information and does not constitute professional advice. Current editorial board members are: Andrew Tsoi-A-Sue, Ellen Whelan, Charlene Milton, Theresa Tran, Karen Gleeson, Alyssa Hodder, Philippe Laplante, and Nick Gubbay. All* GroupNews *issues are available on eckler.ca.*

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