

## 1. The Financial Services Commission of Ontario (FSCO) position on the implications of the Carrigan Decision

On May 2, 2013, Ontario Minister of Finance, Mr. Charles Sousa, tabled the 2013 Ontario Budget and announced a commitment to “review the Ontario Court of Appeal’s recent ruling regarding spousal entitlements in the case of Carrigan v. Carrigan Estate, propose amendments to the PBA (*Pension Benefits Act*) and, if necessary, amend the regulations under the PBA”. You can find more details on the Carrigan decision in the April 2013 edition of *Legislation matters*.

Until the PBA is amended accordingly, FSCO recently provided its conclusion of the implications of the Carrigan decision for purposes of the PBA as follows:

- ▶ FSCO’s position is that in the absence of a tribunal or court decision, the Carrigan decision does not apply to any provision or situation other than in cases of pre-retirement death of a plan member (Pre-retirement death benefits) in the PBA and the regulations under the PBA that provide specific rights to spouses who are not living separate and apart from the member at the relevant time, because the legislative wording in these other provisions is different from the language found in the section of the PBA related to pre-retirement death benefits.
- ▶ Post-retirement death benefit (Joint & Survivor Pension) - FSCO’s position is that plan administrators are not in contravention of the PBA, if they continue to treat the member’s common-law spouse as entitled to a joint and survivor pension under the PBA, even if the member is still legally married to another person (who is living separate and apart from the member at retirement). Similarly, if the member has a common-law spouse in these circumstances and does not want to have the pension paid as a joint and survivor pension, the common-law spouse should continue to sign the waiver provided for in the PBA.
- ▶ Administration of Pre-Retirement Death Benefits – FSCO’s position is that there is no requirement for plan administrators to revisit the payment of any pre-retirement death benefits prior to October 31, 2012.
- ▶ It is ultimately the responsibility of each plan administrator, based on their own legal advice, to make a determination on whether the Carrigan decision impacts a specific situation.
- ▶ Members or former members who are affected by the decision and who want their common-law spouse to be the beneficiary of their pre-retirement death benefits, may file a current beneficiary designation with the plan administrator, which names the common-law spouse as the beneficiary. All members and former members should consider obtaining legal advice for retirement and estate planning matters.

As a result, we have evaluated the potential implications of that decision on our procedures and plan documentation, and we have modified our procedures and plan documentation accordingly.

## 2. Ontario changes the rules for financial hardship unlocking on January 1, 2014

Beginning January 1, 2014, new rules will apply for individuals who would like to withdraw locked-in funds for financial hardship from Locked-In Retirement Accounts (LIRA), Life Income Funds (LIF) and Locked-In Retirement Income Funds (LRIF). As a result, as of January 1, 2014, the current process will change as follows:

- ▶ They will have to apply directly to their financial institution for financial hardship withdrawals, rather than to the Superintendent of Financial Services. In other words, all applications will have to be made to the financial institution that holds the money in the locked-in account, not to FSCO.
- ▶ The financial institution will be responsible for reviewing each application to determine if it meets the requirements set out in the regulation for the particular category of financial hardship on which the application is based and, if it does, to make the payment or transfer from the account in accordance with the relevant section of the regulation.
- ▶ The financial institution is required to make the payment or transfer within 30 days after it receives the completed application and accompanying required documents.
- ▶ The number of categories of financial hardship will be reduced from seven to four:
  - medical expenses, including expenses for renovations or alterations to a principal residence made necessary by illness or physical disability;
  - rent or mortgage arrears;
  - first and last month's rent; and
  - low expected income.
- ▶ The financial institution will not be able to permit a withdrawal if the maximum amount the applicant wants to withdraw is less than \$500.
- ▶ An individual will not be able to make more than one application under each of the four financial hardship criteria per year.

As a result, we are evaluating the potential implications of these changes on our procedures and LIRA and LIF contracts. We will keep you posted.

### IMPORTANT NOTICE

Until these changes come into force on January 1, 2014, the current rules for financial hardship unlocking will continue to be applied.

## 3. Ontario Consultation on Pension Asset Transfers

On July 2, 2013, the Ontario government posted for public consultation a draft regulation which is meant to facilitate the restructuring of pension plans that have been affected by a corporate restructuring, including the sale of a business, in either the public or private sector, while protecting benefit security for plan members and pensioners.

Plan administrators would still be required to obtain FSCO's approval before transferring the funds from one pension plan to another. However, more notices would have to be provided to the members from the importing plan and exporting plan.

In addition, members would have to receive two statements, one from the exporting plan and another from the importing plan.

Comments had to be submitted to the Ontario Ministry of Finance no later than September 9, 2013.

We will update our procedures and notices once the regulations are passed. We will keep you posted.

#### **4. Legislation governing additional medical services to be provided by Quebec pharmacists postponed**

Bill 41, An Act to amend the Pharmacy Act, was originally scheduled to take effect on September 3, 2013, but it has been postponed until an undetermined future date. On August 22, the Quebec government issued an order in council postponing Bill 41, An Act to amend the Pharmacy Act, and its related regulations, which will entitle pharmacists to provide additional medical services.

Once in force, Bill 41 will authorize pharmacists to provide certain medical services in very specific cases and in accordance with highly regulated protocols.

Pharmacists will have to complete training required by the Collège des médecins du Québec and the Ordre des pharmaciens du Québec to be entitled to provide certain services under Bill 41.

##### **How will it work?**

Given that the medical services in question are covered by Quebec's universal health insurance plan, the Régie de l'assurance-maladie (RAMQ), when provided by a physician, it was reasonable to believe they would continue to be covered for all Quebecers, even when provided by a pharmacist.

According to the information that is currently available, it seems the RAMQ will only cover the costs for individuals insured under the public plan based on a rate negotiated between the government and representatives of the Association québécoise des pharmaciens propriétaires (AQPP).

Individuals insured under private plans will have to pay for these services unless they are reimbursed under their group plans. It is important to understand that patients will be able to choose between their physician (no fee) and their pharmacist (fees to be covered by the patient).

##### **Will Standard Life reimburse these costs?**

Our group plans generally do not cover the reimbursement of medical services provided by pharmacists. However, customers may request the addition of eligible "Pharmacist fees" to the "Professional services" clause of their health insurance benefit in accordance with the standard modification procedure.

##### **Have the prices been determined yet?**

The following rates suggested by the AQPP for the new services are for information purposes only. Pharmacists who own a pharmacy will set their own fees once the rates negotiated for the public plan have been made public:

1. Renewing a prescription – No fees for a maximum of 30 days, and \$12.50 thereafter
2. Adjusting a prescription – \$20
3. Substituting one medication for an equivalent in case of a shortage – No fees provided for the time being
4. Administering medication to show patients its proper usage – \$30
5. Prescribing and interpreting certain laboratory tests – \$15
6. Prescribing medications for mild medical conditions when the diagnosis is already known – \$19.50
7. Prescribing a medication when no diagnosis is required – \$19.50

##### **What are the next steps?**

We will analyze the results of the negotiation between the government and the AQPP representatives as soon as they are made public.

We will also communicate with you again once the Quebec government issues the new date on which Bill 41 will come into force.