



NATIONAL ASSEMBLY

FIRST SESSION

FORTIETH LEGISLATURE

Bill 67

Autonomy Insurance Act

Introduction

**Introduced by
Mr. Réjean Hébert
Minister of Health and Social Services
and Minister responsible for Seniors**

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EXPLANATORY NOTES

This bill establishes an autonomy insurance plan whose purpose is to grant an autonomy support benefit to eligible Québec residents in order to enable them, whatever their living environment, to receive services facilitating their autonomy.

The bill sets out the financing particulars and eligibility requirements for the plan. It contains provisions on how the autonomy support benefit will be applied for and calculated, in particular with regard to the designation by the Minister of Health and Social Services of a public body responsible for calculating the benefit. Other provisions concern the role, responsibilities and powers of local authorities in the implementation of the plan.

Local authorities are responsible for developing, with the participation and approval of the eligible person or his or her representative, a service plan which provides, among other things, for the allocation and designated use of the autonomy support benefit.

The bill determines the service providers that are authorized to provide autonomy support services and those that must first be recognized by a health and social services agency in order to do so. Rules are set out with regard to the recognition of service providers by an agency, and in certain cases, an agency may authorize a body, partnership or legal person to grant such recognition.

Recognized service providers, except natural persons, must enter into, with the local authority in the territory where they provide their services, an administrative agreement establishing the terms governing their collaboration. All recognized service providers are required to enter into a service agreement with each eligible person to whom they provide services.

Terms are prescribed to govern how the autonomy support benefit is to be used, according to the eligible person's living environment, to pay for the services included in the person's service plan.

Other provisions, such as those concerning powers of inspection and the use of personal information, are designed to facilitate the implementation of the plan.

Lastly, a number of amending, transitional and final provisions are included.

LEGISLATION AMENDED BY THIS BILL:

- Act respecting administrative justice (chapter J-3);
- Act respecting the Ministère de la Santé et des Services sociaux (chapter M-19.2);
- Act respecting health services and social services (chapter S-4.2).

Bill 67

AUTONOMY INSURANCE ACT

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

ESTABLISHMENT AND PURPOSE

- 1.** An autonomy insurance plan is hereby established.
- 2.** The purpose of the plan, to the extent provided for in this Act, is to grant an autonomy support benefit to eligible Québec residents in order to enable them, whatever their living environment, to receive services that facilitate their autonomy.

The benefit is designed to pay for all or a portion of autonomy support services.

The plan is financed, in accordance with Chapter VII, by a specific budget program called “Caisse autonomie”.

- 3.** The rights conferred on eligible persons under this Act must be exercised taking into account the human, material and financial resources available.

CHAPTER II

ELIGIBILITY

- 4.** To be eligible for the plan, to the extent provided for in this Act, a person must
 - (1) be at least 18 years of age or a fully emancipated minor;
 - (2) be a resident of Québec within the meaning of the Health Insurance Act (chapter A-29) and be registered with the Régie de l'assurance maladie du Québec under that Act;
 - (3) have a significant and persistent disability caused by a chronic disease, a physical or mental impairment or a pervasive developmental disorder; and
 - (4) have a needs profile requiring professional aid, assistance, care or services for a period of three months or more.

5. A person's needs profile is determined by the local authority in the territory in which the person lives, at the person's request or on the initiative of the local authority, after the person's functional autonomy has been assessed and classified.

The assessment and classification are carried out by an authorized person using, respectively, the functional autonomy measurement system called the *Système de mesure de l'autonomie fonctionnelle (SMAF®)* and the clinical management system based on the functional autonomy of the elderly called the *Système de gestion clinico-administratif basé sur l'autonomie fonctionnelle des personnes âgées (Profils ISO-SMAF®)*.

The Government may, by regulation, determine the manner in which a person's functional autonomy is to be assessed and classified as well as the qualifications required of persons authorized to carry out the assessment and classification.

To determine a person's needs profile, the local authority may use an assessment and classification carried out by another institution, to the extent that they were carried out in compliance with this section. Subject to the same conditions, the local authority may also use an assessment and classification carried out by, or at the request of, the operator of a private seniors' residence in which the person lives.

