

Info sheet no. 6
Bill 10's impact on Access Programs

A lexicon of terms used is presented at the end of this sheet.

Access Programs have been part of the process of making government funded health and social services available in English in Quebec since the 1980s. Essentially an Access Program is an inventory for a given region of which services are available in English, and where they can be accessed. A detailed explanation of Access Programs and the process by which they are created is available in the Frame of Reference document on the web site of the Ministry of Health and Social Services at:

<http://publications.msss.gouv.qc.ca/msss/fichiers/2005/05-406-01A.pdf>

Prior to the adoption of Bill 10, sections 15, 348, 508 and 509 of the Act respecting health services and social services (S 4.2) provided for Access Programs as follows:

15. English-speaking persons are entitled to receive health services and social services in the English language, in keeping with the organizational structure and human, material and financial resources of the institutions providing such services and to the extent provided by an access program referred to in section 348.

348. Each agency, in collaboration with institutions, must develop a program of access to health services and social services in the English language for the English-speaking population of its area in the centres operated by the institutions of its region that it indicates or, as the case may be, develop jointly, with other agencies, such a program in centres operated by the institutions of another region.

Such an access program must take into account the human, financial and material resources of institutions and include any institution in the region designated under section 508.

The program must be approved by the Government and revised at least every three years.

508. The Government shall designate from among the institutions recognized under of section 29.1 of the Charter of the French language (chapter C-11) those which are required to make health services and social services accessible in the English language to English-speaking persons.

509. The Government shall, by regulation, provide for the formation of a provincial committee entrusted with advising the Government on...

(2) the approval, evaluation and modification by the Government of each

access program developed by an agency in accordance with section 348...

At each step the Frame of Reference document was the guide used for the process and the resulting document that is the Access Program.

It is important to underline that the right to health and social services expressed in section 15 is, concretely, the right to the services listed in the Access Program for the region. If a service is not included in an Access Program then there is no legal right to that service in English. This makes the content of Access Programs, and the process leading to their approval, critically important in assuring that the right to service in English expressed in section 15 of S 4.2 is a meaningful one.

Bill 10 has abolished the agencies, but not the responsibility to prepare Access Programs. These continue as expressed in section 76:

76. Each public institution must, in the centres it specifies, develop a program of access to English-language health services and social services for the English-speaking population it serves or, if applicable, develop such a program jointly with other public institutions in the centres it specifies that are operated by those institutions.

The program must identify the English-language services that are available in the specified facilities. It must also set out the language requirements for the recruitment or assignment of the personnel needed to provide such services.

A public institution may, with the consent of a private institution under agreement, specify in its access program any services that may be provided to its users by the private institution under an agreement.

The program must take into account the institution's human, physical and financial resources; it must also be approved by the Government and revised at least once every five years.

This responsibility applies to all 22 Centres Intégrés (CIs), to the seven specialized hospitals, and to the Regional Health and Social Service Centre of James Bay, Nord-du-Quebec (region 10). It does not apply to the institutions in regions 17 and 18, serving the Inuit and Cree populations, nor to the Naskapi CLSC located in region 9.

The second paragraph of section 76, which mentions language requirements for the personnel needed to provide services in English, is a new and important addition to the definition of an Access Program. It gives the Regional Access Committees and the Provincial Committee a solid basis for expecting that this issue will be addressed in an Access Program before it can go forward. Once the requirements become documented in an Access Program, they will have more formal weight than was the case prior to Bill 10. For more about the Regional Access Committees and the Provincial Committee, please refer to Info sheets 5 and 4, respectively.

Bill 10 maintained Regional Access Committees under section 108:

108. *For the purposes of section 510 of the Act, the references to an agency in the first paragraph are references to a public institution and the reference to an agency in the third paragraph is a reference to an integrated health and social services centre or, for regions having more than one integrated centre, to the one resulting from the amalgamation of the agency and other institutions.*

While expressed in a convoluted manner, this paragraph means that there will be an Access Committee housed in every CI, except where there is more than one in the same region. In that case, the Access Committee will be housed in the CI into which some of the functions of the former Agence were merged. This affects three regions in the following way;

- In Gaspé the Access Committee is to be housed in the CISSS on mainland Gaspé in the Town of Gaspé;
- In Montérégie it is to be housed in the CISSS Centre, with headquarters in Longueuil;
- In Montreal it is to be housed in the CIUSSS Centre-Sud.

