

Federal Court
of Appeal



Cour d'appel
fédérale

Date: 20091209

Docket: A-426-08

Citation: 2009 FCA 361

**CORAM: LÉTOURNEAU J.A.
NADON J.A.
PELLETIER J.A.**

BETWEEN:

ATTORNEY GENERAL OF QUEBEC

Appellant

and

HER MAJESTY THE QUEEN in right of Canada

Respondent

Heard at Montréal, Quebec, on December 2, 2009.

Judgment delivered at Ottawa, Ontario, on December 9, 2009.

REASONS FOR JUDGMENT BY:

LÉTOURNEAU J.A.

CONCURRED IN BY:

NADON J.A.
PELLETIER J.A.

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REASONS FOR JUDGMENT

LÉTOURNEAU J.A.

Issues

[1] This appeal puts in issue the interpretation and application by Justice Montigny of the Federal Court (judge) of the *Act to authorize the making of contributions by Canada toward the cost of programs for the provision of assistance and welfare services to and in respect of persons in need*, S.C. 1966-67, c. 45, R.S.C. 1985, c. C-1 (Act). With this Act, Parliament created the Canada

Assistance Plan (CAP). According to the appellant, the judge made errors of law as well as palpable and overriding errors of fact in interpreting Quebec's right to cost sharing of social services provided in schools and support services offered to adults with disabilities living in residential resources.

[2] More specifically, as regards the social services in schools, the appellant criticizes the judge for:

- a) erring in deciding that CAP does not provide for cost sharing of provincial social services when these services are not offered solely to persons in need;
- b) erring in his interpretation of the Act creating CAP and of the expression "welfare services" found in section 2 of that Act;
- c) erring in fact and in law in concluding that social services in schools are not "welfare services" within the meaning of the Act; and, lastly,
- d) erring in ruling that social services offered in Quebec schools between 1973 and 1996 are services subject to "the exclusion of services relating wholly or mainly to education".

[3] With regard to the second aspect of the appeal, that is, social services for persons with disabilities living in residential resources, the judge made two mistakes.

[4] First, he allegedly erred in ruling against cost sharing when the provincial social services are not offered solely to those in need.

[5] Second, the judge could not find that the social services offered to the clientele described above fall under the category of adult residential care services. The period at issue for these services is from 1986 to 1996.

Relevant legislation

[6] Relevant to the resolution of this case are sections 2, 3 and 4 of the Act, sections 1 to 8 of the *Canada Assistance Plan Regulations*, C.R.C. 1978, c. 382, and sections 1, 2, 23 and 24 of the *Federal-Provincial Fiscal Arrangements and Established Programs Financing Regulations, 1977*, SOR/78-587, July 24, 1978. They are reproduced in the appendix to these reasons.

Facts

[7] It is not necessary here to repeat the history of CAP and of the relations between the parties, which was fully expounded by the judge in his 107-page judgment, indexed as *Quebec (Attorney General) v. Canada*, 2008 FC 713. It is sufficient to present some of the facts essential to understanding the issue and grounds of appeal.

[8] The proceeding, brought under section 19 of the *Federal Courts Act*, R.S.C. 1985, c. F-7, is for a declaratory judgment on certain provisions of CAP. Section 19 allows the Federal Court to rule

on a dispute between Canada and a province if that province passes an act agreeing that this Court has jurisdiction over the subject of the dispute.

[9] The issue arises from the federal government's refusal to share in the costs incurred by the province of Quebec for three types of services provided at various times over CAP's lifespan. Only the two types of services listed above are contemplated in the appeal, since the third involves services for young offenders from 1979 to 1984.

[10] CAP was repealed in 1996 with the coming into force of the *Canada Health and Social Transfer (Federal-Provincial Fiscal Arrangements Act, R.S.C. 1985, c. F-8, Part V, as amended by the Budget Implementation Act, 1995, S.C. 1995, c. 17)*. The federal contribution to the cost of provincial public assistance and welfare services programs then became a per capita grant.

[11] CAP allows federal and provincial governments to enter into agreements to share the costs of assistance and various welfare services. On August 21, 1967, both parties entered into an agreement that included the three following schedules:

Schedule A: homes for special care;

Schedule B: provincially approved agencies authorized to provide welfare services;

Schedule C: provincial Acts governing assistance or welfare services under conditions consistent with CAP.

[12] Although the appellant's action was commenced in 1996, it was not until 10 years later that the hearing was held, after negotiations failed between the parties.

[13] Approximately 30 witnesses, including 10 experts, were heard by the judge. Some 131 documents were filed in evidence. On June 6, 2008, the judge rendered his decision, dismissing the appellant's action with costs.

Analysis of the decision and grounds of appeal

[14] For the purposes of the analysis, the grounds of appeal a), b) and c) are grouped together.

- 1) The judge's alleged error regarding the cost sharing of social services in schools when these services are not offered solely to persons in need, his interpretation of the Act and of the concept of "welfare services", and his conclusion that social services offered in schools are not welfare services within the meaning of the Act

[15] The appellant argues that the judge rejected and dismissed the concept of cost sharing when and because the social services programs offered in schools had a general purpose and were not intended solely for poor people.

[16] With respect, I am of the opinion that this argument of the appellant is based on a misreading of the judge's reasons for decision.

[17] As shown by paragraphs 44 and 56 of his reasons, reproduced below, the judge recognized and accepted cost sharing for programs where a clientele of persons in need, that is, persons unable to support themselves, overlapped with a wealthier clientele receiving the same social services:

[44] It is true that CAP also provided for funding for welfare services and even encouraged the further development and extension of such services. Those services (which, it will be recalled, had as their object the lessening, removal or prevention of the causes and effects of poverty, child neglect or dependence on public assistance) were eligible for cost sharing if they were delivered to persons in need or “persons who are likely to become persons in need”.

[56] This client/program distinction that Professor Vaillancourt seems to be the only one to have made strikes me as a diversion that adds nothing to the debate. It is not in dispute that the only services for which cost sharing was possible were those delivered to persons in need and, in the case of welfare services, persons for whom imminence of need was identified. Moreover, the evidence shows that the proportion of eligible clients for each service for which cost sharing was claimed was determined using a complex mechanism for dividing them up, as mutually agreed by the parties. This was no doubt an operational challenge given the differing philosophies and eligibility criteria of CAP and the provincial programs. For costs to be shareable in whole or in part (depending on the nature of the clientele), the program itself also had to be approved by the federal authorities and the provincial Act creating it had to be in Schedule C of the agreement. In other words, the program established by the provincial Act had to be considered a “welfare service” to be eligible for cost sharing. It is on this point that the two parties disagree.

[Emphasis added]

[18] The reasons for decision show that the judge’s dismissal of the appellant’s compensation claim is not based on the rejection of the concept of cost sharing but, rather, on the fact that social services in schools are not part of a program of “welfare services” as defined by CAP.

[19] In other words, the judge, adopting the definition of “welfare services” at section 2 of CAP, concluded that services offered in schools were not “services having as their object the lessening, removal or prevention of the causes and effects of poverty, child neglect or dependence on public assistance”. At paragraphs 56 and 63, the judge wrote the following:

[56] (*in fine*) For costs to be shareable in whole or in part (depending on the nature of the clientele), the program itself also had to be approved by the federal authorities and the provincial Act creating it had to be in Schedule C of the agreement. In other

words, the program established by the provincial Act had to be considered a “welfare service” to be eligible for cost sharing.