For the purposes of this Act, "local authority", "institution" and "private seniors' residence" have the meanings assigned by the Act respecting health services and social services (chapter S-4.2).

6. Persons eligible for the autonomy insurance plan who settle in another province or a territory of Canada cease to be eligible from the day of their departure from Québec.

CHAPTER III

AUTONOMY SUPPORT SERVICES

7. Benefits under this Act may be granted for the following autonomy support services:

- (1) basic professional care and services;
- (2) services to assist with activities of daily living;
- (3) services to assist with instrumental activities of daily living;
- (4) the provision of technical aids and small devices, determined by government regulation, to compensate for a disability; and

(5) services to ensure that eligible persons are not left alone or are monitored, so as to give a caregiver time off for rest or respite or an opportunity to receive services determined by government regulation, such as support, assistance and training services.

An eligible person may not receive services under this Act if he or she can obtain, and is entitled to, those services under another Québec Act, including the Act respecting industrial accidents and occupational diseases (chapter A-3.001), the Automobile Insurance Act (chapter A-25), and the Health Insurance Act but excluding the Act respecting health services and social services, or obtained under an Act of the Parliament of Canada, an Act of another province, a territory or another country or under a program administered by a government, a minister or a government body. Nor may an eligible person receive services under this Act if the person can be reimbursed for those services under a group insurance contract, an employee benefit plan or an individual insurance contract applicable to the person.

CHAPTER IV

AUTONOMY SUPPORT BENEFIT

DIVISION I

RESPONSIBILITIES OF LOCAL AUTHORITY

8. A local authority is, to the extent provided for in this Act, responsible for implementing an autonomy insurance plan for the population in its territory.

In its organization plan, the local authority must provide for an organizational structure responsible for implementing the autonomy insurance plan and must set out the administrative and clinical responsibilities of the persons forming part of that structure who must plan and coordinate the actions to be taken within the framework of the plan and help eligible persons implement their service plans developed under section 14.

For the purposes of this Act, the provisions applicable to local authorities also apply, with the necessary modifications, to institutions referred to in Parts IV.1 and IV.2 of the Act respecting health services and social services, and to the Cree Board of Health and Social Services of James Bay governed by the Act respecting health services and social services for Cree Native persons (chapter S-5), for the populations they serve.

DIVISION II

APPLICATION FOR AND CALCULATION OF BENEFIT

9. The autonomy support benefit is granted on an application by an eligible person sent to the local authority with the information and documents determined by government regulation.

The autonomy support benefit is calculated by a public body designated by the Minister. Such a designation empowers the public body to make the calculation, subject to the terms set out in an agreement between the Minister and the public body.

The benefit calculated under the second paragraph is recalculated by the public body whenever a new assessment or classification carried out in accordance with section 5 results in a change in the eligible person's needs profile.

10. An autonomy support benefit application is considered to the extent that the applicant and, if applicable, his or her spouse

(1) consent to the disclosure, by the Agence du revenu du Québec to the body designated by the Minister under the second paragraph of section 9, of the information needed to apply the parameters determined by a regulation made under paragraph 2 of section 11 for the reference year, as defined by government regulation; or

(2) send to the body designated by the Minister the total net family income declaration form containing the information prescribed by government regulation.

11. The Government determines by regulation how the autonomy support benefit is to be calculated. The regulation may, among other things,

(1) set, for each needs profile, the maximum benefit an eligible person is entitled to;

(2) set parameters allowing the maximum benefit referred to in paragraph 1 to be adjusted, including the income of the eligible person or his or her spouse, and any fiscal measures or financial assistance enjoyed or received by the person or his or her spouse to facilitate their autonomy; and

(3) determine the calculation rules for establishing the income of the eligible person and that of his or her spouse for the purposes of paragraph 2.

12. The public body designated by the Minister decides promptly on the amount of the autonomy support benefit to be granted to the eligible person.

The public body also informs the local authority of its decision.

The public body gives its decisions and the grounds for them in writing.

13. The autonomy support benefit is unassignable and unseizable.

It is not taken into account in the granting or calculation of benefits, allowances or income replacement indemnities under any other legislative or regulatory provision, unless the provision expressly prescribes otherwise.

