

OFFICIAL CONSOLIDATION OF MEDICAL CARE ACT
C.S.Nu.,c.M-40

(Consolidation date: May 31, 2024)

R.S.N.W.T. 1988,c.M-8

AS AMENDED BY NORTHWEST TERRITORIES STATUTES:

S.N.W.T. 1991-1992,c.23

S.N.W.T. 1997,c.12

In force July 1, 1998: SI-009-98

AS AMENDED BY NUNAVUT STATUTES:

S.Nu. 2007,c.8,s.10

s.10 in force November 8, 2007

S.Nu. 2007,c.15,s.177

s.177 in force April 1, 2008: SI-003-2008

S.Nu. 2013,c.5

In force April 1, 2013

S.Nu. 2013,c.20,s.25

s.25 in force May 16, 2013

S.Nu. 2020,c.15,s.142(3)

s.142(3) in force July 1, 2021: R-030-2021

S.Nu. 2024,c.6,s.5

s.5 in force May 31, 2024

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GLOSSARY OF TERMS USED IN CONSOLIDATIONS

Miscellaneous

- c. means "chapter".
- CIF means "comes into force".
- NIF means "not in force".
- s. means "section" or "sections", "subsection" or "subsections", "paragraph" or "paragraphs".
- Sch. means "schedule".
- SI-005-98 means the instrument registered as SI-005-98 in 1998. (*Note: This is a Northwest Territories statutory instrument if it is made before April 1, 1999, and a Nunavut statutory instrument if it is made on or after April 1, 1999 and before January 1, 2000.*)
- SI-012-2003 means the instrument registered as SI-012-2003 in 2003. (*Note: This is a Nunavut statutory instrument made on or after January 1, 2000.*)

Citation of Acts

- R.S.N.W.T. 1988,c.D-22 means Chapter D-22 of the *Revised Statutes of the Northwest Territories, 1988*.
- R.S.N.W.T. 1988,c.10(Supp.) means Chapter 10 of the Supplement to the *Revised Statutes of the Northwest Territories, 1988*. (*Note: The Supplement is in three volumes.*)
- S.N.W.T. 1996,c.26 means Chapter 26 of the 1996 Annual Volume of the Statutes of the Northwest Territories.
- S.Nu. 2002,c.14 means Chapter 14 of the 2002 Annual Volume of the Statutes of Nunavut.

TABLE OF CONTENTS

INTERPRETATION

Definitions	1
-------------	---

APPLICATION OF ACT TO OTHER HEALTH SERVICES

Other health services	2
-----------------------	---

INSURED SERVICES AND BENEFITS

Entitlement to insured services	3	(1)
Exception		(2)
Person who ceases to be resident		(3)
Benefits where services rendered in Nunavut	4	(1)
Benefits where services rendered in Canada		(2)
Benefits where services rendered outside Canada		(3)
Assessment and payment	5	
Agreements for services	5.1	(1)
Repealed		(2)
Request for review	6	(1)
Review		(2)
Inspectors	7	
Reassessment	8	(1)
Adjustment		(2)
Excess payments		(3)
Underpayment		(4)
Withholding of payment	9	
Notice of reassessment	10	(1)
Appeal		(2)

MEDICAL PRACTITIONERS

Definition of "election"	11	
Election	12	(1)
Effective date of election		(2)
Revocation of election		(3)
Effective date of revocation		(4)
Statement of fees or charges	13	
Fees in excess of benefits	14	(1)
Direct collection of fees		(2)
Payment to insured person		(3)
Account and particulars		(4)
Information		(5)

INFORMATION

Confidentiality	15	(1)
Exceptions		(2)
Restriction on providing information		(3)
Diagnosis		(4)
Information provided by Director		(5)
Testimony in civil proceedings	16	

BENEFITS APPEAL COMMITTEE

Establishment of Benefits Appeal Committee	17	(1)
Composition		(2)
Appeals		(3)
Remuneration		(4)
Proceedings		(5)
Enforcement of decision	18	

