



Information Bulletin No. 2

December 13, 2004

For insurers and administrators of employee benefit plans

The Risk Pooling System

Since the *Prescription Drug Insurance Act* was enacted, all insurers and all employee benefit administrators (i.e. the contracting parties in the case of non-insured plans) are required to pool the risks presented by the cost of medications according to criteria they agree upon (as required by section 43 of the law). To comply with this requirement, the industry set up a system of risk pooling. The first bulletin of this series introduced the *Société de compensation en assurance médicaments du Québec* (the *Société*), the body charged with the administration of this system. This second bulletin outlines the parameters of risk pooling.

The Principle Underlying the Pooling System

Within the framework of the drug insurance plan that has been in effect in Quebec since 1997, the cost of medications is pooled above a certain threshold. This threshold varies according to the size of the insured groups and the ability of these groups to absorb significant increases in the cost of the consumption of medications. The objective of risk pooling is to avoid the necessity for a given group to bear too great an increase in premiums. Under this system, part of the insurance premium (called the "pooling factor") is reserved for pooling. The pooling factor, as with the threshold above which pooling takes place, is reviewed once a year. The pooling factor is also reviewed at the time when the costs of medications above the threshold are compensated, in order to ensure the complete compensation of the amounts involved. Thus, the total of amounts claimed at the end of a year is equal to the total of the amounts collected. No surplus or deficit is ever created.

Determining the Pooling Threshold and the Pooling Factor

The pooling threshold and the pooling factor are both determined by the group's size. The larger the group and the greater its ability to absorb costs, the higher the pooling threshold and the lower the pooling factor. The group's size is determined by the number of insurance certificates in the group, with one certificate potentially including both the member and the member's dependants.

Thus, groups benefit from the protection of their particular plan below the threshold that is applicable to them and, above that threshold, from the protection offered by the pooling system administered by the *Société*. In order to benefit from the lowest possible premium, while avoiding overlapping protection among other things, it is essential that the pooling thresholds determined by the *Société* be at all times clearly communicated within the industry.

Groups Affected by the Pooling System

Groups affected by pooling are those that meet the norms of the *Prescription Drug Act* (Bill 33). To ensure uniform understanding of the norms, the *Régie de l'assurance-maladie du Québec (RAMQ)* spells out the intention of lawmakers in a series of bulletins entitled "Drug Insurance Information", published since 1997. To verify the status of a given group we refer you – among other sources – to these bulletins, specifically numbers 3, 3.1, 3.2 and 3.3. These norms are the basis for the *Société's* application of pooling.

More specifically, the *Régie* states in Drug Insurance Information Bulletin number 3.3 that: "*in case of an error in the determination of a group, the members of the group will have to pay a double premium for drug insurance coverage; moreover, the insurer will be liable to have the contract declared void by the courts under the provisions of the Health Insurance Act (L.R.Q., c. A-29) which expressly prohibits making a contract for the purpose of obtaining payment for services covered by the Régie.*"

Consequently, a group that does not meet the norms established by the law and specified by the RAMQ bulletins would not be eligible for pooling. This could deprive members of this group of assistance in paying large claims for the target period.

Currently, all insured plans with fewer than 250 certificates are subject to pooling according to pre-established parameters. The same is true for Administrative Service Only (ASO) plans with fewer than 125 certificates. For these plans, pooling applies to all medications covered by the private plan. However, for insured groups of 250 certificates or more, only the medications on the formulary of the Basic Prescription Drug Insurance Plan are pooled.

Under the *Prescription Drug Act*, individuals who qualify for membership in a group constituted because of an employment tie (former or current), a normal occupation or a profession to which a group insurance contract applies must be covered by the contract unless they hold coverage privately elsewhere. We will comment on three categories of contracts, namely employer/employee, multi-employer, and association.

❖ **Employer/Employee Groups**

Generally an employer/employee group is made up of employees of the same employer. The union may be the contracting party, and the eligible persons are the employees who fulfil the plan's eligibility requirements. Self-employed workers are excluded from this category and must enrol in the public plan unless they have access to a private plan through their profession or through a spouse. The group's threshold is established according to the size of the master contract.

For example, let us consider the case of a plan insured under a single contract held by an employer or union that includes 130 certificates, 30 of which are from Quebec. All of the certificates are completely undivided as to risk, the size of the group is 130 and the corresponding pooling threshold is that of the 125-249 stratum for the 30 poolable Quebec certificates. On the other hand, if this plan is insured under more than one contract — let us assume two as an example, namely a contract of 30 certificates in Quebec and another with 100 certificates outside of Quebec — then the size of the group is 30 and the corresponding threshold is that of the 25-49 stratum for the 30 poolable Quebec certificates.

In an employer/employee group, the factor that determines the pooling threshold and pooling factor is the number of physical persons completely undivided as to risk.

❖ ***Multi-employer Groups***

A multi-employer group is composed of legal persons. The *Société* considers that the group is to be pooled according to the total number of certificates if the participants are completely undivided as to risk, meaning that responsibility for all claims is assumed by all employers in the umbrella group and consequently by all certificates issued, without exception. However, if the rating mentions that one or several sub-groups of the whole are rated partly according to their own experience and partly according to overall experience, it is a gathering of groups that must be pooled separately, not a single group. In that case, the pooling threshold is established for each sub-group making up the umbrella group, based on its own size.