DIVISION III

SERVICE PLAN

14. The local authority must, with the participation and formal approval of the eligible person or his or her representative under section 12 of the Act respecting health services and social services and, if applicable, in collaboration with other institutions, provide for the following in the person's individualized service plan under section 103 of that Act:

(1) the delivery of the autonomy support services to be provided to the eligible person;

(2) the allocation and designated use of the eligible person's benefit; and

(3) if applicable, the name of any service provider referred to in Chapter V, chosen by the eligible person or his or her representative to provide the autonomy support services.

The plan must include a timetable for its own evaluation and revision. It may, however, be modified at any time in order to take into account new circumstances, such as a change in the needs profile of the eligible person.

CHAPTER V

SERVICE PROVIDERS

DIVISION I

GENERAL PROVISIONS

15. Only the following service providers may, in accordance with Chapter VI, provide services covered by an autonomy support benefit:

(1) local authorities or other institutions, as well as intermediate resources or family-type resources within the meaning of the Act respecting health services and social services;

(2) operators of a private seniors' residence; and

(3) service providers recognized under section 17.

16. The autonomy support benefit is paid by the local authority to the service provider, unless the latter is a public or private institution under agreement, an intermediate resource or a family-type resource, in which case the benefit is paid to them, as applicable, in accordance with the Act respecting health services and social services, the Act respecting health services and social services for Cree Native persons or the Act respecting the representation of family-type resources and certain intermediate resources and the negotiation process for their group agreements (chapter R-24.0.2).

The Minister may, by regulation, determine the terms governing the payment of the benefit to a service provider, including the use of the “service employment paycheque”. The terms, except the use of the “service employment paycheque”, may vary according to the type of service provider concerned.

For the purposes of this section, “service employment paycheque” means a mode of payment for services provided by a natural person recognized as a service provider under section 17 that is administered by a financial institution or by any other organization so mandated.

DIVISION II

RECOGNITION

17. Social economy enterprises within the meaning of the Social Economy Act (chapter E-1.1.1), community organizations within the meaning of section 334 of the Act respecting health services and social services or natural persons may be recognized as service providers by the health and social services agency in their region, within the meaning of that Act, subject to the conditions determined by government regulation, in particular with regard to their competence and that of their personnel, as applicable, and the quality of their services. The same holds for any other legal person, partnership or body whose principal activity is to provide services to assist people with activities of daily living or instrumental activities of daily living.

Recognition for service providers is granted for a three-year period and may be renewed for the same period.

The agency may suspend, revoke or refuse to renew such recognition, subject to the conditions determined by government regulation.

The agency keeps an up-to-date list, for the territory of each local health and social services network, of the service providers it recognizes, and makes the list available to the local authorities in its region.

The list sets out each service provider’s name, telephone number and, if applicable, email address. Such information is public.

18. The agency may authorize in writing, subject to the conditions determined by government regulation, any body, partnership or legal person to exercise the functions entrusted to the agency under this division as regards the recognition of natural persons as service providers.

A body, partnership or legal person thus authorized may not be prosecuted for acts carried out in good faith in the exercise of its functions.

19. The Government may, by regulation, determine

(1) the conditions recognized service providers, their employees and any other persons who work with the service providers must fulfill, depending on their duties, in particular conditions relating to training and security, including conditions relating to judicial records, and the information and documents those persons must provide to the service provider to enable the latter to verify whether those conditions have been fulfilled;

(2) the monitoring measures applicable to recognized service providers; and

(3) the services or types of services that a category of recognized service providers may offer, depending on, among other things, the type of disability of the eligible person.

20. A person whose application for recognition is rejected or whose recognition is suspended, revoked or not renewed by an agency may contest the decision, within 60 days of its notification, before the Administrative Tribunal of Québec.

21. A natural person whose application for recognition is rejected or whose recognition is suspended, revoked or not renewed by the body, partnership or legal person authorized under section 18 may, within 30 days after receiving the decision, apply to the agency for a review of the decision.

The body, partnership or legal person authorized under section 18 sends a copy of its decision to the natural person concerned and informs the person of his or her right to apply to the agency for a review of the decision.