[63] Thus, parliamentarians obviously recognized CAP as an anti-poverty measure designed to support provincial programs that sought to assist the clientele of economically disadvantaged persons. It is no doubt from this general perspective, namely, the lessening, removal and prevention of the causes and effects of poverty and dependence on public assistance, that we must understand the inclusion of services for neglected children as welfare services and the inclusion, in the definition of persons in need, of persons under the age of 21 years who were in the care or under the supervision of a child welfare authority or whose parents were unable to support them and who therefore became foster-children.

[Emphasis added]

[20] The judge was of the view that the school social services emphasized instead the socioacademic functioning of students in school, such that these services “were closely connected with and complementary to the educational mission of educational institutions or, as the Government of Canada put it, that they embraced the goals, objectives, purpose and specificity thereof” (see paragraphs 301 to 314 and 316 of the reasons for decision).

[21] In short, the judge concluded that the school program and the social services it offers are inconsistent with both the general objective of CAP and the objective of the concept of “welfare services” as defined in the Act.

[22] One need only consider the causes for social intervention in schools to be convinced and to understand that they have nothing to do with fighting poverty: absenteeism, violence, substance abuse in school, academic failure and its psycho-social impact, emotional and social maladjustment in school, certain students’ difficulties integrating and adapting in school, schools dealing with grief reactions in certain children, school phobia, conflicts between school and family values and the

impact on the child, suspension or expulsion of a student and its psycho-social aspects, negative psycho-social aspects of bussing, etc. (see the respondent's Condensed Book, Volume 1, at pages 128 to 131).

[23] The appellant did try to connect this type of school-based intervention with CAP by arguing that it is meant as preventive intervention to stop problems from escalating and leading to poverty.

[24] While CAP allows for cost sharing of preventive interventions in respect of persons who are likely to become persons in need unless such services are provided, the intervention must be justified by a real rather than hypothetical imminence of need. The imminence of need contemplated by CAP refers to an imminent probability, not a mere latent possibility. Otherwise, it amounts to saying that any welfare service is eligible for CAP, since each beneficiary always harbours the possibility of one day falling into the clutches of poverty.

[25] I would add that the fact that a service provider organization is listed in the schedules to the agreement between the federal and provincial governments does not mean that all of the services offered by that organization are necessarily covered by CAP. To be eligible for cost sharing, these services must fulfill the objectives and purposes of CAP.

[26] The judge carried out a meticulous analysis of the extensive testimonial and written evidence submitted by the parties on the issue. He very carefully explained and justified his refusal at times to accept evidence or his decision other times to favour one piece of evidence over another.

The assessment of the evidence, of its probative value and of its sufficiency was within his jurisdiction as trial judge. It warrants, and receives, this Court's deference.

[27] With respect, I am of the opinion that the evidence fully justified his conclusion and that there is no error in either the conclusion or supporting reasoning and reasons that might justify this Court's intervention.

[28] In making the argument to extend CAP to services in schools, the appellant relies on *Finlay v. Canada (Minister of Finance)*, [1993] 1 S.C.R. 1080, and, in particular, the following passage at page 1123, where the Supreme Court refers to the preamble of the Act:

. . . the Parliament of Canada . . . is desirous of encouraging the further development and extension of assistance and welfare services programs throughout Canada by sharing more fully with the provinces in the cost thereof.

[emphasis in original]

[29] There is no doubt that the cost sharing of welfare services according to the economic criteria of CAP was intended to, and did, encourage the provinces to improve and extend the coverage of the programs. However, that did not mean that, regardless of the goals and objectives of CAP, funding would, or should, extend to the cost of all improvements and extensions of programs that make them universal plans where services are provided based on criteria that go beyond the economic criteria of CAP. Moreover, at page 1124 of *Finlay*, Justice Sopinka, writing for the majority, recognized the need to respect the overall objective of CAP. Referring to the Act creating CAP, he wrote:

Ambiguities in the legislation should be resolved in so far as is possible on the basis of the interpretation which respects the overall purpose and objective of CAP.

[30] In analyzing the eligibility of social services in schools, the judge was right not to disregard the overall objective of CAP, which is the fight against poverty, as well as the more specific objective contained in the definition of “welfare services”, which is “the lessening, removal or prevention of the causes and effects of poverty”: see section 2 of the Act.

2) The judge’s alleged error in concluding that social services offered in Quebec schools between 1973 and 1996 are services subject to “the exclusion of services relating wholly or mainly to education”

[31] The judge concluded that these school services are not eligible for CAP. Despite this, for the sake of being thorough, since these services are not included in CAP program, and seeing it as a confirmation of his approach regarding eligibility, the judge ruled on the meaning and scope of the exclusion clause, which, as mentioned above, excludes services that relate wholly or mainly to education.

[32] Having agreed with his finding that school services are ineligible, I do not believe that it would be useful or necessary for me to rule on the exclusion and will therefore refrain from doing so.

3) The judge's alleged error in concluding that social services offered to adults with disabilities living in residential resources fall under the category of adult residential care services

[33] Beginning in the early 60s, the deinstitutionalization of persons with physical or mental disabilities led to their relocation in neighbourhood residences, where they enjoyed greater autonomy and a more normal and less dehumanizing lifestyle. Obviously, the housing conditions, supervision and necessary services varied depending on the severity of the disability.

[34] Quebec legislation refers to these neighbourhood residences as residential resources. At issue here for the purposes of cost sharing are residential resources where residential assistance and supervision are provided at all times, that is, 24 hours a day, 7 days a week, at the beneficiaries' homes. They are known as "residential resources with continuous assistance". The clientele consists of persons whose disabilities are such that, alone, they are unable to completely ensure their health and safety: see the testimony of D. Bérubé, respondent's Condensed Book, Volume 2, pages 161 to 170. They fall under level 3 and 4 categories, those at level 4 needing a more intensive level of support than those at level 3, especially during the day, when two workers are required for three or four beneficiaries.

[35] The respondent refused to pay the costs claimed for these services on the basis that they were excluded from cost sharing under paragraph 5(2)(c) of CAP, as they were covered by another Act of Parliament, namely, the *Fiscal Arrangements Act, 1977*, S.C. 1977, c. 10, coupled with the *Federal-Provincial Fiscal Arrangements and Established Programs Financing Regulations, 1977*, SOR/78-587.

[36] The *Fiscal Arrangements Act, 1977* finances adult residential care services, which are defined as personal and supervisory care, assistance with the activities of daily living and social and recreational services, room and board services, as well as services required in the operation of the institution where the beneficiaries live.

[37] There is a legal and operational connection between the *Fiscal Arrangements Act, 1977* and CAP: institutions in respect of adults are defined in the *Fiscal Arrangements Act, 1977* as homes for special care within the meaning of CAP, which defines them as “residential welfare institution[s] the primary purpose of which is to provide residents thereof with supervisory, personal or nursing care or to rehabilitate them socially”: see section 2 of CAP and the *Canada Assistance Plan Regulations*, cited above.

