

## MEDICAL MARIJUANA AND YOUR BENEFIT PLAN

### Impact to employers and employees

Legalization of recreational marijuana by the federal government has become a reality, with the recent passing of Bill C-45 by the Senate. Prime Minister Justin Trudeau has announced legalization will take effect on October 17, 2018.

The new legislation brings up several questions about medical marijuana- the possible effects on the workplace and how it may affect group benefit plans. What you may not know is that medical marijuana has been prescribed since 1999 to treat a number of chronic conditions. The legalization of recreational marijuana has brought the topic of medical marijuana to the forefront, especially for employers and plan sponsors.

### Group benefits and medical marijuana

Although medical marijuana has been around for some time, insurers were not covering this treatment option under their group benefit plans. However, this landscape is quickly changing.

On March 1, 2018 Sun Life Financial Canada added medical marijuana to their list of drugs that can be added to group benefit plan coverage, at the request of the plan sponsor.

There will be added pressures to all insurers to add this as an option to group plans, and it's expected they will follow Sunlife's lead. However, It's not as simple as just getting an authorization ("prescription") for the drug in order for it to be covered. There are restrictions relating to what the drug can be used for, such as severe nausea from cancer treatment, arthritis, chronic pain and sleeping disorders.

So before requesting your insurer to update their plan to include this coverage, you will want to be sure that it is something that is seen as an addition to the plan and not a detriment.

### Medical benefit plan and HSA

Do I need to cover medical marijuana under my organization's extended health benefit plan? The answer is no. There is no requirement for any plan sponsor to add this coverage to their plan. However, with the legalization of recreational marijuana, there may be increased questions or pressure from employees to accommodate the use of medical marijuana.

### THE JOHNSTONE'S ADVANTAGE

Our mission is simple:  
**Treat each client as if they were our only client.**

Our value is clear:  
**We are completely independent.** We work for you and offer total flexibility on insurers and plans.

We offer all your group insurance services including administration, brokerage, consulting, and communications.

We provide dedicated client support, customization and flexibility to meet all of your company's benefits needs. And we make **solid group plans simple.**



Can I claim medical marijuana under my Health Spending Account (HSA)? The answer is yes. Although it may not be covered under group benefit plans, Canada Revenue Agency (CRA) has deemed this drug to be claimable as a medical expense.

### Marijuana in the workplace

Just because your extended health plan does not cover medical marijuana, it does not mean that employees are not going to be approved for and use the drug. Therefore, you need to be prepared to deal with this in your workplace.

### Can employees be impaired at work?

The short answer to this is no. Employees are expected to arrive fit to work and remain fit for the duration of their shift. Employees on a medically approved substance must advise management of any potential restriction requiring modification of duties.

Some questions that you may want to think about are;

- ☞ Are they medically approved for the drug?
- ☞ Is their job safety-sensitive?
- ☞ Are they medicating prior to or at work?
- ☞ Is this an addiction issue?

You cannot assume that because someone is using medical marijuana, especially outside of work, that they are impaired while at work. Employers need to be careful in how they interpret or identify impairment.

### Duty to accommodate for medical marijuana?

According to applicable human rights legislation, employees who use medical marijuana are to be accommodated in the same way as any other disabled employee who may be taking prescribed medication for their condition.

There are limitations to the accommodations, however. Being medically approved to and using medical marijuana does not entitle employees to;

- ☞ Smoke in the workplace
- ☞ Compromise their safety or the safety of others
- ☞ Be impaired at work

A key point is that employers cannot discriminate against employees who use medical marijuana. They must be accommodated the same way as for any other illness or disability.

### Review your workplace policies

As the employer, it is crucial to have a clear policy in place when it comes to anything that could cause impairment, such as alcohol, medications/drugs (used legally or illegally).

Medical marijuana is not classified as a drug (no DIN). You may want to consider identifying it specifically within your policy. This will eliminate the possibility of misunderstanding.

### Where do we go from here?

The changes to recreational marijuana regulations have made things more challenging for employers. But it does not mean that you will need to overhaul your workplace practices.

When it comes to accommodating an employee using medical marijuana, simply use the current practices you have in place for all other employees.

For non-medical marijuana in the workplace, chances are your workplace policies already cover use of alcohol and other drugs and may only require a slight wording update.

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