

Home Care and Community Services Act, 1994

ONTARIO REGULATION 386/99 PROVISION OF COMMUNITY SERVICES

Consolidation Period: From November 1, 2017 to the [e-Laws currency date](#).

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This is the English version of a bilingual regulation.

DEFINITIONS

1. (1) In this Regulation,

“acquired brain injury” means any injury to the brain that is not related to damage that occurred during the birthing process, to a congenital disorder or to a degenerative disorder; (“lésion cérébrale acquise”)

“local health integration network” means a local health integration network as defined in section 2 of the *Local Health System Integration Act, 2006*, and where the context requires, means such a network that is deemed to be an approved agency or service provider, as the case may be, under section 28.4 of the Act; (“réseau local d’intégration des services de santé”)

“long-term care home” means a long-term care home under the *Long-Term Care Homes Act, 2007*. (“foyer de soins de longue durée”) O. Reg. 386/99, s. 1; O. Reg. 250/09, s. 1 (1); O. Reg. 250/09, s. 1 (2); O. Reg. 112/14, s. 1; O. Reg. 106/17, s. 1.

(2) A reference in this Regulation,

(a) to an hour of service is a reference to an hour of service received by a person, no matter how many persons provide service to the person during that hour;

(b) to a visit is a reference to a single visit to a person, no matter how many persons participate in that visit. O. Reg. 164/08, s. 1.

ADDITIONAL COMMUNITY SUPPORT SERVICES

1.1 (1) For the purpose of paragraph 10 of subsection 2 (4) of the Act, the following are prescribed as additional community support services:

1. Aboriginal support services.
2. Client intervention and assistance services.
3. Emergency response services.
4. Foot care services.
5. Home help referral services.
6. Independence training.
7. Palliative care education and consultation services.
8. Psychogeriatric consulting services relating to Alzheimer disease and related dementias.
9. Public education services relating to Alzheimer disease and related dementias.
10. Services for persons with blindness or visual impairment.
11. Services for persons with deafness, congenital hearing loss or acquired hearing loss. O. Reg. 250/09, s. 2.

(2) In subsection (1),

“client intervention and assistance services” means providing support to persons to assist them to cope with activities of everyday living; (“services d’intervention et d’assistance destinés aux clients”)

“emergency response services” means installing electronic devices in homes to connect persons with emergency response centres; (“services d’intervention en cas d’urgence”)

“home help referral services” means referring a person who requires home help services to a person who provides such services; (“services d’aiguillage en matière d’aide ménagère”)

“independence training” means teaching the skills to improve independent functioning in the community, including the effective use of personal support services; (“formation à l’autonomie”)

“psychogeriatric consulting services” means providing psychogeriatric consultation, training and support to staff of long-term care homes, community care access centres and other approved agencies; (“services de consultation en psychogériatrie”)

“services for persons with blindness or visual impairment” means providing rehabilitation, visual orientation, counselling, referrals and technology to persons with blindness or visual impairment; (“services destinés aux personnes aveugles ou atteintes d’une déficience visuelle”)

“services for persons with deafness, congenital hearing loss or acquired hearing loss” means providing rehabilitation and communication training, counselling, technology and education to persons with deafness, congenital hearing loss or acquired hearing loss. (“services destinés aux personnes sourdes ou atteintes d’une déficience auditive congénitale ou acquise”) O. Reg. 250/09, s. 2.

ELIGIBILITY FOR HOME MAKING SERVICES

2. (1) A local health integration network shall not provide homemaking services to a person unless the following eligibility criteria are met:

1. The person must be an insured person under the *Health Insurance Act*.
2. The person,
 - i. must require personal support services along with the homemaking services,
 - ii. must receive personal support and homemaking services from a caregiver who requires assistance with the homemaking services in order to continue providing the person with all the required care, or
 - iii. must require constant supervision as a result of a cognitive impairment or acquired brain injury and the person’s caregiver must require assistance with the homemaking services.
3. The place in which the homemaking services are to be provided must have the physical features necessary to enable the services to be provided.
4. The risk that a service provider who provides the homemaking services to the person will suffer serious physical harm while providing the services must not be significant or, if it is significant, the service provider must be able to take reasonable steps to reduce the risk so that it is no longer significant. O. Reg. 250/09, s. 3 (1); O. Reg. 106/17, s. 2.

(2) In subsection (1),

“caregiver” means a family member, friend or other person who,

- (a) has primary responsibility for the care of an applicant for homemaking or personal support services or of a person who receives such services, and
- (b) provides that care without remuneration. O. Reg. 250/09, s. 3 (1).

