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Act 41 of 2009 - National Insurance (Chronic Diseases Prescription Drug Fund) Act

**NATIONAL INSURANCE (CHRONIC DISEASES
PRESCRIPTION DRUG FUND) ACT, 2009**

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No. 41 of 2009

**NATIONAL INSURANCE (CHRONIC DISEASES
PRESCRIPTION DRUG FUND) ACT, 2009**

**AN ACT TO ESTABLISH A PROGRAMME FOR THE
SUPPLY OF CERTAIN PHARMACEUTICAL PRODUCTS AT
GOVERNMENT OWNED AND OTHER OWNED
HEALTH FACILITIES AT AN ECONOMIC COST IN
THE TREATMENT OF CERTAIN CHRONIC DISEASES.**

[Date of Assent – 22nd December, 2009]

Enacted by the Parliament of The Bahamas

1. Short title and commencement.

- (1) This Act may be cited as the National Insurance (Chronic Diseases Prescription Drug Fund) Act, 2009.
- (2) This Act shall come into force on a date to be appointed by the Minister by notice published in the Gazette and different dates may be appointed by different notices for the coming into force of particular sections or any part thereof, of this Act.

2. Interpretation.

- (1) In this Act —
 - “beneficiary” means a person entitled to the provision of prescription drugs and medical supplies under the Plan;
 - “Board” means the National Insurance Board established under section 3(1) of the National Insurance Act (*Ch. 350*);
 - “Fund” means the Prescription Drug Fund established under section 4;
 - “Fund contribution” means the contribution imposed by section 6;

"indigent person" means a person who is exempt by the Board from paying contributions to the Fund by reason of insufficiency of income;

"insured person" means a person insured under the National Insurance Act (*Ch. 350*);

"Plan" means the Chronic Diseases Prescription Drug Plan;

"registered pharmacy" means a pharmacy licensed under the Pharmacy Act (*No. 8 of 2009*);

"resident" means any person who is a member of the category mentioned in section 5(1)(a) through (k) and is ordinarily resident in The Bahamas for a period or periods aggregating in the whole to not less than six months in the calendar year prior to his application for registration under section 5(2).

"specified chronic diseases" and **"specified medical conditions"** means a disease or medical condition specified in the Schedule.

- (2) For the purpose of the definition of "resident" in subsection (1) and without prejudice to any other rule of law concerning the meaning of the term "ordinarily resident", a person's residence in The Bahamas shall not be deemed to have been interrupted by reason of that person's absence in the performance of any duty arising from or incidental to an office, service or employment held or undertaken by him or absence due to attendance in pursuit of a course of higher education —
 - (a) if he intends to resume actual residence within six months of giving up such residence and will not be prevented from doing so by the performance of the duty or attendance aforesaid; or
 - (b) if he resumes actual residence within six months of giving up such residence as aforesaid.
- (3) In this Act terms used have the same meaning as in the National Insurance Act (*Ch. 350*) unless defined in this Act or the context otherwise requires.

3. Establishment of the Prescription Drug Plan.

There is hereby established a Chronic Diseases Prescription Drug Plan, (hereafter referred to as "the Plan") the primary objectives of which shall be —

- (a) to increase access to cost effective drugs for the treatment of specific chronic diseases and specified medical conditions; and
- (b) to reduce the financial burden of beneficiaries in respect of the purchase of prescription drugs and specified medical supplies.

4. Establishment of the Prescription Drug Fund.

- (1) There is hereby established a Chronic Diseases Prescription Drug Fund (hereafter referred to as the "Prescription Drug Fund" or "Fund") which shall be under the control and management of the Board.
- (2) The Prescription Drug Fund shall consist of —
 - (a) monies contributed by the Medical Benefits Branch of the National Insurance Fund;
 - (b) any sums approved by Parliament for payment into the Fund;
 - (c) all contributions paid to or collected by the Board for the purposes of the Plan pursuant to section 6 ;
 - (d) all rent, interest on investment or other income derived from the assets of the Fund; and
 - (e) all sums properly accruing to the Fund under this Act.
- (3) There shall be paid or met out of the Prescription Drug Fund —
 - (a) monies solely for the purchase and financing of prescription drugs and medical supplies for beneficiaries;
 - (b) all costs and expenses properly incurred by the Board in the management of the Plan including disbursements by way of remuneration, allowances and other operating costs;
 - (c) monies for health education, health promotion, and to meet the cost of studies for the implementation of measures to prevent illnesses.
- (4) The Board shall maintain separate financial records with respect to monies collected by the Board in conjunction with sums collected pursuant to Part III of the National Insurance Act (*Ch. 350*) and on no account shall the monies of the Prescription Drug Fund be used for or shall form any part of the National Insurance Fund or any other fund managed by the Board.

5. Beneficiaries of the fund.

- (1) Subject to subsection (2), benefits shall be provided under the Plan to all residents who fall within any of the following categories —
 - (a) persons in receipt of retirement benefit under regulations 18 and 21 of the Regulations;
 - (b) persons in receipt of invalidity benefit under regulation 22 of the Regulations;
 - (c) persons in receipt of old age non-contributory pension under regulation 90 of the Regulations;
 - (d) persons in receipt of invalidity assistance under regulation 91 of the Regulations;

- (e) children under eighteen years of age or, if pursuing full time studies at an educational institution, under twenty-five years of age;
 - (f) indigent persons;
 - (g) persons in Government rehabilitation institutions and prisons;
 - (h) employed persons;
 - (i) self employed persons;
 - (j) voluntarily insured persons; and
 - (k) such other persons or class of persons as are prescribed,
- who —
- (i) are certified by a registered medical practitioner as suffering from a specified chronic disease or specified medical condition; and
 - (ii) present a valid and approved means of identification.
- (2) Persons eligible to receive benefits under subsection (1) shall make application for registration under the Plan in the prescribed manner.
 - (3) For the purposes of this section, "the Regulations" means the National Insurance (Benefit and Assistance) Regulations (*Sub Leg. Ch. 350, Vol. V, Pg 7*).

