Federal (March 29, 2012) and Provincial (March 27, 2012) Budgets Affecting Group Benefit and Retirement plans

May 1, 2012

Ontario's Budget and Benefits Plans

The changes set forth in the budget can be summarized into three categories. All three of these may (or will) result in costs being shifted from public health to individuals. And where those individuals have benefits coverage, the costs have the potential to end up on employer benefits plans.

1) Changes to the Ontario Drug Benefit (ODB) program

The most significant change, having both immediate and long-term effects on plan sponsors, is the change to how the ODB deductible is calculated, making it variable based on income.

Beginning in August 2014, the annual deductible will be set as follows:

Single retirees		Couples	
Net income	**Deductible/Co-pay**	**Net income**	**Deductible/Co-pay**
Under $100,000	$100 deductible, $6.11 co-pay	Under $160,000	$200 deductible, $6.11 co-pay
Over $100,000	Deductible = $100 + 3% of income over $100,000, $6.11 co-pay	Over $160,000	Deductible = $200 + 3% of income over $160,000, $6.11 co-pay
Deductible examples:		Deductible examples:	
$104,000	$220	$168,000	$440
$120,000	$700	$200,000	$1,400
$150,000	$1,600	$250,000	$2,900
$200,000	$3,100	$300,000	$4,400
$400,000	$9,100	$500,000	$10,400

2) Shifting services from hospital settings to home care

This shift in care moves the financial burden from the public system to the employer and/or individual. For example, consider the following:

- prescription drugs are covered by OHIP while the patient is in hospital, and employers are responsible after discharge;
- paramedical practitioners such as physiotherapists are covered in-patient; and
- private duty nursing and long-term care are a substitute for in-patient care.

3) Overall public health financial goals

Within the budget, the Ontario government has mandated a financial goal to limit any cost increases in public health to 2.1% annually over the next three years, compared with 6.1% annually over the past eight.

While there are some general guidelines about how this goal will be met, it is reasonable to expect that service cuts will be needed to achieve this. If these service cuts include delisting of services (shifting from publicly funded services to privately funded) or adding user fees to existing services, individuals may look to their benefits plans to cover these new costs.

The Federal Budget and Benefits Plans

Following the announcement of the federal government on March 29, 2012, employer-paid premiums for Accidental Death and Dismemberment (AD&D) and for Critical Illness (CI) insurance will become taxable benefits to employees across Canada. These changes will apply to employer-paid premiums starting January 2013.

Employer-paid premiums for private health services plans (including health, drug and dental plans) will not be affected and will continue to be non-taxable benefits for federal income tax purposes. Please note that in Quebec, employer-paid premiums for such plans will remain non-taxable benefits for federal income tax purposes, but taxable at the provincial level.

Ontario's Budget and Retirement Plans

On March 27, 2012, the Ontario Finance Minister, Mr. Dwight Duncan, presented his 2012 budget. Several measures affecting pension plans are proposed.

On the federal PRPP framework front, the least we can say is that Ontario, the largest jurisdiction in Canada, is not yet on board with implementation. Ontario believes the implementation of pension innovation should be tied to the Canada Pension Plan (CPP) enhancement as part of a comprehensive approach. In fact, Ontario continues to support a modest, phased-in fully funded enhancement to the CPP.

Ontario's position on the federal PRPP framework is that the protection of plan members is critical to the success of PRPPs. In a for-profit environment, priority must be given to the interests of plan members.

Ontario has a number of concerns with the current federal PRPP framework, such as:

- PRPPs may simply replace one form of retirement arrangement with another, instead of expanding retirement income savings and coverage;
- it is unclear if the PRPP's fiduciary framework adequately protects plan members;
- it is uncertain whether compulsory employee contributions would be flexible enough to allow for various life events, such as divorce or periods of financial hardship;
- the extent to which PRPPs could achieve their low-cost objective is unclear; and
- each province would need to establish an effective licensing and regulatory regime
    - the cost of regulation must be reasonable since these costs would be passed on to PRPP participants.
- Ongoing Pension Reform – Ontario is currently drafting regulations to implement many of the reforms introduced in the last two years that specifically address defined benefit pension plans issues, such as clarifying pension surplus rules or strengthening funding rules. Draft regulations will be released later this spring or later in 2012.