ACTIONS

Liability	19	(1)
Actions against employees		(2)
Subrogation	20	(1)
Action by Minister		(2)
Joinder of claims		(3)
Defence		(4)
Action by insured person	21	(1)
Claim on behalf of Minister		(2)
Payment to Minister		(3)
Defence		(4)
Release or settlement	22	

GENERAL

Director of Medical Insurance	23	(1)
Duties		(2)
Annual report	24	(1)
Tabling of report		(2)
Contracts of insurance	25	(1)
Prohibition		(2)
Agreements and arrangements	26	

OFFENCES AND PUNISHMENT

Unqualified persons	27	(1)
Aiding and abetting		(2)

Obstruction of inspector or auditor	(3)
Offence and punishment	28
Limitation period	29

REGULATIONS

Regulations	30
-------------	----

MEDICAL CARE ACT

INTERPRETATION

Definitions

1. In this Act,

"benefits" means the amounts payable under this Act and the regulations in respect of insured services; (*prestations*)

"Director" means the Director of Medical Insurance appointed under subsection 23(1); (*directeur*)

"insured person" means a person eligible for and entitled to insured services under this Act or the regulations; (*assuré*)

"insured services" means all services rendered by medical practitioners that are medically required, but does not include services that a person is entitled to or eligible for under

- (a) the *Hospital Insurance and Health and Social Services Administration Act*,
- (b) an Act of Canada, except the *Canada Health Act*, or
- (c) the *Workers' Compensation Act*, or an enactment of similar purpose elsewhere in Canada; (*services assurés*)

"Medical Care Plan" means the plan for the payment for insured services established by this Act and the regulations; (*régime d'assurance-maladie*)

"medical practitioner" means a person lawfully entitled to practise medicine in the place in which he or she carries on the practice; (*médecin*)

"resident" means a person lawfully entitled to be or to remain in Canada, who makes his or her home and is ordinarily present in Nunavut, but does not include a tourist, transient or visitor to Nunavut. (*résident*)

S.N.W.T. 1997,c.12,s.16(2); S.Nu. 2007,c.15,s.177; S.Nu. 2013,c.20,s.25(4).

APPLICATION OF ACT TO OTHER HEALTH SERVICES

Other health services

2. Where the Minister is satisfied that the Government of Canada will make contributions for the provision of any class of health services that are not insured services on the same basis as it contributes to the cost of insured services under the *Canada Health Act*, the Minister may, by order, declare that this Act applies to that class of health services and that class of health services shall be deemed to be insured services for the purposes of this Act.

INSURED SERVICES AND BENEFITS

Entitlement to insured services

3. (1) Subject to this section and the regulations, every resident is, on the first day of the third month after becoming a resident, eligible for and entitled to payment of benefits in respect of insured services rendered to the resident in accordance with this Act and the regulations.

Exception

(2) The following residents are not eligible for payments of benefits in respect of insured services:

- (a) a member of the Canadian Armed Forces;
- (b) **repealed, S.Nu. 2013,c.5,s.2**
- (c) an inmate in a penitentiary as defined in the *Corrections and Conditional Release Act* (Canada).

Person who ceases to be resident

(3) A person who ceases to be a resident of Nunavut and becomes a resident of a province or another territory remains entitled to the payment of benefits for insured services that were rendered to him or her,

- (a) in respect of a province or territory that participates under the *Canada Health Act*,
 - (i) during the period of his or her travel to the province or territory, and
 - (ii) during the minimum period of residence imposed under a plan in effect in the province or territory that is similar to the Medical Care Plan; or
- (b) in respect of a province or territory that does not participate under the *Canada Health Act*, during a period, not exceeding three months, that is prescribed in respect of the province or territory. S.Nu. 2013,c.5,s.2; S.Nu. 2013,c.20,s.25(2).

Benefits where services rendered in Nunavut

4. (1) The benefits payable in respect of insured services that are rendered in Nunavut must be in accordance with the prescribed rates.