[38] On reading the judge’s reasons for decision, I understand that he drew two conclusions based on the nature, intensity and purpose of the services offered to the clientele of residential resources with continuous assistance. First, he concluded that these residential resources were homes for special care within the meaning of CAP because the services provided there amounted to adult residential care services. Second, he found that these services did not meet the definition of “welfare services” at section 2 of CAP in that “it was not proved that the services provided to persons with disabilities had as their object ‘the lessening, removal or prevention of the causes and effects of poverty, child neglect or dependence on public assistance’”: see paragraph 406, as well as paragraphs 401 to 405 and 407 to 416 of his reasons for decision.

[39] At most, both of these conclusions are findings of mixed fact and law, in that the judge took findings of fact and applied statutory definitions to them.

[40] Moreover, his findings of fact are supported by ample evidence and contain no palpable and overriding errors. The same may be said for his application of the legal concepts at issue, as his understanding of these concepts reveals no error of law that would allow or justify this Court's intervention.

Conclusion

[41] For these reasons, I would dismiss the appeal with costs.

“Gilles Létourneau”

J.A.

“I agree
M. Nadon J.A.”

“I agree
J.D. Denis Pelletier J.A.”



CHAPTER C-1

CHAPITRE C-1

An Act to authorize the making of contributions by Canada toward the cost of programs for the provision of assistance and welfare services to and in respect of persons in need

Loi autorisant le Canada à contribuer aux frais des régimes visant à fournir une assistance publique et des services de protection sociale aux personnes nécessiteuses et à leur égard

Preamble

WHEREAS the Parliament of Canada, recognizing that the provision of adequate assistance to and in respect of persons in need and the prevention and removal of the causes of poverty and dependence on public assistance are the concern of all Canadians, is desirous of encouraging the further development and extension of assistance and welfare services programs throughout Canada by sharing more fully with the provinces in the cost thereof;

Considérant que le Parlement du Canada, reconnaissant que l'instauration de mesures convenables d'assistance publique pour les personnes nécessiteuses et que la prévention et l'élimination des causes de pauvreté et de dépendance de l'assistance publique intéressent tous les Canadiens, désire encourager l'amélioration et l'élargissement des régimes d'assistance publique et des services de protection sociale dans tout le Canada en partageant dans une plus large mesure avec les provinces les frais de ces programmes,

Préambule

THEREFORE, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Sa Majesté, sur l'avis et avec le consentement du Sénat et de la Chambre des communes du Canada, édicte :

SHORT TITLE

TITRE ABRÉGÉ

Short title

1. This Act may be cited as the *Canada Assistance Plan*. R.S., c. C-1, s. 1.

1. *Régime d'assistance publique du Canada*. Titre abrégé S.R., ch. C-1, art. 1.

INTERPRETATION

DÉFINITIONS

Definitions

"assistance"
"assistance..."

2. In this Act, "assistance" means aid in any form to or in respect of persons in need for the purpose of providing or providing for all or any of the following:

2. Les définitions qui suivent s'appliquent à la présente loi.

Définitions

"année"
"year"

"année" Période de douze mois se terminant le 31 mars.

(a) food, shelter, clothing, fuel, utilities, household supplies and personal requirements (hereinafter referred to as "basic requirements");

"assistance publique" Aide sous toutes ses formes aux personnes nécessiteuses ou à leur égard en vue de fournir, ou de prendre les mesures pour que soient fournis, l'ensemble ou l'un quelconque ou plusieurs des services suivants :

"assistance publique"
"assistance"

(b) prescribed items incidental to carrying on a trade or other employment and other prescribed special needs of any kind,

a) la nourriture, le logement, le vêtement, le combustible, les services d'utilité publi-

	(c) care in a home for special care,	que, les fournitures ménagères et les services répondant aux besoins personnels (ci-après appelés «besoins fondamentaux»);
	(d) travel and transportation.	b) les articles réglementaires, accessoires à l'exercice d'un métier ou autre emploi, ainsi que les services répondant aux autres besoins spéciaux réglementaires de toute nature;
	(e) funerals and burials,	c) les soins dans un foyer de soins spéciaux;
	(f) health care services,	d) les déplacements et moyens de transport;
	(g) prescribed welfare services purchased by or at the request of a provincially approved agency, and	e) les obsèques et enterrements;
	(h) comfort allowances and other prescribed needs of residents or patients in hospitals or other prescribed institutions;	f) les services de santé;
"child welfare authority" "autorité chargée..."	"child welfare authority" means any provincially approved agency that has been designated by or under the provincial law or by the provincial authority for the purpose of administering or assisting in the administration of any law of the province relating to the protection and care of children;	g) les services réglementaires de protection sociale dont l'acquisition est faite par un organisme approuvé par une province ou à la demande d'un tel organisme;
"health care services" "services de santé"	"health care services" means medical, surgical, obstetrical, optical, dental and nursing services, and includes drugs, dressings, prosthetic appliances and any other items or health services necessary to or commonly associated with the provision of any such specified services, but does not include insured health services within the meaning of the <i>Canada Health Act</i> or any other prescribed hospital care services;	h) les allocations de menues dépenses et autres services réglementaires répondant aux besoins des résidents ou malades des hôpitaux ou autres établissements réglementaires.
"home for special care" "foyer..."	"home for special care" means a residential welfare institution that is of a kind prescribed for the purposes of this Act as a home for special care and that is listed in a schedule to an agreement under section 4, but does not include a hospital, correctional institution or institution whose primary purpose is education, other than that part of a hospital that is used as a residential welfare institution and that is listed in a schedule to an agreement under section 4;	"autorité chargée de la protection infantile" Tout organisme approuvé par une province qui a été désigné par la législation provinciale ou sous son régime ou par l'autorité provinciale pour appliquer ou pour aider à appliquer toute loi de la province relative à la protection et au soin des enfants.
"Minister" "ministre"	"Minister" means the Minister of National Health and Welfare;	"autorité provinciale" Le ministre provincial ou une autorité ou un organisme autre spécifié par la province dans un accord conclu en vertu de l'article 4 comme chargé de l'application de la législation provinciale.
"municipality" "municipalité"	"municipality" means an incorporated city, metropolitan authority, town, village, township, district or rural municipality or other incorporated municipal body however designated, and includes any other local government body that is established by or under a law of a province and that is prescribed for the purposes of this Act as a municipality;	"foyer de soins spéciaux" Établissement de protection sociale qui est d'un genre défini par règlement, pour l'application de la présente loi, à titre de foyer de soins spéciaux qui figure dans la liste d'une annexe à un accord conclu en vertu de l'article 4. Sont exclus de la présente définition les hôpitaux, les établissements correctionnels et les établissements dont le principal objet est l'enseignement, à l'exception de la partie d'un hôpital utilisée à titre d'établissement résidentiel de protection sociale et qui figure dans la liste d'une annexe à un accord conclu en vertu de l'article 4.
"person in need" "personne..."	"person in need" means (a) a person who, by reason of inability to obtain employment, loss of the principal	"législation provinciale" Les lois provinciales qui prévoient à des conditions compatibles

Régime d'assistance publique du Canada

Chap. C-1

3

family provider, illness, disability, age or other cause of any kind acceptable to the provincial authority, is found to be unable, on the basis of a test established by the provincial authority that takes into account the budgetary requirements of that person and the income and resources available to that person to meet those requirements, to provide adequately for himself, or for himself and his dependants or any of them, or

