

The Régie des rentes du Québec is responsible for applying *An Act respecting the Québec Pension Plan* and the *Supplemental Pension Plans Act*. It also administers the child assistance measure that is part of Québec's family policy.

THE QUÉBEC PENSION PLAN

The Québec Pension Plan is a universal, compulsory social security plan. It is financed in equal parts through the contributions of workers and employers. Self-employed workers make the contributions in their entirety. The law sets the contribution rate and provides for the payment of a pension upon retirement or death, or in the event of disability. In 10 years, the number of contributors to the Québec Pension Plan has grown from 999,591 to 1,384,377, an increase of 39%. The aging of the population has a growing impact on the demand for the services provided by this agency.

The Régie acts as a liaison for the implementation of international social security agreements entered into with 29 countries. These agreements allow citizens of Québec and their spouses to obtain retirement, disability or death benefits from a foreign country in which they have worked. The agreements are negotiated and entered into by the Ministère des Relations internationales, and they are applied by the Régie's Bureau des ententes de sécurité sociale.

SUPPLEMENTAL PENSION PLANS

Supplemental pension plans, which are generally established by employers, are subject to the *Supplemental Pension Plans Act*. The Régie has a dual mandate with regards to supplemental pension plans. First, it ensures that their administration and operation comply with the law. Its oversight relates to three areas: the protection of the rights of participants and beneficiaries, finances, and the sound administration of the plan. Second, the Régie promotes financial planning for retirement, in particular by disseminating information, and encouraging the establishment and improvement of pension plans.

CHILD ASSISTANCE: FAMILIES NOW DEAL WITH THE RÉGIE

The family policy's child assistance measure has two components: the refundable tax credit for child assistance and the supplement for handicapped children.

The tax credit is a form of financial assistance for all families with dependent children under 18. It is provided for in the Taxation Act, which is the responsibility of Québec's Minister of Revenue. The latest data available shows that in 2005, 855,894 people claimed the credit. As for the supplement for handicapped children, its goal is to help families undertake the custody, care and education of a handicapped child. The handicap must be significant in that it limits the child significantly in daily activities, and its anticipated duration must be at least one year.

Since January 1, 2007, the Régie has managed the determination of eligibility for the tax credit. Parents now signal any change in their family situation to the Régie. Previously, they had to inform the Canada Revenue Agency, which transmitted the information to the Régie, resulting in additional delays in the payment of amounts to which citizens were entitled. The Régie now benefits from greater flexibility in the processing and monitoring of files, which should reduce the dissatisfaction of citizens.

Complaints Reviewed by the Québec Ombudsman

Régie des rentes du Québec	Complaints*	Complaint Grounds	Unsubstantiated Grounds	Substantiated Grounds
2006-2007	115	118	96	22

* Excluding complaints whose processing was interrupted or which were referred

TYPE OF COMPLAINTS

In 2006-2007, complaints about the Régie were mainly involved the Québec Pension Plan. The majority related to the refusal of a disability pension in situations in which citizens contested the interpretation of the medical file. The other most common grounds for complaint to the Québec Ombudsman were inadequate contributions to the plan, depriving citizens of benefits.

With regards to the refundable tax credit for child assistance, grounds for complaint included incomplete notices, terms of repayment, processing time, changes to a file and processing errors.

Supplemental pension plans generate few complaints to the Québec Ombudsman. Those received related to the termination of a plan, premium holidays, surplus assets and the dissemination of information.

MORE FLEXIBILITY IN RECOVERING OVERPAYMENTS

The refundable tax credit for child assistance is provided for in tax law and depends on family income. It can occur that the Régie overpays parents if there is a change in the family situation or for some other reason. In such cases, the terms for repaying the debt are established based on family income. These terms are not negotiable.

The Régie collects amounts due to it through deductions on future payments. For example, if the annual family income is equal to or lower than \$35,000, the Régie can deduct up to 50% of the anticipated monthly reimbursement for repaying the debt resulting from overpayments. If the family income is higher, it can recover up to 100% of the amount of the debt. The credit replaced and improved family allowance, which was a social measure, and it is intended to provide direct assistance to families. The Québec Ombudsman is continuing its analysis to identify all possible solutions for making the terms of repayment more flexible, while respecting the objective of the child assistance measure, in particular for low-income families.