For example, a number of employers working in the same field may group together in order to provide themselves with common services, including group insurance. Each participating employer may subscribe to the group insurance or go it alone. In this multi-employer context, we may find a so-called flexible, modular or cafeteria-style plan that includes a mandatory basic drug insurance plan that is identical for everyone, and an optional complementary plan for medical expenses. When all the employers participating in the group insurance coverage are completely undivided as to risk, a single group results. In the contrary case, it is a gathering of groups.

In a multi-employer group, the factor that determines the pooling threshold and the pooling factor is the group of natural persons completely undivided as to risk.

❖ ***“Association” Groups***

The *Régie de l'assurance maladie du Québec* specifies that a purchasing group for goods and services does not constitute a group that can offer prescription drug insurance. Thus, chambers of commerce, the Businesswomen's Association, a business owners' association or a broker's block of business are not groups able to offer drug insurance. Therefore such contracts are not eligible for pooling.

Thus, an association must exist for a reason other than to provide insurance for its members, and its members are natural persons linked by a profession or normal occupation. If the association offers drug insurance coverage, the members are obliged to belong to it unless they have private coverage through their job, profession or spouse. The pooling threshold corresponds to the size of the group, determined by the number of certificates.

Those interested in the rules surrounding association groups may consult the RAMQ's Drug Insurance Information Bulletin number 3.2 or the Quebec Superior Court's ruling number 500-05-030244-972, dated July 23, 1997.

In an association group, the factor determining the pooling threshold and the pooling factor is the grouping of natural persons completely undivided as to risk.

Establishment of a Group's Size, and Oversight

Under the terms and conditions of pooling, the size of an eligible group is determined by the number of certificates in Canada on December 31 of the year in question, or at the termination date, even if only certificates in Quebec are pooled. Thus, a group will not be considered in isolation if it is financially dependent on another group. In such a case,

it is the total number of certificates for the two groups together that will determine the group size. Financial dependence means that all the participants are completely undivided as to risk. This financial dependence must be demonstrable.

Each year the *Société* establishes pooling thresholds and pooling factors, which vary according to a group's size. The *Société* expects all pooled plans to assume the pooling charge corresponding to their risk level (determined by their size). Pooling participants must ensure consistency between the group size used for rating and that used for pooling. They will be required to confirm this on the Certificate of Compliance submitted during the 2005 pooling process.

❖ ***Maintaining a Group's Legitimacy***

Normally, the legitimacy of a group with regard to the applicable laws is validated when the contract is established. Then, unless the text of the contract states otherwise through automatic renewal clauses, prior notice provisions or renewal timeframes, a temporary group contract must be validated for compliance at each renewal. Therefore, since group insurance contracts are generally renewable contracts issued for a one-year term, the validation of a group's legitimacy must be done annually.

Moreover, although the requirement for membership applies to the individual, the insurer and the employee benefits administrator are bound to ensure that all who have access to a private plan are indeed members. Consequently, when an individual asks to be excluded from a group insurance plan on the grounds that he holds other coverage, the contracting party keeps on file the information justifying this exemption from participation. Therefore, since by definition a group contains at least two certificates, in order to be eligible for pooling, the declaration of "groups of one" implies that the information justifying the exemption of the other employee(s) is available. Validation of this information will take place with the verification of the data submitted to the pooling process for the year 2004, using the Certificate of Compliance.

❖ ***Certificate of Compliance***

The purpose of the Certificate of Compliance required by the *Société* is to ensure the integrity of information submitted for pooling purposes. Duly signed by the authorised person, it must accompany the data transmitted to the manager of the pooling process.

All insurers and employee benefit administrators participating in the pooling process must submit a Certificate of Compliance; otherwise their data will be excluded from the pooling process. In submitting a Certificate of Compliance, the participant attests that the groups he is presenting for pooling were established in accordance with, and remain in compliance with, the applicable laws, and that they meet the requirements of the *Insurance Act* and the *Act Respecting Prescription Drug Insurance and Amending certain legislative dispositions* and their regulations. It also confirms that contracts linked by a financial agreement required by the contracting party have been united under a single group and that the contracts linked because of internal decisions or policies of the insurer or because of a group set up by a duly authorised life insurance representative (i.e. one who holds a group insurance license) have been presented separately.

Thus, for each of the groups in question, the participant confirms that his practice is in compliance with the pooling requirements, including the fact that the size of the groups has been determined according to the principle of all certificates being completely undivided as to risk.

In the Next Issue

In the Spring of 2005, be sure to read what the *Société's* Information Bulletin No. 3 has to say about communicating the parameters of risk pooling to clients.

Ed. Note: This information bulletin does not have the force of law. It represents the point of view of the *Société de compensation en assurance médicaments du Québec* on various subjects based on the *Act Respecting Prescription Drug Insurance and Modifying Various Legislative Provisions* and on the Drug Insurance Information Bulletins issued to date by the *Régie de l'assurance-maladie du Québec*