(3) A person is not eligible to receive homemaking services if the person is a tenant in a care home within the meaning of the *Residential Tenancies Act, 2006* or is a resident of a long-term care home under the *Long-Term Care Homes Act, 2007*. O. Reg. 250/09, s. 3 (2).

ELIGIBILITY FOR PERSONAL SUPPORT SERVICES

2.1 (1) An approved agency shall not provide personal support services to a person unless the following eligibility criteria are met:

1. The person must be an insured person under the *Health Insurance Act*.
2. The place in which the services are to be provided must have the physical features necessary to enable the services to be provided.
3. The risk that a service provider who provides the services to the person will suffer serious physical harm while providing the services must not be significant or, if it is significant, the service provider must be able to take reasonable steps to reduce the risk so that it is no longer significant. O. Reg. 250/09, s. 4; O. Reg. 112/14, s. 2 (1).

(2) A person is not eligible to receive personal support services if the person is a resident of a long-term care home under the *Long-Term Care Homes Act, 2007*. O. Reg. 112/14, s. 2 (2).

MAXIMUM AMOUNT OF HOME MAKING AND PERSONAL SUPPORT SERVICES

3. (1) An approved agency shall not provide or arrange for more than the following number of hours of homemaking or personal support services or any combination of these services with respect to any one person:

1. 120 hours, in the first 30 days of service.
2. 90 hours, in any subsequent 30-day period. O. Reg. 112/14, s. 3 (1).

(2) The maximum amounts referred to in subsection (1) also apply to the total number of hours of homemaking or personal support services or any combination of these services provided or arranged by more than one approved agency with respect to any one person. O. Reg. 112/14, s. 3 (1).

(2.1) The maximum amounts referred to in subsections (1) and (2) apply only with respect to homemaking services and personal support services that are provided to a person at his or her place of residence. O. Reg. 112/14, s. 3 (1).

(3) Despite subsection (1), if an approved agency that is a local health integration network determines that extraordinary circumstances exist that justify the provision of additional services, the local health integration network may provide more than the maximum number of hours of homemaking and personal support services set out in that subsection,

- (a) to a person who is in the last stages of life;
- (b) to a person who is awaiting admission to a long-term care home, and who has been placed on a waiting list by a placement co-ordinator under regulations made under the *Long-Term Care Homes Act, 2007* and is currently on that list; or
- (c) for no more than 90 days in any 12-month period, to any other person. O. Reg. 164/08, s. 2 (3); O. Reg. 101/10, s. 1; O. Reg. 112/14, s. 3 (2); O. Reg. 106/17, s. 3.

(4) In determining the maximum amount of personal support services that may be provided to a person under this section, an approved agency shall not include any school health personal support services provided under section 7. O. Reg. 677/00, s. 1; O. Reg. 250/09, s. 5; O. Reg. 112/14, s. 3 (3).

ADDITIONAL PROFESSIONAL SERVICES

3.1 For the purpose of paragraph 9 of subsection 2 (7) of the Act, the following are prescribed as additional professional services:

1. Diagnostic and laboratory services.
2. Medical supplies, dressings and treatment equipment necessary to the provision of nursing services, occupational therapy services, physiotherapy services, speech-language pathology services or dietetics services.
3. Pharmacy services.
4. Respiratory therapy services.
5. Social service work services. O. Reg. 250/09, s. 6.

SERVICE PROVIDERS

3.2 (1) A service provider that provides professional services shall ensure that there is a written plan of care for each person receiving the services. O. Reg. 250/09, s. 6.

(2) If the professional services provided to a person involve treating or advising the person within the scope of practice of a health profession as defined in subsection 1 (1) of the *Regulated Health Professions Act, 1991*, the service provider shall ensure that the plan of care is developed, evaluated and revised as necessary by a member of the College that relates to the professional services provided as defined in subsection 1 (1) of that Act. O. Reg. 250/09, s. 6.

(3) Subsections (1) and (2) do not apply to the provision of nursing services to a person who resides in a long-term care home. O. Reg. 250/09, s. 6.

ELIGIBILITY FOR PROFESSIONAL SERVICES

3.3 Sections 3.4 and 3.5 do not apply to the provision of professional services by a local health integration network to a person who resides in a long-term care home. O. Reg. 106/17, s. 4 (2).

3.4 A local health integration network shall not provide professional services to a person unless the following eligibility criteria are met:

1. The person must be an insured person under the *Health Insurance Act*.
2. The services must be necessary to enable the person to remain in his or her home or enable him or her to return home from a hospital or other health care facility.
3. Except in the case of pharmacy services, the services must be reasonably expected to result in progress towards,
 - i. rehabilitation,
 - ii. maintenance of functional status, or
 - iii. palliation, in the case of a person who is in the last stages of life.

