Intelligence MEMOS

From: Åke Blomqvist and Colin Busby

To: Provincial Ministries of Health, The Ontario Medical Association and other Provincial Medical Associations

Date: September 7, 2016

Re: PHYSICIAN COMPENSATION: ONTARIO'S DEAL, DILEMMA, AND WHY IT AFFECTS HEALTH SYSTEM PERFORMANCE (PART I)

In a general meeting on August 14, members of the Ontario Medical Association rejected a four-year contract negotiated between their representatives and the provincial government. The deal included an annual increase of 2.5 percent in Ontario's total physician services budget, a hard budget cap, and a clause under which the government and the OMA would "co-manage" the budget during the life of the contract. The deal failed to include binding arbitration, a significant request from physicians.

While the size of the total annual budgets obviously is important, two issues are even more critical. First, will the government accept the doctors' demand for binding arbitration if negotiations reach an impasse? Second, will the government continue with its efforts to revamp the antiquated fee for service model that still predominates in Ontario's (and Canada's) system of physician compensation?

In the first of three installments we look at both the appeal and problematic aspects of binding arbitration.

It is easy to understand why the doctors are frustrated. They have been working without a contract for over two years and had fee cuts imposed. For many, this motivates the need for binding arbitration – and why not? Is it reasonable for members of a profession to face regulations that effectively compel them to work for a single employer and then have that employer dictate remuneration? On the surface, having a binding arbitration mechanism available seems just, and it should be no surprise that doctors were upset when proposed deal did not include it.

Binding arbitration has been used to resolve impasses between governments and unions representing public-sector workers such as police and firefighters who are classified as providers of essential services and hence don't have the right to strike. It has been an expensive model for governments. In making their recommendations in any labour dispute, arbitrators are supposed to take into account the employer's ability to pay. In the private sector, a firm's ability to pay is limited by the threat of competition from other firms in the same market. In the public sector, however, the government is typically the only employer who supplies the goods or services in question (such as those of police or firefighters), and these services are paid for by citizens obliged to pay taxes.

Not unreasonably, therefore, arbitrators have taken the view that when the government is the employer, its ability to pay is not much of a consideration in an individual labour dispute, since taxes can always be raised some more. The result has been costly settlements which, taken together, have put local governments under great fiscal pressure. To us, using this model to deal with disputes between provincial governments and doctors is a risky idea until we come up with a new set of guidelines for arbitrators in public-sector disputes.

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