



**Canadian Life
and Health Insurance
Association Inc.**

**Association canadienne
des compagnies d'assurances
de personnes inc.**

August 12, 2011

The Honourable Madeleine Dube
Minister of Health, Government of New Brunswick
Department of Health
PO Box 5100
520 King St, 6th floor
Fredericton, New Brunswick
E3B 5G8

Dear Minister,

Re: Canadian Life and Health Insurance Industry submission on New Brunswick Drug Pricing Strategy

On behalf of the Canadian Life and Health Insurance Association Inc. (CLHIA) I want to thank your staff for taking the time to meet with our industry on July 6th. I believe that our discussion was very productive and we look forward to working closely with the Province of New Brunswick as you continue with the development and implementation of the Fair Drug Prices for New Brunswickers strategy.

We are fully supportive of New Brunswick's efforts in this regard. A properly designed and implemented drug pricing regime will result in significant benefits for all New Brunswick residents by helping to ensure a fair and equitable health care system.

Who we are

The CLHIA, established in 1894, is a voluntary association with member companies which account for 99 per cent of Canada's life and health insurance business. The life and health insurance industry is a broad economic contributor to the residents of New Brunswick. Nationally, 102 life and health insurance companies employ 131,900 Canadians. The head offices of three life insurers are located in New Brunswick; in total, 74 insurers are licensed to conduct life and health business in the province. Over \$9.1 billion worth of investments in New Brunswick can be attributed to Canadian life and health insurers.

1 Queen Street East
Suite 1700
Toronto, Ontario
M5C 2X9

Tel: (416) 777-2221
Fax: (416) 777-1895
www.clhia.ca

1, rue Queen Est
Bureau 1700
Toronto (Ontario)
M5C 2X9

Tél.: (416) 777-2221
Fax: (416) 777-1895
www.accap.ca

With respect to supplementary health plan market, the industry protects about 520,000 New Brunswick residents and makes \$375 million a year in extended health care benefit payments. Expenses on prescription drugs accounts for roughly \$260 million of this. In New Brunswick, all private payers (employers/insurers and individuals) account for 72 percent of all prescription drug expenditures in the province.¹ Accordingly, we believe the private payer market is a critical stakeholder in any drug reform initiative.

General Overview and Comments

As you are aware, spending on prescription drugs has recently grown faster than any other category of healthcare expenditures. Drug costs have grown at a rate far above economic growth. In fact, they have more than doubled over the past decade – something which is challenging the ongoing sustainability of employer supplemental drug plans.

Historically, the cost of generic drugs in Canada has been amongst the highest in the world. For example, Canadian retail prices for generic drugs in 2007 were found to be 112% higher than the same drug at a retail pharmacy in the United States.² Generic price reform, therefore, is critical to ensuring that New Brunswick residents pay a fair price for their generic drugs. Reform is particularly important in the current environment where a number of significant blockbuster medications will be coming off patent protection and lower generic equivalents will become available for these products. Ensuring that New Brunswick employers and their plan members benefit from the expected savings to the full extent will help mitigate the sustainability pressures on private group benefit plans.

In considering the policy and position of the provincial government, it is important to consider that offering employee benefits is voluntary. Providing support to help ensure that such plans are sustainable is critical. It is important to note that even in those cases where the employer's extended drug benefit plan is insured, employees often pay co-insurance and often share in the premium cost. In many other cases, employers themselves pay one-hundred percent of the drug claims incurred and insurers simply receive administration fees. Therefore, lower prices for generic drugs would translate directly and immediately into lower costs to the employer and the employees that share the benefits of the plan, thus contributing to the improved sustainability of private health plans. As prescription drug costs continue to increase, there is growing pressure on employers who offer supplemental drug coverage. Increased drug costs can result in a reduction in plan coverage, or shifting more of the cost burden to employees to cover some costs out of their own pockets.