22. The review decision must be rendered within 30 days after receipt of the application and sent in writing to the natural person who applied for the review. If the application is rejected, the person may contest the decision, within 60 days of its notification, before the Administrative Tribunal of Québec.

The agency that rejected the application for review informs the natural person concerned of his or her right to contest the decision before the Administrative Tribunal of Québec and of the time limit for doing so.

23. The agency that rendered the contested decision is a party to the proceedings within the meaning of section 101 of the Act respecting administrative justice (chapter J-3) and must send the secretary of the Tribunal the documents and information required under the first paragraph of section 114 of that Act within 30 days after receiving a copy of the motion.

24. Recognized service providers, except natural persons, must enter into, with the local authority in the territory where they provide their services, an administrative agreement establishing the terms governing their collaboration, in particular as regards the implementation and follow up of the service plans and any other matter determined by regulation of the Minister.

25. Recognized service providers must enter into, with any eligible person, a service agreement whose minimum content is determined by regulation of the Minister.

At the written request of the eligible person, the body, partnership or legal person authorized under section 18, as applicable, may enter into such an agreement for and on behalf of the eligible person if the service provider is a natural person.

26. Eligible persons who wish to lodge a complaint about the autonomy support services they received or should have received from a recognized service provider may address their complaint to the regional service quality and complaints commissioner of the agency in their region, in accordance with section 60 of the Act respecting health services and social services.

CHAPTER VI

DESIGNATED USE OF BENEFIT ACCORDING TO LIVING ENVIRONMENT

DIVISION I

HEALTH AND SOCIAL SERVICES NETWORK

27. An eligible person lodged in a facility maintained by an institution that operates a residential and long-term care centre receives from the institution, in accordance with the Act respecting health services and social services, all the services provided for in the person's service plan, and the person's benefit is used to pay that service provider.

28. An eligible person transferred by a public institution to an intermediary resource or family-type resource receives from the institution or from the resource that assumes the care of the person, in accordance with the Act respecting health services and social services, all the services provided for in the person's service plan, and the person's benefit is used to pay those service providers.

DIVISION II

PRIVATE SENIORS' RESIDENCES

29. An eligible person who lives in a private seniors' residence receives, from the operator of the residence and to the extent provided for in the lease between them, the services provided for in the person's service plan, and the person's benefit is used to pay that service provider.

If the services provided under the lease do not correspond to those provided for in the service plan, the parties must discuss the matter and, if applicable,

the operator must examine the possibility of adjusting the services offered so that they more closely reflect the eligible person's needs.

If services provided for in an eligible person's service plan are not offered under the lease, the person may choose to receive one or more of those services from the local authority or from one or more recognized service providers, except a natural person, and the eligible person's benefit is used to pay the service providers chosen.

DIVISION III

OTHER LIVING ENVIRONMENT

30. An eligible person whose living environment is not described in any of sections 27 to 29 may choose to receive the services provided for in the person's service plan from the local authority or from one or more recognized service providers, and the person's benefit is used to pay the service providers chosen.

The local authority provides the eligible person with the list of service providers provided for in the fourth paragraph of section 17.

CHAPTER VII

FINANCING

31. The appropriations required to finance the autonomy insurance plan must be authorized annually by a vote of Parliament and appear in the estimates of expenditures tabled in the National Assembly in accordance with section 45 of the Public Administration Act (chapter A-6.01), in the "Caisse autonomie" program.

32. The sums allocated to the financing of the autonomy insurance plan may only be used by a local authority or any other institution for the purposes of the plan and may not be the object of a budgetary transfer by such an institution.

CHAPTER VIII

USE OF INFORMATION

33. All personal information collected by a local authority or other institution or by a public body designated by the Minister under the second paragraph of section 9 within the framework of the autonomy insurance plan may be used only for the purposes of the plan.

CHAPTER IX

INSPECTION

34. A person authorized in writing by the Minister to conduct inspections may, at any reasonable time, enter a facility maintained by an institution or by the Cree Board of Health and Social Services of James Bay, or enter premises occupied by a recognized service provider, except a natural person, in order to verify compliance with this Act and the regulations.

The inspector may

(1) examine and make a copy of any document relating to the activities carried out on those premises; and

(2) demand any information relating to the application of this Act and the production of any document connected with it.