(b) a person under the age of twenty-one years who is in the care or custody or under the control or supervision of a child welfare authority, or a person who is a foster-child as defined by regulation,

and for the purposes of paragraph (e) of the definition "assistance" includes a deceased person who was a person described in paragraph (a) or (b) of this definition at the time of his death or who, although not such a person at the time of his death, would have been found to be such a person if an application for assistance to or in respect of him had been made immediately before his death;

"prescribed" means prescribed by regulation;

"provincial authority" means the provincial Minister or other official or body specified by the province in an agreement entered into under section 4 as being charged with the administration of the provincial law;

"provincial law" means the Acts of the legislature of a province that provide for

(a) assistance, or

(b) welfare services in the province, under conditions consistent with the provisions of this Act and the regulations, and includes any regulations made under those Acts;

"provincially approved agency" means any department of government, person or agency, including a private non-profit agency, that is authorized by or under the provincial law or by the provincial authority to accept applications for assistance, determine eligibility for assistance, provide or pay assistance or provide welfare services and that is listed in a schedule to an agreement under section 4;

"welfare services" means services having as their object the lessening, removal or preven-

avec les dispositions de la présente loi et des règlements :

a) soit l'assistance publique;

b) soit des services de protection sociale dans la province.

Est visé par la présente définition tout règlement pris en vertu de ces lois.

«ministre» Le ministre de la Santé nationale et du Bien-être social.

«minister»
«Minister»

«municipalité» Ville constituée en personne morale, autorité métropolitaine, municipalité d'une ville, d'un village, d'un canton, d'un district ou d'une région rurale ou autre organisme municipal constitué en personne morale quelle qu'en soit la désignation. Est visé par la présente définition tout autre organisme d'administration locale créé par une loi provinciale ou en vertu d'une telle loi et défini par règlement, pour l'application de la présente loi, comme étant une municipalité.

«municipality»
«municipality»

«organisme approuvé par la province» Tout ministère gouvernemental, toute personne ou tout organisme, y compris un organisme privé sans but lucratif, que la législation ou l'autorité provinciale autorise à accepter des demandes d'assistance publique, à déterminer l'admissibilité à une telle assistance, à fournir ou à payer cette assistance ou à fournir des services de protection sociale et qui figure dans la liste d'une annexe à un accord conclu en vertu de l'article 4.

«organisme approuvé par la province»
«provincially approved...»

«personne nécessiteuse» Selon le cas :

«personne nécessiteuse»
«person...»

a) personne qui, par suite de son incapacité d'obtenir un emploi, de la perte de son principal soutien de famille, de sa maladie, de son invalidité, de son âge ou de toute autre cause acceptable pour l'autorité provinciale, est reconnue incapable — sur vérification par l'autorité provinciale qui tient compte des besoins matériels de cette personne et des revenus et ressources dont elle dispose pour satisfaire ces besoins — de subvenir convenablement à ses propres besoins ou à ses propres besoins et à ceux des personnes qui sont à sa charge ou de l'une ou plusieurs d'entre elles;

b) personne âgée de moins de vingt et un ans qui est confiée aux soins ou à la garde d'une autorité chargée de la protection infantile ou placée sous le contrôle ou la surveillance d'une telle autorité, ou per-

"prescribed"
Version anglaise seulement

"provincial authority"
«autorité provinciale»

"provincial law"
«législation...»

"provincially approved agency"
«organisme...»

"welfare services"
«services de protection sociale»

tion of the causes and effects of poverty, child neglect or dependence on public assistance, and, without limiting the generality of the foregoing, includes

- (a) rehabilitation services,
- (b) casework, counselling, assessment and referral services,
- (c) adoption services,
- (d) homemaker, day-care and similar services,
- (e) community development services,
- (f) consulting, research and evaluation services with respect to welfare programs, and
- (g) administrative, secretarial and clerical services, including staff training, relating to the provision of any of the foregoing services or to the provision of assistance,

but does not include any service relating wholly or mainly to education, correction or any other matter prescribed by regulation or, except for the purposes of the definition "assistance", any service provided by way of assistance;

"welfare services provided in the province"
"services de protection sociale fournis..."

"welfare services provided in the province" means welfare services provided in the province pursuant to the provincial law to or in respect of persons in need or persons who are likely to become persons in need unless those services are provided;

"year"
"année"

"year" means a twelve month period ending on March 31. R.S., c. C-1, s. 2; 1984, c. 6, s. 24.

sonne qui est un enfant placé en foyer nourricier selon la définition des règlements.

Pour l'application de l'alinéa e) de la définition de «assistance publique», est assimilée à une personne nécessiteuse une personne décédée qui était une personne visée par l'alinéa a) ou b) de la présente définition au moment de son décès ou qui, bien qu'elle ne fût pas une telle personne au moment de son décès, aurait été reconnue être une telle personne si une demande d'assistance publique avait été faite pour elle ou à son égard immédiatement avant son décès.

«services de protection sociale» Services qui ont pour objet d'atténuer, de supprimer ou de prévenir les causes et les effets de la pauvreté, du manque de soins à l'égard des enfants ou de la dépendance de l'assistance publique et notamment :

"services de protection sociale"
"welfare services"

- a) services de réadaptation;
- b) services sociaux personnels, services d'orientation, d'évaluation des besoins et de référence;
- c) services d'adoption;
- d) services ménagers à domicile, services de soins de jour et autres services similaires;
- e) services de développement communautaire;
- f) services de consultation, de recherche et d'évaluation en ce qui concerne les programmes de protection sociale;
- g) services administratifs, de secrétariat et de commis aux écritures, y compris ceux de formation du personnel, relatifs à la fourniture de tout service mentionné ci-dessus ou de l'assistance publique.

Sont exclus de la présente définition les services qui concernent uniquement ou principalement l'enseignement, la correction ou tout autre domaine réglementaire ou, sauf pour l'application de la définition de «assistance publique», les services fournis sous forme d'assistance publique.

«services de protection sociale fournis dans la province» Services de protection sociale fournis dans la province en conformité avec la législation provinciale à des personnes nécessiteuses ou à des personnes qui deviendront vraisemblablement des personnes nécessitu-

"services de protection sociale fournis dans la province"
"welfare services provided..."

ses si de tels services ne sont pas fournis, ou à leur égard.

«services de santé» Services médicaux, chirurgicaux, obstétricaux, optiques, dentaires et infirmiers, y compris les médicaments, pansements, appareils de prothèse et tous autres articles ou services de santé nécessaires pour que soient fournis les services ainsi spécifiés ou communément associés à ces services. Sont exclus de la présente définition les services de santé assurés, au sens de la Loi canadienne sur la santé, ainsi que tous autres services réglementaires de soins hospitaliers. S.R., ch. C-1, art. 2; 1984, ch. 6, art. 24.

PART I

GENERAL ASSISTANCE AND WELFARE SERVICES

Interpretation

Definitions
3. In this Part,
"agreement" "accord" means an agreement made under section 4;
"contribution" "contribution" means an amount payable by Canada under an agreement. R.S., c. C-1, s. 3.