Well thought out and equitably applied reforms to drug pricing will result in important benefits for the public plan and for New Brunswick residents who are covered under private plans or are uninsured. As experience elsewhere in Canada has shown, carefully designed reforms are necessary to achieve the goal of constraining price increases and ensuring that inequities are not created within the populous.

¹ CIHI - Drug Expenditures in Canada 1985 - 2010

² Fraser Institute Report "Canada's Drug Price Paradox", October 2010, Dr. Brett J. Skinner, Mark Rovere

The life and health insurance industry has been an active participant in all the various provincial drug pricing reforms that have been implemented across Canada. We are pleased to share our cumulative experience in this regard in some detail below.

Overview of key issues to address and our recommendations:

Parity for public and private payers

It is important that any provincial drug pricing regime be applied equally to all, regardless of whether the drugs are paid by the provincial Pharmacare program, an employer benefit plan or an out-of-pocket consumer. Experience in the other provinces has clearly shown that if this is not done, it can result in significant cost-shifting in the system which results in placing additional burdens on private payers. For example, after Ontario implemented *The Transparent Drug System for Patients Act* in 2006, commonly known as “Bill 102”, annual public drug costs rose 4.5%, while costs to the private sector (Life and Personal) grew at an annual rate of 6.0%. As well, total drug costs between 2006 and 2009 continued to rise well above the rate of inflation at a rate of 5.4%.³ This created, in effect, a two-tier system in which the government and private employers and individuals were treated differently and costs, in the end, were not contained. In a province where the private payer is paying over 70% of total drug cost, ensuring equal treatment for all New Brunswickers is even more important.

Cap Generic Drug Prices

We recommend that New Brunswick set a cap on the prices of generic drugs that is fair and equitable for all New Brunswick residents (for example - Ontario and Quebec have announced their intention to cap generic drug prices for all payers at an eventual 25% of brand prices). In addition, we believe that the cap framework should apply to all generic drugs approved for sale – not just those listed on the provincial formulary. Private formularies tend to be broader than the provincial formulary. If the capped framework does not apply to non-provincial formulary drugs, there is an opportunity for manufacturers to arbitrage the system. They could do this by bypassing the provincial formulary listing altogether, to focus on the higher price private market where prices are not subject to any caps. Alternatively, they could simply make up for reductions in prices to drugs on the provincial drug formulary by increasing those that are off formulary.

We recognize that there are some implications of moving to a capped framework, however. Caps are a “blunt” approach to pricing and will result in certain drugs being over priced and others potentially priced below costs. In other jurisdictions that have adopted pricing caps, there has been a resulting need to provide exceptions to the cap for certain drugs whose costs are such that they may not be profitably offered to the market under the capped price. The CLHIA understands this and supports a properly managed exception process. It is very important, however, that private payers are provided with a list of which drugs have been granted exceptions, and at what price, in order to allow for proper adjudication of claims

³ CIHI 2009: Series B – Expenditure on Drugs as a share of Public, Private and Total Health Expenditure, Ontario, 1985-2009

Finally, we urge New Brunswick to continue to offer off-formulary interchangeability, which helps ensure that New Brunswick residents have access to the lowest cost drug alternatives possible.

Parity with respect to dispensing fees

Pharmacist dispensing fees are critical to the ongoing sustainability of a vibrant and accessible pharmacist market for New Brunswick residents and we support dispensing fees that allow pharmacists to make a reasonable return. However, it is important that any changes to limits on dispensing fees for the public system not be set at a level that unduly shifts costs onto the private payer through much higher dispensing fees by pharmacy as a way to protect their overall margins.

Limiting pharmacy wholesale markups

We believe it is important that any pharmacy markups be based on the manufacturer's wholesale price and not prices that already include a distributor's mark-up. This will help to guarantee that any retail pharmacy or wholesale pharmacy mark-ups are based on the true purchase price of that drug, not on a drug that has already had a mark-up on the purchase price.

