



SR&ED Medical Claims – External Use

Background

The Prairie Region receives a number of claims annually from Medical Professional Corporations (PCs). The majority of these claims involve work performed by the owner of the PC (i.e., the Dr.) while the Dr. holds an academic appointment at a university or while the Dr. provides patient care at a University Hospital. In the latter case, a Provincial healthcare provider (such as, Alberta Health Services (AHS) or Winnipeg Regional Health Authority) enters into a contract agreement with the PC who bills the healthcare provider for rendering clinical services.

The position of claimants and/or their authorized representatives is that the PC is a taxpayer and, under the *Income Tax Act*, is entitled to claim SR&ED tax credits. Their argument is that the PC and the Dr. are one and the same entity for tax purposes. The CRA has a different position in that the Dr. and the PC are two separate entities and the PC is not entitled to claim SR&ED tax credits for work performed by the Dr.

Basis of the CRA's position

- Supporting documents provided by the PC during claim review indicate that the work claimed, for the most part, is performed by the Dr. (i.e., an individual) as part of his clinical academic appointment at the university. This work is often done jointly or in collaboration with the Dr.'s medical colleagues at the university.
- Submissions to the Research Ethics Board (REB) for approval for clinical studies are done by a Principal Investigator or researcher who is either the Dr. or a colleague of the Dr. (who collaborates on the research).
- The claimed clinical data is patient data gathered by the Dr. as a healthcare provider while working at the University Hospital. This clinical data, which is converted to research data after a clinical trial, is presented at conferences or published in medical journals and shows that the Dr. is affiliated with the university.
- There is publicly available information on university websites on the appointment process for these Drs., and on research and intellectual property policies. However, claimants and/or their authorized representatives maintain that the PC and Dr. are not bound by these university policies.

CRA contacted the Faculty of Medicine and Dentistry at the University of Alberta (U of A) to better understand the nature of these appointments. In addition, it was to determine whether the U of A/AHS enters into contracts with the PC or with the Dr. to undertake research.



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Outcome of meeting

Facts provided confirm that:

- The CRA's position that the PC is not entitled to claim SR&ED tax credits is correct.
- The U of A appoints individuals (i.e., the Dr.) to a university-held, tenure-track position or appoints the Dr. as an Academic Clinician to undertake research and teaching.
- The U of A does not appoint PCs nor do they enter into any contracts with a PC to perform research.
- The Dr., and not the PC, performs the claimed work as part of their responsibilities as an Academic Clinician at the university. While these positions are not salaried university positions, the university offers the Dr. a number of benefits such as, access to on-line medical libraries.
- AHS enters into a contract agreement with a PC to provide clinical services.
- From the perspective of the AHS, the Dr. is not required to perform research.
- AHS owns clinical data generated by the Dr. as a result of clinical services provided to patients at a University Hospital.
- The Dr., as a clinical appointee of AHS, is the custodian of this clinical data. The Dr. must seek permission from AHS if this patient data will be used for clinical studies. The Dr. must also seek permission from AHS to use any patient data from other clinics.
- Ownership of research data and any intellectual property accruing from such research lies with the researcher (i.e., the Dr.) and the university or organization where the research was conducted.
- A submission to a REB to undertake clinical studies can only be done by a researcher who is an employee of the applicant's organization. The REB does not approve any submission from a PC and a PC cannot submit an application for REB approval on behalf of the university.