Benefits where services rendered in Canada

(2) The benefits payable in respect of insured services that are rendered in a province or territory must be in accordance with the rates in effect in respect of the Medical Care Plan of the province or territory.

Benefits where services rendered outside Canada

(3) Unless otherwise prescribed, the benefits payable in respect of insured services that are rendered outside of Canada must not exceed the prescribed benefits for insured services rendered in Nunavut. S.Nu. 2013,c.20,s.25(4).

Assessment and payment

- 5.** The Director shall, in accordance with this Act and the regulations,
- (a) assess the eligibility for entitlement of persons to insured services;
 - (b) assess the amounts payable for insured services; and
 - (c) authorize payment of the amounts assessed under paragraph (b) out of the Consolidated Revenue Fund
 - (i) to the medical practitioner who provided the insured services or to a person on his or her behalf, or
 - (ii) to the insured person who received the insured services.

Agreements for services

5.1. (1) The Director, in accordance with this Act and the regulations, may enter into agreements, as the Director considers necessary, for services, including insured services, provided on an other than fee-for-service basis.

(2) **Repealed, S.Nu. 2024,c.6,s.5.**

S.N.W.T. 1991-1992,c.23,s.1; S.N.W.T. 1997,c.12,s.16(3); S.Nu. 2024,c.6,s.5.

Request for review

6. (1) Where a medical practitioner disagrees with an assessment under paragraph 5(a) or (b), the medical practitioner may request the Director to review the assessment.

Review

(2) Where a request is made under subsection (1), the Director shall review the assessment and the decision of the Director is final.

Inspectors

7. The Minister may appoint medical and financial inspectors who shall, under the direction of the Director, inspect, examine and audit books, accounts, reports and medical records maintained in hospitals, health facilities, offices of medical practitioners and other health care facilities respecting patients who are receiving or who have received insured services.

Reassessment

8. (1) The Director may reassess an account for insured services submitted by a medical practitioner, where, as a result of an inspection under section 7, it appears to the Director that

- (a) all or part of the insured services were not in fact rendered;
- (b) all or part of the insured services were not medically necessary;
- (c) all or part of the insured services were not provided in accordance with accepted professional standards and practice; or
- (d) the nature of the insured services is misrepresented.

Adjustment

(2) Where the Director makes a reassessment under subsection (1), the Director may make any appropriate adjustment in the amount paid to the medical practitioner in respect of the insured services.

Excess payments

(3) If the amount paid to a medical practitioner for insured services was in excess of the benefit payable under the adjustment referred to in subsection (2), the difference between the amount paid and the adjusted amount constitutes a debt to the Government of Nunavut and the Director may recover the amount from the medical practitioner

- (a) by withholding from benefits payable to the medical practitioner an amount equivalent to the difference between the amount paid and the adjusted amount;
- (b) by civil action; or
- (c) pursuant to an agreement between the Director and the medical practitioner providing for the payment of the amount.

Underpayment

(4) If the amount paid to a medical practitioner for insured services was less than the benefit payable under the adjustment referred to in subsection (2), the Director shall pay to the medical practitioner an amount equal to the difference between the amount paid and the adjusted amount. S.Nu. 2013,c.20,s.25(4).

Withholding of payment

9. The Director may withhold any benefits payable to a medical practitioner until the completion of a reassessment under subsection 8(1).

Notice of reassessment

10. (1) The Director shall notify the medical practitioner, in writing, of a reassessment under subsection 8(1).

Appeal

(2) Where a medical practitioner wishes to appeal a reassessment under subsection 8(1), the medical practitioner shall, within 30 days after receiving notice under subsection (1), notify the Minister, in writing, of his or her intention to appeal the reassessment to the Benefits Appeal Committee established under section 17.