Transparency for consumers

We urge the Province to require that all pharmacy receipts include the drug cost, mark-up and dispensing fee that the pharmacy is charging for the medication. Such transparency helps consumers shop for the best price and ultimately encourages competition between pharmacies. This introduces an important market dynamic to the system to help constrain price increases and is particularly beneficial for those New Brunswick residents that are paying for their prescription drugs out of pocket. At a minimum, we would suggest that the Province require pharmacy receipts to include the dispensing fee charged to the patient as is done in British Columbia and Ontario.

In addition, we believe that there should be transparency around the maximum eligible price payable by the provincial plan – including any listing agreements that may exist.

Limit pharmacy rebates

In 2006-2007 the Competition Bureau initiated a study into the competitive framework for generic drugs in Canada. The study found that many generic drugs are subject to a high level of competition in Canada with the end of patent protection often leading to the entry of multiple generic competitors within a short period. However, in Canada the focus of this competition is on pharmacies, with generic manufacturers providing them off-list price rebates and allowances to have them stock their interchangeable products. The prices charged by pharmacies to the public did not take into account these rebates and allowances. As a result, where this has been allowed to continue, competitive generic prices have not been passed on to the public plans or private payers. The rebates paid to pharmacies have accounted for 40% or more of generic drug

expenditures.⁴ This is why Ontario and Quebec, in particular, have implemented measures to limit pharmacy rebates in order to help ensure that lower generic prices are passed through to consumers.

The CLHIA is generally supportive of limiting pharmacy rebates / professional allowances for these reasons. However, in a “cap” environment, how the economics are split between the manufacturer and pharmacist becomes a secondary concern to the private payer. As well, experience in Ontario shows that it can be very difficult and expensive to monitor and regulate limits on rebates.

Finally, we would note that pharmacies may still legitimately receive monetary incentives from manufacturers by satisfying some of the following:

- Prompt Payment Discount
- Volume Discount
- Distribution Fees

Accordingly, we would recommend that you define “ordinary commercial terms” for a rebate as has been done in Ontario. The terms can be subject to reviews and audits, which will help ensure transparency for consumers. When implementing this policy, therefore, it is important to define what an actual “rebate” is and establish terms for adherence, which should support the guiding principle of universality.

Tender for one or more drugs

Drug tendering can be an effective means of reducing drug costs as the incentives created through these auction-style contracts can result in substantially lower drug prices, often to commodity pricing levels⁵. However, any such agreements should be for the benefit of all New Brunswick residents and we recommend that you establish a clear and transparent method of tendering drug prices.

We recommend that sole source contracts be avoided, however, due to the significant supply and renegotiation risks that result from such contracts. As well, if drug tendering is implemented, we believe that there should be regulations in place to ensure that pharmacies only dispense the products that have secured the tender to avoid having pharmacies dispense non-tender products to private plans at a higher price.

⁴ “Benefiting from Generic Drug Competition in Canada: the Way Forward”, Competition Bureau of Canada, November 2008

⁵ Tendering Sole-Supply, p.6 “Influencing Drug Prices through Formulary Based Policies: Lessons from New Zealand”, Healthcare Policy Vol. 3, No. 1, 2007; Dr. Steven Morgan, Gillian Hanley, Meghan McMahon, Dr. Morris Barer

Conclusion

We believe that any reform of the drug system in New Brunswick would greatly benefit from strong collaboration between the public and private sectors with an eye to harmonizing approaches to access, affordability and quality of care for New Brunswickers.

Simply put, lower drug prices mean more affordable drugs for New Brunswickers, savings for government plans and more affordable supplementary insurance coverage. This in turn, will increase access to prescription drugs for more Canadians.

We look forward to continuing to work with the Province of New Brunswick on this important initiative and would be pleased to discuss any of the issues raised in this submission in more detail at your convenience.

Yours sincerely,

A handwritten signature in black ink, appearing to read "S. Frank". The signature is written in a cursive style with a large, stylized "S" and "F".

Stephen Frank
Vice President, Policy Development and Health