6. Contributions.

- (1) For the purposes of this Act —
 - (a) insured persons;
 - (b) employers; and
 - (c) any other category of persons as may be prescribed,
 shall, subject to subsections (2) and (4) and any Regulations made hereunder, make a contribution towards the Prescription Drug Fund in accordance with subsection (2).
- (2) The rates of the contribution payable under subsection (1), shall be paid for the benefit of the Fund in the case of —
 - (a) insured persons who are employed persons, their employers shall have the sum payable by the employed person deducted from their salaries and paid together with the prescribed contributions of the employers on their behalf to the Board in the prescribed manner;
 - (b) insured persons who are self employed persons, their contributions shall be paid to the Board by them at the time and in the manner prescribed;
 - (c) other prescribed category of persons, their contributions shall be paid to the Board at the time and in the manner prescribed.

- (3) Sections 18 and 20 of the National Insurance Act (*Ch. 350*) shall, as they apply to contributions and insured persons under that Act, apply *mutatis mutandis* to Fund contributions.
- (4) The Government shall pay contributions to the Fund on behalf of —
 - (a) persons to whom paragraphs (e), (f) and (g) of section 5 apply;
 - (b) any other class of persons as may be prescribed.

7. Health care providers.

- (1) The Board may, save as otherwise provided in this Act or as may be prescribed, enter into a contractual arrangement with the owner of any registered pharmacy for the provision by that pharmacy of prescription drugs and medical supplies under the Plan to beneficiaries on such terms as agreed.
- (2) A contractual arrangement may provide for the provision of specific —
 - (a) types of prescription drugs; and
 - (b) medical supplies,for use by beneficiaries in the treatment of any disease or medical conditions as specified in the Schedule, for an agreed price.
- (3) Notwithstanding anything to the contrary in subsection (1), it shall be the duty of all pharmacies and clinics whether owned by the Government or under the Public Hospitals Authority, to make available its facilities, personnel and services to render and provide to beneficiaries in accordance with the Plan, prescription drugs or specific medical supplies.

8. Enforcement of collection and payment of contributions.

- (1) Save as may otherwise be prescribed, whenever a duty or liability of a person arises after the coming into operation of this Act to make payment of a sum as contribution under the National Insurance Act (*Ch. 350*) he shall have a like duty or liability to make payment at the same time and in like manner the Fund contribution imposed upon him by this Act.
- (2) The failure to comply with subsection (1) as regards the Fund contribution shall constitute an offence as does a like failure in respect of a contribution under the National Insurance Act (*Ch. 350*) and the provisions of that Act and any Regulations made thereunder which apply to the prosecution of such offence as regards a failure in respect of a contribution payable under that Act shall subject to any Regulations *mutatis mutandis* apply as regards a failure in respect to the Fund contribution.

- (3) Without prejudice to the other provisions of this Act the provisions of the National Insurance Act (*Ch. 350*) and its Regulations shall as they apply to the Board in respect of the payment and collection of contributions due under that Act, including the powers of investigation as to compliance with those provisions, apply *mutatis mutandis* in respect of the payment to and collection by the Board of contributions to the Prescription Drug Fund.

9. Payment out of Consolidated Fund.

All monies payable by the Government under this Act shall be paid out of the Consolidated Fund.

10. Actuarial Review and Reports.

- (1) The Board shall with the assistance of an actuary approved by the Minister review the operation of the Fund on the thirty-first day of December of the year next following the coming into force of this Act and of the period ending on that date in every third year thereafter and on such review shall make a report to the Minister on the financial condition of the Fund and the adequacy or otherwise of payments of contributions to support the Fund.
- (2) The Minister shall cause a copy of every report prepared in accordance with subsection (1) to be laid before both Houses of Parliament.

11. Regulations.

- (1) The Minister may make Regulations for the administration of this Act or where required by any of its provisions or for carrying its purposes and provisions into effect, including without restricting the generality of the foregoing, Regulations may provide for —
 - (a) the time and manner of paying for the provision of prescription drugs and medical supplies to a beneficiary;
 - (b) the sharing between the Board and a beneficiary of the cost of providing prescription drugs and medical supplies to a beneficiary;
 - (c) the terms and conditions under which prescription drugs and medical supplies would be provided to a beneficiary;
 - (d) the issue of identification cards for the Plan;
 - (e) the health benefits to be administered by the Fund and the illnesses to be monitored by the Fund;
 - (f) the drugs and other benefits to be made available by the Fund, at government - owned and other health facilities;
 - (g) any other matters as are to be prescribed.

- (2) Save as this Act otherwise provides the Minister may by Order apply the provisions of the National Insurance Act (*Ch. 350*) to the Plan subject to such modifications, adaptations, qualifications and expectations as the Minister considers necessary for the purpose.

12. Orders by Minister.

- (1) The Minister may by Order amend the Schedule.
- (2) An Order made under subsection (2) of section 11 or subsection (1) of this section shall be subject to affirmative resolution of both Houses of Parliament.
- (3) In subsection (2), the expression "subject to affirmative resolution of both Houses of Parliament" means that any such Order shall not come into force unless and until approved by a resolution of each of those Houses.

SCHEDULE

(sections 2, 7 and 12)

SPECIFIED DISEASES AND MEDICAL CONDITIONS

Arthritis
Asthma
Breast Cancer
Diabetes Mellitus
Glaucoma
High Cholesterol
Hypertension
Ischaemic Heart Disease
Major Depression
Prostate Cancer
Psychosis