MEDICAL PRACTITIONERS

Definition of "election"

11. In sections 12 to 14, "election" means an election made by a medical practitioner under subsection 12(1).

Election

12. (1) A medical practitioner may make an election to collect his or her fees for medical services rendered to insured persons otherwise than under the Medical Care Plan by delivering to the Director at any time a written notice to that effect.

Effective date of election

- (2) Where a medical practitioner makes an election
- (a) within one month after the day on which he or she became entitled to practise medicine in Nunavut, the election takes effect on the day on which the medical practitioner became so entitled; or
 - (b) in circumstances other than those referred to in paragraph (a), the election takes effect on the first day of the month following the expiration of 90 days from the day on which the notice was delivered to the Director under subsection (1).

Revocation of election

(3) A medical practitioner who makes an election may revoke the election at any time by delivering a written notice to the Director.

Effective date of revocation

(4) An election ceases to have effect on the first day of the month following the day on which the notice of revocation referred to in subsection (3) was delivered.
S.Nu. 2013,c.20,s.25(4).

Statement of fees or charges

13. Where a medical practitioner who has made an election that is still in effect renders insured services to an insured person, the medical practitioner shall

- (a) send a copy of his or her statement of fees or charges for the insured services to the Director; or
- (b) include in the statement of fees or charges for the insured services sent to the insured person a notice advising that
 - (i) the medical practitioner has not sent a copy of the statement of fees or charges for the insured services to the Director, and
 - (ii) the insured person is responsible for sending the claim for the insured services to the Director.

Fees in excess of benefits

14. (1) No medical practitioner shall charge to or collect from an insured person a fee in excess of the benefit in respect of the insured service, unless the medical practitioner has made an election that is still in effect.

Direct collection of fees

(2) No medical practitioner shall collect from an insured person or from any person, other than through the Director, a benefit for insured services rendered to an insured person, unless the medical practitioner has

- (a) made an election that is still in effect; and
- (b) before rendering any insured services to the insured person, given reasonable notice to the insured person that the medical practitioner intends to collect the amount of his or her fees or charges for the insured services.

Payment to insured person

(3) Where an insured person receives insured services in Nunavut from a medical practitioner who has made an election that is still in effect, the Director shall, on receipt of a claim that has been substantiated to the satisfaction of the Director, authorize payment to the insured person of an amount equal to the benefits payable for the insured services under the regulations.

Account and particulars

(4) Every medical practitioner who performs an insured service for an insured person shall provide the insured person or the Director with

- (a) his or her account; and
- (b) the particulars of his or her services that are required by this Act and the regulations for the purpose of payment of the claim.

Information

(5) Where a medical practitioner renders insured services to an insured person, the insured person shall be deemed to have authorized the medical practitioner to provide the Director with the information respecting the insured services that the Director requires for the purpose of the Medical Care Plan. S.Nu. 2013,c.20,s.25(4).

INFORMATION

Confidentiality

- 15.** (1) Every person employed in the administration of this Act
- (a) shall preserve secrecy with respect to all matters that
 - (i) come to his or her knowledge in the course of his or her employment, and
 - (ii) pertain to insured services rendered and payments made for insured services; and
 - (b) shall not communicate any matters referred to in paragraph (a) to any other person except as otherwise provided in this section or section 16.

Exceptions

(2) Subject to subsection (3), a person referred to in subsection (1) may provide information pertaining to

- (a) the date on which insured services were provided;
- (b) the name and address of the person who provided the services; and
- (c) the amounts paid under the Medical Care Plan for the insured services and the person to whom they were paid.

Restriction on providing information

- (3) Information may be provided under subsection (2) only
- (a) in connection with the administration of this Act and the regulations or the *Canada Health Act*;
 - (b) in connection with proceedings under this Act or the regulations;
 - (c) to the medical practitioner who provided the insured services or the solicitor, personal representative or other legal representative of the medical practitioner;
 - (d) to the person who received the insured services or the solicitor, personal representative or other legal representative of that person;
 - (e) in connection with proceedings under the *Medical Profession Act*;
or
 - (f) with the consent of the Director, to the statutory body of which a medical practitioner who rendered insured services is a member where the information is to be used for investigating a complaint or for disciplinary action against the medical practitioner or other member of the statutory body.