Agreement Authorized

4. Subject to this Act, the Minister may, with the approval of the Governor in Council, enter into an agreement with any province to provide for the payment by Canada to the province of contributions in respect of the cost to the province and to municipalities in the province of
(a) assistance provided by or at the request of provincially approved agencies pursuant to the provincial law; and
(b) welfare services provided in the province by provincially approved agencies pursuant to the provincial law. R.S., c. C-1, s. 4.

Contributions

5. (1) The contributions payable to a province under an agreement shall be paid in respect of each year and shall be the aggregate of

PARTIE I

ASSISTANCE GÉNÉRALE ET SERVICES DE PROTECTION SOCIALE

Définitions

3. Les définitions qui suivent s'appliquent à la présente partie.
«accord» Accord conclu en vertu de l'article 4.
«contribution» Montant payable par le Canada en vertu d'un accord. S.R., ch. C-1, art. 3.

Accord autorisé

4. Sous réserve des autres dispositions de la présente loi, le ministre peut, avec l'approbation du gouverneur en conseil, conclure avec toute province un accord prévoyant le paiement, par le Canada à la province, de contributions aux frais encourus par la province et des municipalités de la province, au titre :
a) de l'assistance publique fournie, en conformité avec la législation provinciale, par des organismes approuvés par la province ou à la demande de ceux-ci;
b) des services de protection sociale fournis, en conformité avec la législation provinciale, dans la province par des organismes approuvés par la province. S.R., ch. C-1, art. 4.

Contributions

5. (1) Les contributions payables à une province en vertu d'un accord doivent être payées pour chaque année et être le total :

CHAPTER 382

CANADA ASSISTANCE PLAN

Canada Assistance Plan Regulations

REGULATIONS UNDER THE CANADA ASSISTANCE PLAN

Short Title

1. These Regulations may be cited as the *Canada Assistance Plan Regulations*.

Interpretation

2. (1) In these Regulations,

"Act" means the *Canada Assistance Plan*;

"Director" means the Director General, Canada Assistance Plan, Department of National Health and Welfare.

(2) For the purposes of the Act and these Regulations,

"budgetary requirements" means the basic requirements of a person and his dependants, if any, and any other of the items and services described in paragraphs (b) to (h) of the definition "assistance" in section 2 of the Act that, in the opinion of the provincial authority, are essential to the health or well-being of that person and his dependants, if any; (*besoins matériels*)

"community development services" means services designed to encourage and assist residents of a community to participate or to continue to participate in improving the social and economic conditions of the community for the purpose of preventing, lessening or removing the causes and effects of poverty, child neglect or dependence on public assistance in the community; (*services de développement communautaire*)

"foster child" means a child whose parents are unable, in the opinion of the provincial authority, to support him and who is cared for (by a person or persons standing *in loco parentis* to him) in a private home approved as a suitable place of care by a child welfare authority or by a person designated for that purpose by the provincial authority; (*enfant placé dans un foyer nourricier*)

"personal requirements" means items of a minor nature, other than the ordinary requirements of food, shelter, clothing, fuel, utilities and household supplies, that are necessary in day to day living to a person's health or well-being, and, without limiting the generality of the foregoing, includes items relating to

- (a) personal care, cleanliness and grooming,
- (b) the observance of religious obligations, and
- (c) recreation; (*besoins personnels*)

CHAPITRE 382

RÉGIME D'ASSISTANCE PUBLIQUE DU CANADA

Règlement du Régime d'assistance publique du Canada

RÈGLEMENT DU RÉGIME D'ASSISTANCE PUBLIQUE DU CANADA

Titre abrégé

1. Le présent règlement peut être cité sous le titre: *Règlement du Régime d'assistance publique du Canada*.

Interprétation

2. (1) Dans le présent règlement,

«directeur» désigne le directeur du Régime d'assistance publique du Canada, ministère de la Santé nationale et du Bien-être social;

«Loi» signifie le *Régime d'assistance publique du Canada*.

(2) Aux fins de la Loi et du présent règlement,

«besoins matériels» signifie les besoins fondamentaux d'un individu et des personnes à sa charge, s'il en est, et l'un quelconque des articles ou services décrits aux alinéas b) à h) de la définition «assistance publique» de l'article 2 de la Loi qui, de l'avis de l'autorité provinciale, sont essentiels à la santé et au bien-être de cet individu et de ces personnes, s'il en est; (*budgetary requirements*)

«besoins personnels» signifie les articles de moindre importance, à l'exclusion des besoins ordinaires en matière de nourriture, de logement, de vêtement, de combustible, de services d'utilité publique et de fournitures ménagères, lesquels articles, dans la vie quotidienne, sont nécessaires à la santé et au bien-être d'une personne et qui, sans limiter la généralité de ce qui précède, ont trait, entre autres,

- a) aux soins personnels, à la propreté et à une mise soignée,
- b) à l'observance des devoirs religieux, et
- c) aux loisirs; (*personal requirements*)

«enfant placé en foyer nourricier» désigne un enfant dont les parents sont incapables, de l'avis de l'autorité provinciale, de subvenir à ses besoins et dont prennent soin une ou plusieurs personnes lui tenant lieu de parents dans une maison privée qu'a jugée convenable une autorité chargée du bien-être social de l'enfance ou une personne nommée à cette fin par l'autorité provinciale; (*foster child*)

«postes pourvus après le 31 mars 1965», pour ce qui concerne les personnes qu'emploient des organismes approuvés par la province, désigne des postes qui ont été remplis pour la première fois après le 31 mars 1965, mais ne comprend pas

- a) un tel poste lorsque pratiquement toutes les heures d'une journée ordinaire de travail consacrées aux services

(C) rehabilitation allowances and housekeeping allowances, and

(iii) special care necessary for the safety, well-being or rehabilitation of a handicapped person in need.

5. For the purposes of paragraph (g) of the definition "assistance" in section 2 of the Act, the following welfare services are prescribed:

- (a) rehabilitation services,
- (b) case work, counselling and assessment services, and
- (c) homemaker, day-care and similar services.

where the services are purchased on a fee-for-service or unit cost basis with respect to a person described in paragraph (a) of the definition "person in need" in section 2 of the Act.

6. For the purposes of paragraph (h) of the definition "assistance" in section 2 of the Act,

(a) the following are prescribed as "other prescribed needs of residents or patients in hospitals or other prescribed institutions", namely, needs of any such person not ordinarily provided for as part of care in the hospital or other prescribed institution in which the person is a resident or a patient; and

(b) the following are prescribed as "other prescribed institutions" namely,

- (i) homes for special care, and
- (ii) tuberculosis sanatoria.

7. For the purposes of the definition "health care services" in section 2 of the Act, the following are prescribed as other hospital care services that are not included in that definition, namely, care ordinarily provided in

- (a) mental hospitals, or
- (b) tuberculosis hospitals or sanatoria.

8. For the purposes of the definition "home for special care" in section 2 of the Act, the following kinds of residential welfare institutions are prescribed for the purposes of the Act as homes for special care:

- (a) homes for the aged,
- (b) nursing homes,
- (c) hostels for transients,
- (d) child care institutions,
- (e) homes for unmarried mothers, and
- (f) any residential welfare institution the primary purpose of which is to provide residents thereof with supervisory, personal or nursing care or to rehabilitate them socially,

the standards of which (except for the purposes of clause 5(1)(b)(i)(B) of the Act) are, in the opinion of the provincial authority, in accordance with the standards generally accepted in the province for residential welfare institutions of that kind.

