

ONTARIO REGULATION 404/07

made under the

HEALTH INSURANCE ACT

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Amending Reg. 552 of R.R.O. 1990
(General)

Note: Regulation 552 has previously been amended. Those amendments are listed in the Table of Regulations – Legislative History Overview which can be found at www.e-Laws.gov.on.ca.

1. (1) Subsection 21 (1) of Regulation 552 of the Revised Regulations of Ontario, 1990 is amended by adding the following definitions:

“disability” means, in respect of an insured person,

- (a) a restriction in the ability of the insured person to perform an activity in a manner or within a range considered normal for an individual, where the restriction is the result of an impairment, or
- (b) the inability of the insured person to perform an activity in a manner or within a range considered normal for an individual, where the inability is the result of an impairment;

“impairment” means, in respect of an insured person, a loss of or abnormality in the insured person’s physiological or anatomical structure or function;

(2) The definition of “insured physiotherapy service” in subsection 21 (1) of the Regulation is revoked and the following substituted:

“insured physiotherapy service” means physiotherapy service that is an insured service under this section and,

- (a) that is rendered by a designated physiotherapist, or
- (b) that is an assigned service rendered by a support worker;

(3) Subsection 21 (1) of the Regulation is amended by adding the following definitions:

“long-term care facility” means a facility that is a long-term care facility for the purposes of section 59 of the *Long-Term Care Act, 1994*;

“support worker” means a person,

- (a) whose qualifications and training in respect of a physiotherapy service satisfy the standards for professional practice of the College of Physiotherapists of Ontario in respect of physiotherapist support personnel, and
- (b) who is employed by a designated physiotherapy clinic.

(4) Section 21 of the Regulation is amended by adding the following subsection:

(1.1) A physiotherapy service provided by a support worker is an assigned service for the purposes of this section if the following conditions are satisfied:

1. The physiotherapy service is rendered by the support worker under the direction and supervision of a designated physiotherapist and in accordance with the standards of the College of Physiotherapists of Ontario that apply in respect of physiotherapists working with support workers.
2. The patient has an ongoing professional relationship with the designated physiotherapist who is supervising the provision of the physiotherapy service.
3. The designated physiotherapist who is supervising the provision of the physiotherapy service is available to direct and supervise the support worker at the time the support worker renders the physiotherapy service.

(5) Clause 21 (2) (a) of the Regulation is amended by striking out “and” at the end of subclause (ii), by revoking subclause (iii) and by substituting the following:

- (iii) are rendered at a designated physiotherapy clinic, and
- (iv) are rendered by a designated physiotherapist or are assigned services rendered by a support worker;

(6) Clause 21 (2) (b) of the Regulation is amended by striking out “and” at the end of subclause (iii), by revoking subclause (iv) and by substituting the following:

- (iv) are rendered at a designated physiotherapy clinic, and
- (v) are rendered by a designated physiotherapist or are assigned services rendered by a support worker;

(7) Subclause 21 (2) (c) (ii) of the Regulation is revoked and the following substituted:

- (ii) are rendered by a designated physiotherapist to an insured person in the insured person’s home and the home is not a long-term care facility, and

(8) Subsection 21 (2) of the Regulation is amended by adding “or” at the end of subclause (c) (iii) and by adding the following clause:

- (d) the physiotherapy services,
 - (i) are rendered at a long-term care facility to a resident of that facility,
 - (ii) are ordered by a physician or by the registered nurse in the long-term care facility in which the insured person is resident who has the most responsibility for the insured person’s nursing care, and
 - (iii) are provided,
 - (A) by a designated physiotherapist employed by or rendering services on behalf of a designated physiotherapy clinic, or
 - (B) by a support worker employed by a designated physiotherapy clinic described in sub-subclause (A) and the physiotherapy services are assigned services, and
 - (iv) are required to be provided in the long-term care facility because of the insured person’s condition, illness or injury.

(9) Subsection 21 (3) of the Regulation is amended by striking out the portion before paragraph 1 and substituting the following:

(3) The amount payable by the Plan for insured physiotherapy services rendered to an insured person is determined as follows:

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(10) Paragraph 4 of subsection 21 (3) of the Regulation is revoked and the following substituted:

- 4. Subject to subsection (4), the amount payable by the Plan for a fiscal year shall not exceed,
 - i. for insured physiotherapy services provided during the fiscal year to an insured person referred to in clause (2) (a), (c) or (d), the maximum amount payable for 100 days,
 - ii. for insured physiotherapy services provided during the fiscal year to an insured person referred to in clause (2) (b), the maximum amount payable for 50 days.