In addition, the Ontario government is announcing its intent to proclaim the following provisions effective July 1, 2012:

    - Immediate vesting of pension benefits
    - Elimination of future partial wind-ups
    - New measures on grow-in benefits, such as making these benefits available to all eligible members under defined benefit pension plans who are terminated other than for cause.
- Financial –hardship unlocking – Ontario intends to restructure the program to make accessing locked-in funds a simpler and more streamlined process. Consent from the regulator would no longer be required to withdraw pension money for reasons of financial hardship. Instead, applicants would be able to request withdrawals directly from their financial institutions. Draft regulations will be released for consultations. Over the next two years, the government of Ontario will monitor the new application procedure to evaluate its effectiveness.

- Public-sector defined benefit pension plans – Measures have been proposed to enhance the financial situation of public-sector defined benefit pension plans in Ontario that are either jointly sponsored pension plans or single-employer pension plans. The objective of the proposed measures is to reduce the growth in pension costs. In addition, since many of Ontario's defined benefit public-section pension plans have a relatively small amount of assets and members, the Ontario government intends to introduce a legislative framework in the fall of 2012 that would facilitate the pooling of pension fund assets. The intention is to allow access to higher-return investment opportunities that are available to larger investment pools – i.e. avoid the duplication of costs and benefit from economies of scale. The government will appoint an adviser to lead the implementation process and to develop recommendations on a model for managing these pooled assets.
- Solvency funding relief – The Ontario government is proposing to extend the 2009 temporary solvency funding relief measures that are applicable to defined benefit pension plans. Ontario is also proposing additional funding measures applicable to defined benefit pension plans, like allowing the use of letters of credit from financial institutions to cover up to 15% of pension plan solvency liabilities.

The Federal Budget and Retirement Plans

On March 29, 2012, the federal Finance Minister, Mr. Jim Flaherty, presented the 2012 federal beget. However, there are no new developments on the PRPP front, other than to indicate that the tax rules for PRPPs will be implemented in 2012. The comments received during the consultation period, which ended on February 14, 2012, are being reviewed.

The federal finance minister also announced the following measures:

- The Canada Pension Plan (CPP) will not be changed, because the CPP is sustainable at the current contribution rate of 9.9% of pensionable earnings.
- The federal government will gradually increase the age of eligibility for Old Age Security (OAS) and Guaranteed Income Supplement benefits from 65 to 67 starting in April 2023, with full implementation by January 2029. In addition, starting on July 1, 2013, Canadians will be allowed to defer take-up of their OAS benefits for up to five years – and receive a higher, actuarially adjusted, annual pension.
- The federal government will introduce technical amendments to strengthen the Pension Benefits Standards Act, 1985, which applies to federally-regulated private pension plans.

- The tax rules applicable to Retirement Compensation Arrangements (RCAs) and Employee Profit Sharing Plans (EPSPs) will be tightened:
    - RCAs – It is proposed that new prohibited investment and advantage rules will apply directly to prevent RCAs from engaging in non-arm's length transactions. These rules will be based very closely on existing rules for TFSAs and RRSPs. In addition, a new restriction will apply on RCA tax refunds in circumstances where RCA property has lost value.
    - EPSPs – A targeted measure is proposed to discourage excessive employee contributions by introducing a special tax. The tax would be payable by a "specified employee" who has a significant equity interest in their employer or who does not deal at arm's length with their employer. This special tax will be payable on an "excess EPSP amount", which will generally be the portion of an employer's EPSP contribution, allocated by the trustee to a specified employee, that exceeds 20% of the specified employee's salary received in the year by the specified employee from the employer. This measure will apply to EPSP contributions made by an employer on or after March 29, 2012, with the exception of contributions made before 2013, pursuant to a legally binding obligation arising under a written agreement or arrangement entered into before March 29, 2012.