Diagnosis

(4) Information given under paragraph (3)(e) or (f) may include, if requested, any diagnosis given or made by a medical practitioner in respect of whom a complaint has been made or disciplinary proceedings taken.

Information provided by Director

(5) Notwithstanding anything in this Act, the Director may provide information obtained under this Act and the regulations

- (a) to a person engaged in bona fide research for scientific purposes,
or
- (b) to improve the administration of this Act,

but no information so obtained shall be published or otherwise made public except with the approval of the Director and only in a form that does not reveal the names of individuals.

Testimony in civil proceedings

16. Except with the consent of the Minister, no person who is engaged in the administration of this Act shall be required to testify in a civil suit or proceeding with regard to information obtained by the person in the discharge of his or her duties except in a proceeding authorized by this Act, the regulations under this Act or the *Access to Information and Protection of Privacy Act*. S.Nu. 2007,c.8,s.10.

BENEFITS APPEAL COMMITTEE

Establishment of Benefits Appeal Committee

17. (1) The Minister

- (a) may establish a Benefits Appeal Committee where the Minister considers it in the public interest to do so; and
- (b) shall establish a Benefits Appeal Committee where the Minister receives notice of an intention to appeal under subsection 10(2).

Composition

(2) The Benefits Appeal Committee shall be composed of two medical practitioners from Alberta and one medical practitioner from Nunavut appointed by the Minister.

Appeals

(3) The Benefits Appeal Committee shall consider any appeal or matter referred to it by the Minister and the decision of the Committee is final.

Remuneration

- (4) The members of the Benefits Appeal Committee shall be paid
- (a) a daily allowance fixed by the Minister; and
 - (b) all reasonable expenses incurred in the course of their duties as members of the Committee.

Proceedings

(5) The Benefits Appeal Committee shall conduct an appeal in accordance with the rules of natural justice and the regulations. S.Nu. 2013,c.20,s.25(4).

Enforcement of decision

18. The Director may file a copy of the decision of the Benefits Appeal Committee, including the amount owing by the medical practitioner but excluding any reasons, with the Clerk of the Nunavut Court of Justice and the decision shall be enforced and is enforceable in the same way as a judgment of the Nunavut Court of Justice. S.Nu. 2013,c.20,s.25(4).

ACTIONS

Liability

19. (1) The Director or any other officer or employee of the Government of Nunavut is not liable for an act or omission of a medical practitioner or an employee or agent of a medical practitioner.

Actions against employees

(2) No action lies or shall be commenced against the Director or any other officer or employee of the Government of Nunavut to recover the amount of any loss or damages

alleged to have been suffered as a consequence of an act or omission in connection with the administration of this Act or the regulations. S.Nu. 2013,c.20,s.25(4).

Subrogation

20. (1) Where insured services have been rendered to an insured person in respect of an injury resulting from a wrongful act or omission of another person, the rights of the insured person are subrogated to the Minister for the purpose of receiving the actual cost of the insured services.

Action by Minister

(2) The Minister may bring an action in the name of the Minister or the insured person for the recovery of the amount of the costs referred to in subsection (1) and effect a settlement of the claim for the amount of those costs.

Joinder of claims

(3) Where the Minister commences an action under subsection (2) in the name of an insured person, the insured person may

- (a) before the trial of the action, and
 - (b) on conditions as to costs or otherwise that the court considers just,
- join in the action any other claims that the insured person has arising out of the same occurrence.

Defence

(4) It is not a defence to an action brought by the Minister under subsection (2) that the action has been adjudicated on, unless the action included a claim for the amount paid for insured services.

Action by insured person

21. (1) Notwithstanding subsections 20(1) and (2), an insured person who

- (a) suffers an injury as a result of a wrongful act or omission of another person, and
- (b) receives insured services in respect of the injury,

may recover the cost of providing the insured services to the insured person from the person guilty of the wrongful act or omission in the same manner as though the insured person had been required to pay for the services.