WHO BENEFITS FROM THE TAX CREDIT?

The refundable tax credit for child assistance is paid to one person per family. Until the end of 2006, it was the female spouse who received the refund, even if, in the case of a blended family, she had no dependent children. This measure resulted in disputes between spouses. With the new measures that came into effect on January 1, 2007, spouses can now agree on who will benefit from the tax credit for child assistance.

Furthermore, complaints made to the Québec Ombudsman raised an issue with regards to shared custody.

Families who share custody of a child virtually equally during the month could benefit successively from a portion of the credit. Modifications were made on January 1, 2007 to allow for the simultaneous payment of assistance to the two families, according to calculation rules that apply to shared custody of one or more children. The Québec Ombudsman believes this is a significant improvement that will provide families with a more stable income.

SURVIVING SPOUSE'S PENSION: MAINTAINING THE RIGHT OF RETROACTIVITY

In 2001-2002, in its annual report, the Québec Ombudsman noted a problem of harmonization among laws. *An Act respecting the Québec Pension Plan* stipulates that a surviving spouse's pension is payable as of the month following that in which the contributor died. This law also stipulates that the payment of this pension may not extend retroactively for more than 11 months preceding the request. However, the Civil Code provides a waiting period of seven years before one may declare the death of a missing person. The Régie pays a surviving spouse's pension only upon the confirmation of the death or the expiration of the seven-year period.

Since September 2003, the Régie has changed its practices to allow citizens to submit their request even if the death has not been declared, to preserve their right to retroactivity. The information provided by the agents has changed. Citizens are advised that they should submit their request even if it will be refused because of the absence of a declaratory judgment of death. When the pension can be paid, the Régie will consider the date of the request and could grant retroactivity of up to 12 months.

The Québec Ombudsman believes that, in spite of the years that have elapsed, the law should be amended to reflect this new administrative practice, as the Régie committed to do in 2003, to ensure that the practice continues in the long term and that it is adequately publicized. In cases in which there is a declaratory judgment of death, this legislative amendment is required to ensure the preservation of the right to full retroactivity of surviving spouse's and orphan's pensions.

Recommendation

The Québec Ombudsman recommends:

That *An Act respecting the Québec Pension Plan* be amended so it is in harmony with the Civil Code of Québec, to ensure that once the declaratory judgment of death is rendered, the Régie des rentes can pay the surviving spouse's or orphan's pension retroactively to the date determined by the court.

A new analysis required

A citizen was involved in a car accident in 1984. Following this accident, he received an income replacement indemnity from the Société de l'assurance automobile du Québec until 1992 for orthopedic injuries. In 1999, following a request from the citizen, the Régie des rentes du Québec recognized him as disabled due to a psychiatric condition. It began paying the disability benefit.

In 2001, the citizen made a request to the Société de l'assurance automobile du Québec to have the relationship between his psychiatric problems and the car accident recognized. The Société refused to recognize such a relationship. The citizen then contested the decision to the Tribunal administratif du Québec.

On January 31, 2005, the Tribunal handed down the decision that there was in fact a relationship between the citizen's car accident and psychiatric problems. The Tribunal returned the file to the Société so that it could compensate the citizen accordingly.

Before authorizing the income replacement indemnity, the Société first had to find out whether the citizen was able to hold down a job. The Société, knowing that the citizen was receiving a disability benefit from the Régie, issued a request to the agency to verify whether the disability it recognized was related to the car accident. The Régie responded that it believed that this disability was not related to the accident. In accordance with the *Automobile Insurance Act*, the Régie's position made it impossible for the Société to provide an income replacement indemnity, because an accident victim who is unable to hold a job for any reason other than his age cannot receive the indemnity, since the accident victim has effectively suffered no real loss of income as a result of the accident.

Chapter 2

Agencies

After examining the citizen's position that his only disability was related to his car accident, the Québec Ombudsman asked the Régie to reconsider its opinion in light of the decision rendered by the Tribunal administratif du Québec.

After analysis, the Régie agreed to review its opinion on the causes of the disability and recognized a link between the disability and the car accident. Finally, since all parties agreed that the disability recognized by the Régie was related to the car accident, the Société de l'assurance automobile du Québec started payments of the income replacement indemnity retroactively to August 1999, subtracting amounts already paid by the Régie. This compensation was higher than the disability pension from the Régie.