Section 510 of S 4.2 establishes the role of the Access Committee:

510. *The Government shall, by regulation, provide for the formation of regional committees entrusted with*

(1) advising the agency concerning the access programs developed by that agency in accordance with section 348;

(2) evaluating the access programs and suggesting modifications to them where expedient.

The agency concerned shall determine by by-law the composition of its regional committee, its rules of operation and internal management, the manner in which its affairs are to be conducted and its functions, duties and powers.

In light of these changes, it is our understanding as of March 2016 that the process for the preparation of Access Programs will be as follows¹:

- In 2016 an exercise is being conducted in each region to identify where each service identified in the Access Program can be accessed. This is to permit the existing program to be updated with the names of the new institutions, and in some cases with revised names of facilities. This exercise is not supposed to produce any change to the list of services.

¹ In 2016 the Ministry may produce guidelines that modify the process presented on this page.

- Since Bill 10 has an impact on the composition of Regional Access committees and the role of the Provincial Committee, MSSS has informed us they will proceed to the reconstitution of both levels of committees in 2016. This step needs to be completed before Access programs can be revised.
- Since changes introduced by Bill 10 have had an impact on the distribution of responsibilities for production of Access Programs, and introduced a new element to the content of an Access Program (the language requirements for the recruitment or assignment of the personnel needed to provide the services included in the program), a revision of the Frame of Reference is required. Exchanges with Ministry staff suggest this will also take place in 2016.
- Then each of the CIs and specialized hospitals will revise the Access Program for their institution, using the Frame of Reference. They must include the section 508 designated institutions under their responsibility, which are now referred to as facilities, and indicate any of the other services in their other facilities that are accessible in English. They may work with other institutions in the same or another region so that some of the services of those other institutions are included in the Access Program. They may include services of a private institution in the Access Program, if that private institution has consented;
- The Program must also set out the language requirements for the recruitment or assignment of the personnel needed to provide the services included in the program;
- The Program must be submitted to the regional Access Committee for approval which may generate a process of adjustments before approval is given;
- The CIs which do not house an Access Committee, and the specialized hospitals, will submit their Access Program to the CI in their region where the Access Committee is housed;
- In regions with more than one institution (Gaspé, Quebec, Montérégie and Montreal) the regional Access Committees will have the responsibility of harmonizing the Access Programs for that region as required. The Programs will not be integrated into one regional Program since each Program belongs to the institution that produced it;
- The board of directors of the institution must approve the Program prior to its submission to the Ministry²;
- The Ministry will submit all 29 Access Programs (22 from CIs and seven from specialized hospitals) to the Provincial Committee;
- Ministry staff will support the committee's study of the Programs. For some, this may lead to requesting clarification or adjustments from the institution; Such changes will have to approved by the regional Access Committee;

² At the time of this writing (March 2016) it is not known if the institutions that do not house Access Committees will have their boards approve Access Programs before or after submission to the regional Access Committee, or both.

- Once these exchanges are complete, the Provincial Committee will provide a written opinion concerning each Access Program, which might include any reservations or recommendations the committee has;
- Depending on the minister's disposition of any reservations or recommendations, he/she will bring the Access Programs and the Provincial Committee's opinions to cabinet which will pass a decree approving each Access Program.

LEXICON

Terms in bold are those used in the Information Sheet series.

Terms following the = sign are the equivalent terms found in the English version of the laws referred to, where an English term exists.

Bill 10 = O 7.2 = the Act to modify the organization and governance of the health and social services network, in particular by abolishing the regional agencies

Charter = la Charte de la langue française

CI (Centre Intégré) = integrated health and social services centre

OQLF = Office Québécoise de la langue française

Provincial Advisory Committee = Provincial Committee on the dispensing of health and social services in the English language

Regional Access Committee = Regional Committee

Resident = In-patient

S 4.2 = the Act Respecting Health Services and Social Services

Specialized institution = unamalgamated institution