Claim on behalf of Minister

(2) An insured person who commences an action under subsection (1) shall include in the action a claim on behalf of the Minister for the cost of insured services provided to the insured person.

Payment to Minister

(3) Where an insured person receives an amount in respect of insured services received by the insured person in an action to recover damages for personal injuries or by other means, the insured person shall without delay pay the amount recovered to the Minister.

Defence

(4) It is not a defence to an action under subsection (1) that an action taken by the Minister for the recovery of the insured services has been adjudicated.

Release or settlement

22. No release or settlement of a claim or judgment in an action to recover damages for personal injuries where the injured person has received insured services binds the Minister, unless the Minister or person designated by the Minister has approved the release or settlement in writing.

GENERAL

Director of Medical Insurance

23. (1) The Minister shall appoint a Director of Medical Insurance.

Duties

(2) The Director is responsible for the administration of this Act and the regulations.

Annual report

24. (1) The Director shall make an annual report to the Minister for each fiscal year respecting the operation of the Medical Care Plan.

Tabling of report

- (2) The Minister shall table the report referred to in subsection (1)
- (a) at the session of the Legislative Assembly during which the report is received by the Minister; or
 - (b) if the Legislative Assembly is not in session when the report is received by the Minister, at the next session of the Legislative Assembly.

Contracts of insurance

25. (1) A contract of insurance is void to the extent that it provides for the payment of all or part of the cost of insured services rendered in Nunavut to an insured person.

Prohibition

(2) No person shall enter into a contract of insurance referred to in subsection (1). S.Nu. 2013,c.20,s.25(3).

Agreements and arrangements

26. The Minister may, on behalf of the Government of Nunavut, enter into agreements or arrangements that are necessary with the Government of Canada by which the Government of Canada agrees to make contributions for the provision of insured services to the residents of Nunavut. S.Nu. 2013,c.20,s.25(4).

OFFENCES AND PUNISHMENT

Unqualified persons

27. (1) No person shall knowingly obtain or receive insured services to which he or she is not entitled under this Act or the regulations.

Aiding and abetting

(2) No person shall knowingly aid or abet another person in obtaining or receiving insured services to which he or she is not entitled under this Act or the regulations.

Obstruction of inspector or auditor

(3) No person shall obstruct or hinder an inspector or auditor in the performance of his or her duties or functions under this Act or the regulations.

Offence and punishment

28. Every person who contravenes this Act or the regulations is guilty of an offence and liable on summary conviction to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding six months or to both.

Limitation period

29. A prosecution for an offence under this Act may not be commenced more than two years from the time when the offence was committed. S.Nu. 2013,c.20,s.25(4).

REGULATIONS

Regulations

- 30.** The Minister may make regulations
- (a) establishing a Medical Care Plan for providing to insured persons insured services by medical practitioners that will in all respects qualify and enable Nunavut to receive payments of contributions from the Government of Canada under the *Canada Health Act*;
 - (b) providing for the making of claims for the payment of benefits and prescribing the information that must be provided in connection with a claim;
 - (c) prescribing the terms and conditions under which a person who has ceased to be a resident is eligible for and entitled to payment of benefits for insured services;
 - (d) prescribing forms and records that are necessary to carry out the purposes and provisions of this Act;
 - (e) prescribing rates of fees and charges that may be paid in respect of insured services rendered by medical practitioners whether in or outside Nunavut, and the conditions under which the fees and charges are payable;
 - (f) respecting the conduct of an appeal by the Benefits Appeal Committee;
 - (g) respecting the inspection of accounts;

- (h) prescribing the period referred to in paragraph 3(3)(b) in respect of a province or territory; and
- (i) for carrying out the purposes and provisions of this Act.
S.Nu. 2013,c.20,s.25(4); S.Nu. 2020,c.15,s.142(3).