4. The place in which the services are to be provided must have the physical features necessary to enable the services to be provided.
5. The risk that a service provider who provides the services to the person will suffer serious physical harm while providing the services must not be significant or, if it is significant, the service provider must be able to take reasonable steps to reduce the risk so that it is no longer significant.
6. In the case of pharmacy services,
 - i. the person must be taking three or more prescription medications,
 - ii. the person must be at risk of medication complications due to complex medical needs, and
 - iii. the person must be unable to access the services in a setting outside the person's home because of his or her condition.
7. In the case of physiotherapy services and medical supplies, dressings and treatment equipment necessary to the provision of physiotherapy services,
 - i. if the services are provided in the person's home in accordance with clause 3.5 (3) (a), the person must be unable to access the services in a setting outside the home because of his or her condition, or
 - ii. if the services are provided in a congregate or group setting in accordance with clause 3.5 (3) (b),
 - A. the person must be 65 years of age or older, or
 - B. the person must have been recently discharged as an inpatient of a hospital and the services must be directly connected to the condition, illness or injury for which the person was admitted to the hospital.
8. In the case of respiratory therapy services, the person must be ventilator-dependent, have artificial airways or be receiving home oxygen services under the Assistive Devices Program administered by the Ministry.
9. In the case of services described in paragraph 1 or 2 of section 3.1, the person must be in need of nursing services, occupational therapy services, physiotherapy services, speech-language pathology services or dietetics services. O. Reg. 250/09, s. 6; O. Reg. 106/17, s. 5.

LOCATION OF PROFESSIONAL SERVICES

3.5 (1) Subject to subsections (2) and (3), a local health integration network may provide a professional service to a person in the person's home or in a congregate or group setting. O. Reg. 106/17, s. 6 (2).

(2) A local health integration network may provide pharmacy services to a person only in the person's home. O. Reg. 106/17, s. 6 (2).

(3) A local health integration network may provide physiotherapy services and medical supplies, dressings and treatment equipment necessary to the provision of physiotherapy services to a person,

- (a) in the person's home, if the eligibility criterion in subparagraph 7 i of section 3.4 is met; or
- (b) in a congregate or group setting, if one of the eligibility criteria in sub-subparagraph 7 ii A or B of section 3.4 is met. O. Reg. 106/17, s. 6 (2).

ELIGIBILITY FOR PROFESSIONAL SERVICES IN A LONG-TERM CARE HOME

3.6 (1) A local health integration network may provide only the following professional services to a person who is a resident of a long-term care home:

1. Nursing services that are provided as part of the Nurse-led Long-Term Care Outreach Team program funded by the Ministry or a local health integration network.
2. Occupational therapy services.
3. Physiotherapy services.
4. Respiratory therapy services.
5. Speech-language pathology services.
6. Training a person to provide nursing services to persons who are residents of a long-term care home. O. Reg. 250/09, s. 6; O. Reg. 106/17, s. 7 (1, 2).

(2) A local health integration network shall not provide the professional services listed under subsection (1) to a person who is a resident of a long-term care home unless the following eligibility criteria are met:

1. The person must be an insured person under the *Health Insurance Act*.
2. Except in the case of nursing services, the person must be unable to access the services in a setting outside the person's home because of his or her condition.

3. The services must be reasonably expected to result in progress towards,
 - i. rehabilitation,
 - ii. maintenance of functional status, or
 - iii. palliation, in the case of a person who is in the last stages of life.
4. In the case of respiratory therapy services, the person must be ventilator-dependent, have artificial airways or be receiving home oxygen services under the Assistive Devices Program administered by the Ministry. O. Reg. 250/09, s. 6; O. Reg. 106/17, s. 7 (3, 4).

MAXIMUM AMOUNT OF NURSING SERVICES

4. (1) A local health integration network shall not provide a person with more than the lesser of the following amounts of nursing services:

1. 150 visits to or from a registered nurse, a registered practical nurse or a registered nurse in the extended class in a 30-day period.
2. The following number of hours of service in a 30-day period:
 - i. 230 hours of service, if the services are provided by either or both registered nurses or registered nurses in the extended class,
 - ii. 284 hours of service, if the services are provided by registered practical nurses, or
 - iii. 258 hours of service, if the services are provided by,
 - A. both registered nurses and registered practical nurses,
 - B. both registered practical nurses and registered nurses in the extended class, or
 - C. all of registered nurses, registered practical nurses and registered nurses in the extended class. O. Reg. 304/15, s. 1; O. Reg. 106/17, s. 8 (1, 2).

