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## Highlights

On April 13, 2006, Ontario's government introduced a package of proposed reforms aimed at changing the province's drug program.

## Hewitt

The Hewitt Research Advisory is a regular Hewitt newsletter designed to provide a detailed overview of specific legislative and regulatory developments in Canada relating to human resources.

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## Ontario's Bill 102 Proposes Major Changes to the Drug System

On April 13, 2006, in a briefing entitled, "*Right Drug, Right Person, Right Price: Improving and Governing the Provincial Drug System*," Ontario's government introduced a package of proposed reforms aimed at changing the province's drug program. These changes will largely be implemented through Bill 102, "*An Act to Amend the Drug Interchangeability and Dispensing Fee Act and the Ontario Drug Benefit Act*," and may have substantial impact, both positive and negative, on employers who provide drug plans for Ontario residents.

### Background

The proposed reforms were based on recommendations made by the Drug System Secretariat ("DSS"), which was established in June, 2005 to lead a system wide review of Ontario's drug program. The DSS presented a package of recommendations to the Minister of Health in January, 2006 and the government, in its briefing has given direction to move forward on the entire package.

Some of the recommendations will require legislative and regulatory changes to the *Drug Interchangeability and Dispensing Fee Act* and the *Ontario Drug Benefit Act*. Where policy changes were suggested, the government has already given the necessary approval to move forward.

The recommendations cover a number of key areas including making the Ontario Drug Benefit Program ("ODB") the second in-line payer for prescription drugs for working seniors, ensuring the government receives better value for its money, providing patients better access to medications and promoting appropriate use of drugs.

### ODB as Second Payor

Through the ODB, the Ministry of Health and Long-Term Care covers most of the cost of prescription drug products listed in the ODB Formulary for Ontario residents aged 65 years of age or older. In their briefing, Ontario announced their intention to

become the second payer for “working seniors with private insurance plans.” This means that rather than the publicly-funded ODB paying the majority of a drug’s cost, a working senior who has private drug insurance would have to submit the claim through their employer provided private plan first.

**Hewitt Comment:** *The effect of this change will be to shift costs from the Ontario government to employers who provide medical and drug coverage to employees over the age of 65. With the recent elimination of mandatory retirement in Ontario, many employers have been deciding whether or not to include their employees over age 65 in their drug program. Employers dealing with aging workforce issues may see cost increases to employer sponsored drug plans if the employer employs working seniors.*

*Employers have dealt with changes to seniors’ drug coverage in several other provinces in recent years.*

- *In Québec, seniors can elect coverage through either their employers’ plan or through Québec’s public drug program.*
- *Nova Scotia’s legislation requires that employer plans are first payor for all seniors.*
- *In British Columbia, eligibility for the seniors drug benefit program is now based on a fixed date of birth, rather than the individual’s age. .*

*Since Ontario’s proposed reforms apply to working seniors only, the immediate impact on employers may not be significant, except in businesses where substantial numbers of seniors are part of the workforce. However, the proposals are unclear regarding how the ODB will define a “working senior.” Outstanding issues include:*

- *Will “over 65 spouses” of employees be covered by the ODB?*
- *If a senior with post-retirement benefits from one organization takes a part-time job without benefits, will the ODB be first payor?*
- *And, most significantly, will the ODB eventually become second payor for all seniors with private drug coverage?*

### **Generic Interchangeability**

In an effort to reduce drug costs, the DSS has stated their intention to make more generic drugs interchangeable with brand name drugs.

**Hewitt Comment:** *This is positive news for plan sponsors. Since more generic substitute drugs will be available, plans that mandate generic substitution will see a decrease in costs in this regard. It remains to be seen how significantly the interchangeability list will be expanded.*

*For employers who already use a managed formulary that includes therapeutic substitution, this change will not impact their costs as most of these interchangeability rules are already enforced through the managed formulary.*

### **Generic Drug Pricing**

The government has announced their intention to set the reimbursement price of generic drugs at a fixed percentage – 50%-of the reimbursement price of the equivalent brand-name product. Since November 1998, Ontario has limited the price of the first generic listed on the ODB formulary to 70% of the brand name equivalent. Subsequent generics are limited to 90% of the price of the first generic (i.e. 63% of the brand price).

In addition, generic manufacturers currently pay rebates, or, “promotional allowances,” to pharmacies in return for stocking their drug products. The DSS, in their report estimates that at least 40% of a product’s list price is returned to pharmacies as some type of rebate which affects the final cost of generic drugs. Therefore, the recommendation was made to eliminate the hidden rebates paid to pharmacies.

***Hewitt Comment:** It is uncertain at this point whether the 50% pricing guideline will apply to all existing generic products (a 21 - 29% cost reduction to all existing generics), or to newly approved generics going forward. In either case, this should result in cost savings for all employers, especially those whose plans mandate generic substitution.*

### **Expanded Use of Conditional Listing or Limited Use Drugs**

The province has also undertaken to improve access to new drugs by enabling listing drugs under certain conditions while awaiting further evidence. Adding drugs to the ODB formulary on this “Limited Use” basis will allow patients to access the new drugs on a conditional basis while further information is collected to support a permanent listing.

***Hewitt Comment:** The ODB will pay for these “Limited Use” drugs so long as the prescribing physician completes the necessary paper-work involved. When the proper process is not followed, the cost of the drug may be inadvertently picked up by the seniors’ private insurance plan. This proposal means that more drugs will be placed on the limited use list. Therefore, if these types of claims are not adjudicated more strictly, employers may experience an increase in costs for their retirees.*

### **Access to New Drugs**

Ontario plans to significantly speed up the drug review process for breakthrough drugs by beginning the process prior to the drug being marketed in Canada. Currently, breakthrough drugs are not reviewed by the province until after Health Canada has approved the product for sale in Canada.

***Hewitt Comment:** If drugs are added to the ODB formulary more quickly, employer-sponsored drug plans that provide retiree coverage will save money as currently, the private plan picks up the cost of these breakthrough drugs.*

### **ODB Dispensing Fee**

For all ODB purchases, the government intends to increase the dispensing fee for community pharmacies to \$7 from \$6.54, and decrease the mark-up from 10% to 8% with a \$25 cap.

***Hewitt Comment:** This proposal does not impact the current co-payment of \$6.11 paid for by the senior and therefore, it won’t impact the employers’ cost of providing drug coverage for seniors.*

### **Pharmacist Fees**

In an effort to better recognize the value of pharmacists in primary care as front-line healthcare providers for patients, the government intends to introduce “a new payment for specific services that pharmacists provide for patients.” In other words, pharmacists will be compensated for providing patient counseling and medication management reviews. An electronic access to a patient’s prescription history may be introduced.

***Hewitt Comment:** It is not clear at this point whether the ODB will reimburse pharmacists directly for these additional fees. If the ODB does reimburse the fees there should be no impact to private plans.*

### **Conclusion**

Employers should be diligent in watching as Bill 102 moves through the legislature. At this point, the targeted effective date for these changes is October 1, 2006. Employers will want to monitor this legislation to understand how it will affect their employees, their retirees and their bottom line; and to make pro-active decisions regarding how the plan will respond.

### **About Hewitt Associates**

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