A person having custody, possession or control of such documents must, on request, make them available to the inspector.

The inspector must, on request, produce a certificate of authorization signed by the Minister.

35. A person who hinders an inspector in the exercise of inspection functions, refuses to provide an inspector with information or a document the inspector is entitled to demand or examine, or conceals or destroys a document or property relevant to an inspection is guilty of an offence and liable to a fine of \$2,500 to \$25,000 in the case of a natural person and \$7,500 to \$75,000 in all other cases.

36. Persons authorized by the Minister to conduct an inspection under this Act may not be prosecuted for acts or omissions carried out in good faith in the exercise of their functions.

CHAPTER X

AMENDING PROVISIONS

ACT RESPECTING ADMINISTRATIVE JUSTICE

37. Section 1 of Schedule I to the Act respecting administrative justice (chapter J-3) is amended by inserting the following paragraph after paragraph 1.1:

“(1.2) proceedings under sections 20 and 22 of the Autonomy Insurance Act (*insert the year and chapter number of this Act*);”.

ACT RESPECTING THE MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX

38. Section 12.2 of the Act respecting the Ministère de la Santé et des Services sociaux (chapter M-19.2) is amended by adding the following paragraph at the end:

“(3) a statement regarding the evolution of the autonomy insurance plan established by the Autonomy Insurance Act (*insert the year and chapter number of this Act*).”

ACT RESPECTING HEALTH SERVICES AND SOCIAL SERVICES

39. Section 60 of the Act respecting health services and social services (chapter S-4.2) is amended

(1) by inserting “or of a service provider recognized under the Autonomy Insurance Act (*insert the year and chapter number of this Act*)” after “334” in paragraph 1;

(2) by inserting “service provider,” after “received from the organization,” in paragraph 1.

40. Section 278 of the Act is amended by inserting “and those related to the autonomy insurance plan” after “quality management”.

41. Section 283 of the Act is amended by adding the following paragraph after the second paragraph:

“The second paragraph does not apply to sums allocated to the financing of the autonomy insurance plan.”

42. Section 431 of the Act is amended by adding the following subparagraph after subparagraph 13 of the second paragraph:

“(14) assess and evaluate the results of the autonomy insurance plan established under the Autonomy Insurance Act (*insert the year and chapter number of this Act*).”

CHAPTER XI

TRANSITIONAL AND FINAL PROVISIONS

43. Within six months after (*insert the date of coming into force of section 8*), the local authorities must modify their organization plans to bring them into compliance with the second paragraph of section 8 of this Act.

44. The Programme d'exonération financière pour les services d'aide domestique, enacted by Order in Council 1012-2009 (2009, G.O. 2, 5020, in

French only), continues to apply until the later of the date of coming into force of the first regulation made under section 11 or the date of coming into force of the first regulation made under the first paragraph of section 17.

45. A social economy domestic help enterprise that, on (*insert the date of coming into force of the first regulation made under the first paragraph of section 17*), has been recognized by the Minister under the Programme d'exonération financière pour les services d'aide domestique must, not later than one year after that date, file an application for recognition with the agency for its region and obtain, in accordance with that regulation, such recognition within three months after filing the application. If such an enterprise fails to obtain such recognition, it may no longer act as a service provider within the meaning of this Act.

46. Not later than (*insert the date that is two years after the date of coming into force of section 1*), the Minister must report to the Government on the implementation of this Act.

The report is tabled by the Minister in the National Assembly within 30 days or, if the Assembly is not sitting, within 30 days of resumption. The report is examined by the competent committee of the National Assembly.

47. Not later than (*insert the date that is five years after the date of coming into force of section 1*), and subsequently every five years, the Minister must ensure that the carrying out of this Act is the subject of an independent report on all the activities of the autonomy insurance plan, which sets out, among other things, the resources allocated to implement the plan, the clientele served and the use made of those resources.

The report is tabled by the Minister in the National Assembly within 30 days of its receipt or, if the Assembly is not sitting, within 30 days of resumption. The report is examined by the competent committee of the National Assembly.

48. The Minister of Health and Social Services is responsible for the administration of this Act.

49. The provisions of this Act come into force on the date or dates to be set by the Government.