(1.1) Despite subsection (1), if a local health integration network determines that extraordinary circumstances exist that justify the provision of additional services, the local health integration network may provide more than the maximum amount of nursing services set out in that subsection,

- (a) to a person who is in the last stages of life;
- (b) to a person who is awaiting admission to a long-term care home, and who has been placed on a waiting list by a placement co-ordinator under regulations made under the *Long-Term Care Homes Act, 2007* and is currently on that list; or
- (c) for no more than 30 days in any 12-month period, to any other person. O. Reg. 304/15, s. 1; O. Reg. 106/17, s. 8 (3, 4).

(2) In this section,

“registered nurse” means a person who holds a general certificate of registration as a registered nurse under the *Nursing Act, 1991*; (“infirmière autorisée ou infirmier autorisé”)

“registered nurse in the extended class” means a registered nurse who holds an extended certificate of registration under the *Nursing Act, 1991*; (“infirmière autorisée ou infirmier autorisé de la catégorie supérieure”)

“registered practical nurse” means a person who holds a general certificate of registration as a registered practical nurse under the *Nursing Act, 1991*. (“infirmière auxiliaire autorisée ou infirmier auxiliaire autorisé”) O. Reg. 386/99, s. 4 (2); O. Reg. 250/09, s. 7 (2).

(3) In determining the maximum amount of nursing services that may be provided to a person under this section, a local health integration network shall not include any nursing services that are provided as school health professional services under sections 5 and 6. O. Reg. 106/17, s. 8 (6).

ELIGIBILITY FOR SCHOOL HEALTH PROFESSIONAL SERVICES

5. (1) In this section,

“school” means a school as defined in subsection 1 (1) of the *Education Act* and includes a private school as defined in subsection 1 (1) of that Act; (“école”)

“school health professional services” means the following professional services that are provided to a person who is enrolled as a pupil at a school on the school premises or while the pupil is being transported to or from the school on a school bus or other school vehicle or participating in a school trip or activity outside the school premises or that are provided to a person who is receiving satisfactory instruction at home in accordance with clause 21 (2) (a) of the *Education Act* and are necessary in order for the person to be able to receive instruction:

1. Dietetics services.

2. Nursing services.
 3. Occupational therapy services.
 4. Physiotherapy services.
 5. Speech-language pathology services.
 6. Medical supplies, dressings and treatment equipment necessary to the provision of the services referred to in paragraphs 1 to 5.
 7. Training of school personnel to provide the services referred to in paragraphs 1 to 5 to persons enrolled as a pupil at the school. (“services professionnels de santé en milieu scolaire”) O. Reg. 494/00, s. 2; O. Reg. 250/09, s. 8 (2, 3).
- (2) A local health integration network shall not provide school health professional services to a person unless the person meets the following eligibility criteria:
1. The person must be enrolled as a pupil at a school or be receiving satisfactory instruction at home in accordance with clause 21 (2) (a) of the *Education Act*.
 2. The person must require the services,
 - i. in order to be able to attend school, participate in school routines and receive instruction, or
 - ii. in order to be able to receive satisfactory instruction at home in accordance with clause 21 (2) (a) of the *Education Act*.
 3. The person must be an insured person under the *Health Insurance Act*.
 4. The school or home in which the service is to be provided must have the physical features necessary to enable the service to be provided.
 5. The risk that a service provider who provides the service to the person will suffer serious physical harm while providing the service must not be significant or, if it is significant, the service provider must be able to take reasonable steps to reduce the risk so that it is no longer significant. O. Reg. 494/00, s. 2; O. Reg. 250/09, s. 8 (4, 5); O. Reg. 106/17, s. 9.

MAXIMUM AMOUNT OF SCHOOL HEALTH PROFESSIONAL SERVICES

6. A local health integration network that provides school health professional services to a person who is receiving satisfactory instruction at home in accordance with clause 21 (2) (a) of the *Education Act* shall not provide more than six hours of school health professional services a day to that person, five days a week. O. Reg. 106/17, s. 10 (2).