(11) Section 21 of the Regulation is amended by adding the following subsections:

(4) Despite subparagraphs 4 i and ii of subsection (3) and subject to subsection (4.1), the amount payable by the Plan in respect of an insured person for a fiscal year may be increased by the amount payable for not more than 50 additional days if on each additional day on which physiotherapy services are provided the insured person is subject to a disability or impairment that can reasonably be expected to improve with the additional physiotherapy services.

(4.1) Despite subparagraph 4 i of subsection (3) and subsection (4), if insured physiotherapy services described in clause (2) (d) are provided in a long-term care facility pursuant to a written agreement between the Minister and the designated physiotherapy facility under which physiotherapy services are provided to insured persons who reside in the long-term care facility, the amount payable by the Plan for a fiscal year in respect of those services shall not exceed the amount set out in that written agreement.

(12) Subsection 21 (6) of the Regulation is amended by striking out the portion before paragraph 1 and substituting the following:

(6) A payment under this section for insured physiotherapy services rendered on or after April 1, 2005 may only be made if the following conditions are satisfied:

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(13) Subsection 21 (7) of the Regulation is amended by striking out “an account submitted” in the portion before paragraph 1 and substituting “an account submitted under this section”.

(14) Subsection 21 (7) of the Regulation is amended by adding the following paragraphs:

3. If the account is for additional physiotherapy services referred to in subsection (4), the operator or clinic fails to obtain, before providing the additional services, a written certificate,
 - i. that is given,
 - A. by a physician, or
 - B. by the registered nurse in the long-term care facility in which the insured person is resident who has the most responsibility for the insured person's nursing care, if the physiotherapy services are rendered at a long-term care facility to a resident of that facility, and
 - ii. that states the insured person is subject to a disability or impairment that can reasonably be expected to improve with the additional physiotherapy service.
4. If the account is for additional physiotherapy services referred to in subsection (4), the operator or clinic fails to obtain, before providing the additional services, a written plan of care provided by the physiotherapist most responsible for the insured person's care,
 - i. that identifies the nature of the insured person's ongoing impairment or disability,
 - ii. that contains an analysis of the physiotherapist's assessment findings before the additional physiotherapy services are provided which identifies the insured person's ongoing functional problems, and
 - iii. that contains a description of the additional physiotherapy services, treatment goals and discharge plan and specifies the number of days for which additional insured physiotherapy services are recommended.
5. If the account is for additional physiotherapy services referred to in subsection (4), the operator or clinic fails to maintain in its written records the certificate referred to in paragraph 3 or the plan of care required under paragraph 4.
6. If the account is for additional physiotherapy services referred to in subsection (4), the operator or clinic fails to prepare and maintain copies of the initial assessment of the insured person and any ongoing reassessments performed during the fiscal year that demonstrate, using generally accepted outcome measures, whether progress has been made as a result of the provision of physiotherapy services and the degree of that progress.

(15) Subsection 21 (8) of the Regulation is amended by striking out “and” at the end of clause (c), by revoking clause (d) and by substituting the following:

- (d) the name or names of the person or persons who actually rendered each service referred to in clause (c) on each date and at each location and the number of the licence or certificate of registration issued by the College of Physiotherapists of Ontario to the designated physiotherapist,
 - (i) who rendered each service, or
 - (ii) in the case of an assigned service, who directed and supervised the provision of the assigned service by a support worker; and
- (e) in the case of an assigned service, details of the aspects of the treatment plan assigned to the support worker, the level of supervision required and the date of reassessment by the designated physiotherapist who directed and supervised the provision of the assigned service.

(16) Section 21 of the Regulation is amended by adding the following subsection:

- (9) Subclause (8) (d) (i) and clause (8) (e) apply only in respect of assigned services provided after July 27, 2007.

2. Section 21.1 of the Regulation is revoked and the following substituted:

21.1 (1) For the purposes of paragraph 3 of subsection 11.2 (1) of the Act, physiotherapy services are prescribed as insured services for the purposes of the Act if the physiotherapy services are rendered in accordance with a written agreement between a provider of physiotherapy services and the General Manager.

(2) Despite subsection 21 (3), an agreement referred to in subsection (1) may provide for payment for physiotherapy services provided to insured persons on a basis other than fee-for-service.

(3) Despite subsections 21 (3) and (4), the maximum amount payable for physiotherapy services under an agreement described in subsection (1) is the amount payable under the terms of the agreement.

3. Subsection 35 (10) of the Regulation is revoked and the following substituted:

(10) Every physiotherapy clinic listed in the document published by the Ministry of Health and Long-Term Care titled “Schedule of Designated Physiotherapy Clinics”, dated March 1, 2007, is prescribed as a health facility for the purposes of the Act.

4. (1) Subject to subsection (2), this Regulation comes into force on the day it is filed.

(2) Subsections 1 (1) to (14) and section 2 shall be deemed to have come into force on April 1, 2005.

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