9. For the purposes of the definition "municipality" in section 2 of the Act, any local government body established by or under a law of a province for the purpose of administering

(C) des prestations de réadaptation et de soins du ménage, et

(iii) les soins spéciaux nécessaires à la sécurité, au bien-être ou à la réadaptation d'un invalide nécessitant.

5. Aux fins de l'alinéa g) de la définition d'«assistance publique» de l'article 2 de la Loi, les services de bien-être social suivants sont des services prescrits:

- a) les services de réadaptation,
- b) les services sociaux personnels, les services d'orientation et d'évaluation, et
- c) les services ménagers à domicile, les services de soins de jour et autres services du même genre,

lorsque ces services sont payés à l'acte ou au tarif unitaire relativement à une personne décrite à l'alinéa a) de la définition de «personne nécessitante» de l'article 2 de la Loi.

6. Aux fins de l'alinéa (h) de la définition d'«assistance publique» de l'article 2 de la Loi,

a) les besoins suivants sont prescrits comme étant «d'autres services prescrits répondant aux besoins des résidents ou malades des hôpitaux ou autres établissements prescrits», notamment, les besoins de toute personne qui ne sont pas ordinairement comblés au cours de soins dispensés à l'hôpital ou dans un autre établissement prescrit dont cette personne est un résident ou un malade; et

b) les établissements suivants sont prescrits comme étant «d'autres établissements prescrits» notamment,

- (i) les foyers de soins spéciaux, et
- (ii) les sanatoria.

7. Aux fins de la définition de «services de soins sanitaires» de l'article 2 de la Loi, les services suivants sont prescrits comme étant d'autres services de soins hospitaliers, non compris dans cette définition, notamment, les soins dispensés dans

- a) des hôpitaux psychiatriques; ou
- b) des hôpitaux pour tuberculeux ou des sanatoria.

8. Aux fins de la définition de «foyer de soins spéciaux» de l'article 2 de la Loi, les catégories suivantes d'établissements résidentiels de bien-être social sont prescrites aux fins de la Loi comme étant des foyers de soins spéciaux:

- a) les foyers de vieillards,
- b) les maisons de repos,
- c) les auberges pour les indigents ambulants,
- d) les établissements de soins pour enfants,
- e) les foyers pour mères célibataires, et
- f) tout établissement de bien-être social dont le principal objet est de fournir à ses résidents des soins personnels ou infirmiers ou de les réadapter socialement.

dont les normes (sauf aux fins de la disposition 5(1)(b)(i)(B) de la Loi) sont, de l'avis de l'autorité provinciale, conformes aux normes généralement agréées dans la province relativement aux établissements de bien-être social de ce genre.

9. Aux fins de la définition de «municipalité» de l'article 2 de la Loi, tout organisme de gouvernement local créé par une loi provinciale ou en vertu d'une telle loi afin d'administrer des

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SOR/78-587 24 July, 1978Enregistrement
DORS/78-587 24 juillet 1978FEDERAL-PROVINCIAL FISCAL ARRANGEMENTS
AND ESTABLISHED PROGRAMS FINANCING ACT,
1977LOI DE 1977 SUR LES ACCORDS FISCAUX ENTRE LE
GOUVERNEMENT FÉDÉRAL ET LES PROVINCES ET
SUR LE FINANCEMENT DES PROGRAMMES ÉTA-
BLISFederal-Provincial Fiscal Arrangements and
Established Programs Financing Regulations,
1977Règlement de 1977 sur les accords fiscaux entre le
gouvernement fédéral et les provinces et sur le
financement des programmes établis

P.C. 1978-2300 20 July, 1978

C.P. 1978-2300 20 juillet 1978

His Excellency the Governor General in Council, on the recommendation of the Minister of Finance, pursuant to section 43 of the Federal-Provincial Fiscal Arrangements and Established Programs Financing Act, 1977, is pleased hereby to make the annexed Regulations made pursuant to Parts I, II, III, V, VI and VII of the Federal-Provincial Fiscal Arrangements and Established Programs Financing Act, 1977.

Sur avis conforme du ministre des Finances et en vertu de l'article 43 de la Loi de 1977 sur les accords fiscaux entre le gouvernement fédéral et les provinces et sur le financement des programmes établis, il plaît à Son Excellence le Gouverneur général en conseil d'établir le Règlement établi en vertu des Parties I, II, III, V, VI et VII de la Loi de 1977 sur les accords fiscaux entre le gouvernement fédéral et les provinces et sur le financement des programmes établis, ci-après.

REGULATIONS MADE PURSUANT TO PARTS I, II,
III, V, VI and VII OF THE FEDERAL-PROVINCIAL
FISCAL ARRANGEMENTS AND ESTABLISHED
PROGRAMS FINANCING ACT, 1977RÈGLEMENT ÉTABLI EN VERTU DES PARTIES I, II,
III, V, VI ET VII DE LA LOI DE 1977 SUR LES
ACCORDS FISCAUX ENTRE LE GOUVERNEMENT
FÉDÉRAL ET LES PROVINCES ET SUR LE
FINANCEMENT DES PROGRAMMES ÉTABLIS*Short Title**Titre abrégé*

1. These Regulations may be cited as the *Federal-Provincial Fiscal Arrangements and Established Programs Financing Regulations, 1977*.

1. Le présent règlement peut être cité sous le titre: *Règlement de 1977 sur les accords fiscaux entre le gouvernement fédéral et les provinces et sur le financement des programmes établis*.

*Interpretation**Définitions*

2. In these Regulations,
"Act" means the *Federal-Provincial Fiscal Arrangements and Established Programs Financing Act, 1977*; (*Loi*)
"fiscal arrangements period" means the period beginning on April 1, 1977 and ending on March 31, 1982; (*période des accords fiscaux*)
"fiscal year" means the period beginning on April 1 in one year and ending on March 31 in the next following year; (*année financière*)
"former Act" means the *Federal-Provincial Fiscal Arrangements Act, 1972*; (*ancienne loi*)
"Minister" means the Minister of Finance; (*Ministre*)
"population of a province for a fiscal year" means the population of a province for that fiscal year as determined by the Chief Statistician of Canada in accordance with section 3; (*population d'une province pour une année financière*)
"survey year" means a calendar year in respect of which Statistics Canada has made a survey of the retail trade the

2. Dans le présent règlement,
«ancienne loi» désigne la *Loi de 1972 sur les arrangements fiscaux entre le gouvernement fédéral et les provinces*; (*former Act*)
«année d'enquête» désigne une année civile à l'égard de laquelle Statistique Canada a effectué une enquête sur le commerce de détail dont les résultats paraissent dans sa publication intitulée «Enquête sur les marchandises vendues au détail»; (*survey year*)
«année d'imposition» désigne une année d'imposition définie dans la *Loi de l'impôt sur le revenu*; (*taxation year*)
«année financière» désigne la période commençant le 1^{er} avril d'une année et se terminant le 31 mars de l'année suivante (*fiscal year*)
«jour ouvrable» désigne un jour où les employés du ministère des Finances, en poste à Ottawa, sont normalement tenus de travailler conformément au *Règlement sur les conditions d'emploi dans la Fonction publique* établi en vertu de la *Loi sur l'administration financière*; (*working day*)

23. (1) With respect to

- (a) the program referred to in section 24 of the Act, the Secretary of State, and
 (b) the programs referred to in sections 25 to 27 of the Act, the Minister of National Health and Welfare,

may make equal monthly advance payments to a province in respect of a fiscal year.