ELIGIBILITY FOR SCHOOL HEALTH PERSONAL SUPPORT SERVICES

7. (1) In this section,
- “school” means a private school as defined in subsection 1 (1) of the *Education Act*; (“école”)
- “school health personal support services” means the following personal support services that are provided to a person who is enrolled as a pupil at a school on the school premises or during a school trip or activity outside the school premises or that are provided to a person who is receiving satisfactory instruction at home in accordance with clause 21 (2) (a) of the *Education Act* and are necessary in order for the person to be able to receive instruction:
1. Personal hygiene activities.
 2. Routine personal activities of living.
 3. Medical and personal equipment necessary to the provision of the services referred to in paragraphs 1 and 2.
 4. Training of school personnel to provide the services referred to in paragraphs 1 and 2 to persons enrolled as pupils at the school and assisting the personnel in providing them. (“services de soutien personnel liés à la santé en milieu scolaire”) O. Reg. 677/00, s. 2; O. Reg. 250/09, s. 10 (2, 3).
- (2) A local health integration network shall not provide school health personal support services to a person unless the person meets the following eligibility criteria:
1. The person must be enrolled as a pupil at a school or be receiving satisfactory instruction at home in accordance with clause 21 (2) (a) of the *Education Act*.
 2. The person must require the services,
 - i. in order to be able to attend school, participate in school routines and receive instruction, or
 - ii. in order to be able to receive satisfactory instruction at home in accordance with clause 21 (2) (a) of the *Education Act*.
 3. The person must be an insured person under the *Health Insurance Act*.

4. The school or home in which the service is to be provided must have the physical features necessary to enable the service to be provided.
5. The risk that a service provider who provides the service to the person will suffer serious physical harm while providing the service must not be significant or, if it is significant, the service provider must be able to take reasonable steps to reduce the risk so that it is no longer significant. O. Reg. 677/00, s. 2; O. Reg. 250/09, s. 10 (4, 5); O. Reg. 106/17, s. 11 (1, 2).

(3) A local health integration network that provides school health personal support services under this section to a person who is receiving satisfactory instruction at home in accordance with clause 21 (2) (a) of the *Education Act* shall not provide more than six hours of those services a day to that person, five days a week. O. Reg. 106/17, s. 11 (4).

EXEMPTIONS

8. (1) When a local health integration network provides nursing services to a person who is a resident of a long-term care home, the local health integration network is exempt from section 22 of the Act in respect of that person. O. Reg. 106/17, s. 12 (2).

(2) When a local health integration network manages the placement of a person into a chronic care or rehabilitation bed in a hospital, the local health integration network is exempt from clause 22 (1) (c) and subsections 22 (2), (3), (4) and (6) of the Act in respect of that person. O. Reg. 106/17, s. 12 (2).

(3) When a local health integration network manages the admission of a person into an adult day program, the approved agency providing the adult day program is exempt from subsection 22 (1) of the Act in respect of that person. O. Reg. 106/17, s. 12 (2).

(4) When a local health integration network manages the admission of a person into a supportive housing program, the approved agency providing the supportive housing program is exempt from subsection 22 (1) of the Act in respect of that person. O. Reg. 106/17, s. 12 (2).

(5) An approved agency is exempt from the provisions of this Regulation with respect to providing personal support services under any of the following policies of the Ministry:

1. The Long-Term Care Supportive Housing Policy.
2. The policy set out in the document entitled “Attendant Outreach Services — Policy Guidelines and Operational Standards”.
3. The policy set out in the document entitled “Self-Managed Attendant Services in Ontario — Direct Funding Pilot Project — Policy Guidelines”. O. Reg. 106/17, s. 12 (2).

(6) An approved agency that is not a local health integration network and that provides or arranges for the provision of homemaking services, personal support services or professional services to persons with acquired brain injuries is exempt from the provisions of this Regulation with respect to those services. O. Reg. 106/17, s. 12 (2).

(7) When a local health integration network determines that a person who requires personal support services should receive these services from an approved agency that is not a local health integration network, the local health integration network may refer the person to such an approved agency, and the local health integration network is exempt from section 22 of the Act in respect of that person. O. Reg. 106/17, s. 12 (2).

(8) When an approved agency that is not a local health integration network determines that a person who requires personal support services should receive these services from a local health integration network, the approved agency may refer the person to a local health integration network, and the approved agency is exempt from section 22 of the Act in respect of that person. O. Reg. 106/17, s. 12 (2).

DIRECT FUNDING UNDER EXISTING ARRANGEMENTS

9. (1) This section applies where, under subsection 28.5 (1) of the Act, the Minister has approved a local health integration network to provide funding to or on behalf of a person to purchase a community service and, immediately before the time of the approval, a community care access corporation was providing funding for the purchase of the service. O. Reg. 106/17, s. 13.

(2) Community support services, homemaking services, personal support services and professional services are prescribed community services for the purposes of this section. O. Reg. 106/17, s. 13.

(3) The requirements under the following provisions of the Act do not apply with respect to funding to which this section applies:

1. Paragraphs 3, 4, 5 and 6 of subsection 28.5 (4).
2. Subsections 22 (1), (2), (3), (5) and (7). O. Reg. 106/17, s. 13.

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