(2) Advance payments made to a province in respect of a fiscal year may be adjusted during that fiscal year so that the cash component of the established programs financing transfer is consistent with the data being used to compute payments to the provinces under the tax collection agreements.

(3) An interim adjustment in respect of each program in a fiscal year may be calculated during each of the two following fiscal years, and may be given effect by an increase or decrease in one or more of the amounts otherwise payable in respect of the program during the first and second fiscal years respectively following the fiscal year to which the interim adjustments relate.

(4) A final settlement in respect of each program in a fiscal year shall be calculated using only data available in the period ending twenty-seven months after the end of that fiscal year, and shall be given effect by an increase or decrease in one or more of the amounts otherwise payable in respect of the program during the third fiscal year following the fiscal year to which the final settlement is related, unless otherwise agreed by the Government of Canada and the government of the province.

24. (1) For the purposes of this section,

"adult" means, in respect of a resident of a province, a person who

- (a) is twenty-one years of age or older, or
 (b) is between sixteen and twenty years of age and is not a child under the Acts of the province that provide for the care, custody, control or supervision of children by a child welfare authority or the equivalent;

"home" means, with respect to home care service, any place of residence and includes a private residence, nursing home, home for the aged, child care institution, boarding home, or any long term residential facility;

"institution" means

(a) in the case of a service other than converted mental hospitals, a facility or portion of a facility that qualifies as a home for special care under section 8 of the *Canada Assistance Plan Regulations* and is not

- (i) a hospital within the meaning of the *Hospital Insurance and Diagnostic Services Act*,
 (ii) a mental hospital,
 (iii) a tuberculosis hospital or sanatorium,
 (iv) a correctional or educational facility, or

23. (1) A l'égard

- a) du programme visé à l'article 24 de la loi, le secrétaire d'État, et
 b) des programmes visés aux articles 25 à 27 de la loi, le ministre de la Santé nationale et du Bien-être social,

peuvent verser des avances mensuelles égales à une province à l'égard d'une année financière.

(2) Les avances versées à une province à l'égard d'une année financière peuvent être rajustées au cours de l'année financière de sorte que la partie en espèces du transfert au titre du financement des programmes établis soit conforme aux données utilisées pour calculer les paiements versés aux provinces en vertu des accords de perception fiscale.

(3) Un rajustement provisoire à l'égard de chaque programme dans une année financière peut être calculé au cours de chacune des deux années financières suivantes et peut prendre effet en vertu d'une augmentation ou d'une diminution d'un ou de plusieurs des montants par ailleurs payables à l'égard du programme au cours de la première et de la deuxième année financière, respectivement, qui suivent l'année financière à laquelle les rajustements provisoires s'appliquent.

(4) Un paiement définitif à l'égard de chaque programme dans une année financière doit être calculé en ne se servant que des données disponibles au cours de la période se terminant vingt-sept mois après la fin de cette année financière et doit prendre effet en vertu d'une augmentation ou d'une diminution d'un ou de plusieurs des montants par ailleurs payables à l'égard du programme au cours de la troisième année financière qui suit l'année financière à laquelle les paiements définitifs s'appliquent, à moins d'un accord contraire conclu par le gouvernement du Canada et le gouvernement de la province.

24. (1) Aux fins du présent article,

"adulte" désigne, relativement à un résident d'une province, une personne qui

- a) a vingt et un ans ou plus, ou
 b) a entre seize et vingt ans et n'est pas un enfant en vertu des lois de la province qui assure les soins, la garde, le contrôle ou la surveillance des enfants par l'intermédiaire d'une autorité chargée du bien-être social de l'enfance ou l'équivalent;

"domicile" désigne, relativement au service de soins à domicile, tout lieu de résidence et comprend une résidence privée, une maison de repos, un foyer pour vieillards, une maison de soins pour enfants, une pension ou tout établissement résidentiel à long terme;

"établissement" désigne

- a) dans le cas d'un service autre que celui en hôpitaux psychiatriques convertis, un établissement ou une partie d'un établissement qui répond à la définition d'un foyer de soins spéciaux en vertu de l'article 8 du *Règlement du Régime d'assistance publique du Canada* et n'est pas
 (i) un hôpital aux termes de la *Loi sur l'assurance-hospitalisation et les services diagnostiques*,
 (ii) un hôpital de soins psychiatriques,
 (iii) un hôpital pour tuberculeux ou un sanatorium,
 (iv) un établissement correctionnel ou d'enseignement, ou

- (v) a supportive living environment provided in conjunction with social services having as their object crisis intervention, rehabilitation or social integration, and
- (b) in the case of the service of converted mental hospitals, a facility or portion of a facility that was a hospital for the mentally ill, whether or not it was a hospital under the provincial law, and that has been converted to provide any of the services described in subparagraphs (2)(c)(i), (ii) and (iii).

(2) For the purposes of the Act and these Regulations, the services referred to in paragraphs 27(8)(a) to (e) of the Act are defined as follows:

(a) "nursing home intermediate care service" means a service provided in an institution in respect of adults consisting of

- (i) nursing and personal care under the direction or supervision of qualified medical and nursing care staff,
- (ii) assistance with the activities of daily living and social, recreational and other related services to meet the psycho-social needs of the residents of the institution,
- (iii) services required in the operation of the institution, and
- (iv) the provision of room and board to the extent of the total monthly cost or part thereof except for an amount calculated by subtracting, for each recipient of the service,

(A) the total monthly amount or part thereof that is payable to the recipient of the service under any Acts of the province for comforts allowances, clothing, drugs and biologicals, services required in the provision of drugs and biologicals and medical and surgical goods and services and that is shareable under the *Canada Assistance Plan*,

from

(B) an amount equal to the total monthly amount or part thereof of the old age security pension and maximum supplement payable to a beneficiary under the *Old Age Security Act* who is not a married person;

(b) "adult residential care service" means a service provided in an institution in respect of adults consisting of

- (i) personal and supervisory care according to the individual requirements of residents of the institution,
- (ii) assistance with the activities of daily living and social, recreational and other related services to meet the psycho-social needs of the residents of the institution,
- (iii) services required in the operation of the institution, and
- (iv) the provision of room and board to the extent of the total monthly cost or part thereof except for an amount calculated by subtracting, for each recipient of the service,

(A) the total monthly amount or part thereof that is payable to the recipient of the service under any Acts of the province for comforts allowances, clothing, drugs and biologicals, services required in the provision of drugs and biologicals and medical and surgical goods

(v) un milieu de vie auxiliaire offert en collaboration avec les services sociaux et ayant comme objectif l'intervention en cas d'urgence, la réadaptation ou l'intégration sociale, et

b) dans le cas du service des hôpitaux psychiatriques convertis, un établissement ou une partie d'un établissement qui était un hôpital pour malades mentaux, qu'il ait été ou non un hôpital en vertu de la loi provinciale, et qui a été converti pour assurer les services décrits aux sous-alinéas (2)(c)(i), (ii) et (iii).

(2) Aux fins de la loi et du présent règlement, les services visés aux alinéas 27(8)a) à e) de la loi sont définis comme suit:

a) «soins intermédiaires en maison de repos» désigne un service dispensé dans un établissement relativement aux adultes et comprenant:

- (i) les soins infirmiers et personnels sous la direction ou la surveillance d'un personnel de soins infirmiers et médicaux compétent,
- (ii) l'aide dispensée aux résidents de l'établissement pour leur permettre d'accomplir des activités courantes, des activités récréatives et sociales, et d'autres services connexes pour satisfaire à leurs besoins psycho-sociaux,
- (iii) les services nécessaires à l'exploitation de l'établissement, et
- (iv) les repas et le logement jusqu'à concurrence du coût mensuel total ou partiel, sauf pour un montant obtenu en soustrayant, pour chaque bénéficiaire du service,

(A) le montant mensuel total ou partiel qui est exigible par le bénéficiaire du service en vertu des lois de la province au titre d'indemnités de confort, de l'habillement, des médicaments et des produits biologiques, des services nécessaires à la fourniture de médicaments et de produits biologiques et des biens et services médicaux et chirurgicaux, et qui est assujéti au partage des frais en vertu du *Régime d'assistance publique du Canada*,

d'un

(B) montant égal au montant mensuel total ou partiel de la pension de vieillesse et du montant maximal du supplément exigible par le bénéficiaire, qui n'est pas marié, en vertu de la *Loi sur la sécurité de la vieillesse*;

b) «soins en établissement pour adultes» désigne un service dispensé par un établissement pour adultes et comprenant:

- (i) les soins personnels et de surveillance selon les besoins des résidents de l'établissement,
- (ii) l'aide dispensée aux résidents de l'établissement pour leur permettre d'accomplir des activités courantes, des activités récréatives et sociales, et d'autres services connexes pour satisfaire à leurs besoins psycho-sociaux,
- (iii) les services nécessaires à l'exploitation de l'établissement, et
- (iv) les repas et le logement jusqu'à concurrence du montant mensuel total ou partiel, sauf pour un montant obtenu en soustrayant, pour chaque bénéficiaire du service,

(A) le montant mensuel total ou partiel qui est exigible par le bénéficiaire du service en vertu des lois de la

and services and that is shareable under the *Canada Assistance Plan*,

from

(B) an amount equal to the total monthly amount or part thereof of the old age security pension and maximum supplement payable to a beneficiary under the *Old Age Security Act*, who is not a married person;

(c) "converted mental hospitals" means any of the following services provided in an institution:

(i) the service in respect of adults described in subparagraphs (a) (i) to (iv),

(ii) the service in respect of adults described in subparagraphs (b) (i) to (iv), and

(iii) insured services within the meaning of the *Hospital Insurance and Diagnostic Services Act*;

(d) "home care service" means any of the following services provided in respect of a patient in the home:

(i) direct patient care services, except mental health services, including health assessment and diagnostic services, health treatment and maintenance services and related personal care services, provided by nurses, physiotherapists, dieticians, chiropodists, podiatrists and medical technicians and technologists or any of their assistants,

(ii) the acquisition, installation, operation and maintenance of equipment required for home renal dialysis, home hyperalimentation or home oxygen therapy, and of equipment directly required for the services referred to in subparagraph (i), and

(iii) administrative and other services required in rendering the services referred to in subparagraph (i) or (ii), including the cost of drugs and biologicals administered by a practitioner, overhead, transportation of practitioners, salaries of support staff and medical equipment and supplies;

(e) "ambulatory health care service" means any of the following services provided in respect of an ambulatory patient:

(i) direct patient care services, except mental health services, including health assessment and diagnostic services, health treatment and maintenance services, provided by nurses, physiotherapists, dieticians, chiropodists, podiatrists and medical technicians and technologists or any of their assistants, through a health unit, health centre, medical practice, rehabilitation centre, multipurpose centre or other premise that is not a hospital pursuant to the *Hospital Insurance and Diagnostic Services Act*, and

(ii) administrative and other services required in rendering the services referred to in subparagraph (i), including

province au titre d'indemnités de confort, de l'habillement, des médicaments et des produits biologiques, des services nécessaires à la fourniture de médicaments et de produits biologiques et des biens et services médicaux et chirurgicaux, et qui est assujéti au partage des frais en vertu du *Régime d'assistance publique du Canada*,

d'un

(B) montant égal au montant mensuel total ou partiel de la pension de vieillesse et du montant maximal du supplément exigible par le bénéficiaire, qui n'est pas marié, en vertu de la *Loi sur la sécurité de la vieillesse*;

c) «hôpitaux psychiatriques convertis» désigne n'importe lequel des services suivants dispensés dans un établissement:

(i) les services pour les adultes décrits aux sous-alinéas a) (i) à (iv),

(ii) les services pour adultes décrits aux sous-alinéas b) (i) à (iv), et

(iii) les services assurés aux termes de la *Loi sur l'assurance-hospitalisation et les services diagnostiques*;

d) «soins à domicile» désigne n'importe lequel des services suivants dispensés relativement à un patient à domicile:

(i) les services de soins directs au patient, sauf les services d'hygiène mentale, ce qui comprend l'examen de santé et les services diagnostiques, les services de traitement et de soins et les services de soins personnels connexes, dispensés par des infirmières, des physiothérapeutes, des diététiciens, des chiropodistes, des podologues et des techniciens médicaux et des technologistes ou n'importe lequel de leurs assistants,

(ii) l'acquisition, l'installation, l'exploitation et l'entretien du matériel nécessaire à la dialyse rénale, à l'hyperalimentation ou à l'oxygénothérapie à domicile et le matériel directement nécessaire à la prestation des services visés au sous-alinéa (i), et

(iii) les services administratifs et les autres services nécessaires à la prestation des services visés aux sous-alinéas (i) ou (ii), ce qui comprend le coût des médicaments et des produits biologiques administrés par un médecin, les frais généraux, le transport des médecins, le traitement du personnel de soutien et les fournitures et le matériel médicaux;

e) «soins ambulatoires» désigne n'importe lequel des services suivants dispensés relativement à un patient ambulatoire:

(i) les services de soins directs au patient, sauf les services d'hygiène mentale, ce qui comprend l'examen de santé et les services diagnostiques, les services de traitement et de soins dispensés par des infirmières, des physiothérapeutes, des diététiciens, des chiropodistes, des podologues et des techniciens médicaux et des technologistes ou n'importe lequel de leurs assistants dans un service sanitaire, un centre de santé, un cabinet de médecin, un centre de réadaptation, un centre polyvalent ou dans d'autres locaux qui ne sont pas un hôpital en vertu de la *Loi sur l'assurance-hospitalisation et les services diagnostiques*, et

(ii) les services administratifs et les autres services nécessaires à la prestation des services visés au sous-alinéa (i), ce qui comprend le coût des médicaments et des produits

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

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PELLETIER J.A.

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