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Federal Minister of Health introduces new interpretation of the *Canada Health Act*

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Canada's federal government has announced changes that, if implemented, would expand provincial and territorial health coverage to include "medically necessary" services provided by additional classes of health care providers—such as nurse practitioners, pharmacists and midwives—where public coverage has historically been limited to those same services only when provided by a physician. The change aims to ensure that Canadian patients do not face charges for medically necessary care when a service would otherwise be covered if provided by a physician. This results from a change in the interpretation of the *Canada Health Act* (CHA) announced by Canada's Minister of Health on January 10, 2025. The federal government (which has now been prorogued) has signaled its intent for the changes to be in effect as of April 1, 2026.

What you need to know

- If implemented, nurse practitioners, pharmacists and midwives would not be able to seek reimbursement from private insurers or charge patients "out-of-pocket" for medically necessary services otherwise covered by the public health system. Instead, those services would be covered by provincial and territorial health coverage.
- The Minister of Health's interpretation of who is considered a "physician" under Canadian public health insurance would be expanded to include a broad scope of health care professionals, including nurse practitioners, pharmacists and midwives, when providing "physician-equivalent services".
- Health care providers who currently leverage non-physicians, such as nurse practitioners, for patient care may need to reconsider their fee models going forward.

Minister's new interpretation of the *Canada Health Act*

On January 10, 2025, Canada's Federal Minister of Health, Mark Holland, issued a letter to the provincial and territorial ministers of health communicating upcoming changes to the scope of insured services covered under the *Canada Health Act*. The announcement suggests that provincial and territorial health plans (public plans) will soon be expected to cover "medically necessary" services provided by additional classes of health care providers, such as

nurse practitioners, pharmacists and midwives, where historically public coverage was limited to only those same services when provided by a physician. Ultimately, the change aims to ensure that patients do not face charges for medically necessary care when a service would otherwise be covered if provided by a physician.

Specifically, the letter suggests that "patient charges for medically necessary services, whether provided by a physician *or other health care professional providing physician-equivalent services*, will be considered extra-billing and user charges under a new interpretation of the *Canada Health Act*". The letter indicates that the new policy change, dubbed the "CHA Services Policy", will come into effect on April 1, 2026.

If the change is ultimately rolled out, businesses and health care providers could face enforcement action if private insurers or patients pay for the cost of medically necessary health care services provided by these additional classes of health care providers.

What is the *Canada Health Act*?

The CHA is the federal legislation that dictates the minimum requirements that public plans need to meet to receive eligible health care funding through federal transfer payments. For example, under the CHA, public plans must cover "medically necessary" or "medically required" hospital, physician, and surgical-dental services to receive federal funding. This creates a baseline for public health coverage across Canada.

The CHA does not define "medically necessary" services, so public plans ultimately have some discretion to determine which health care services are considered as such. Provinces and territories may opt to cover other health services in addition to those prescribed by the CHA, resulting in varying health care coverage across the provinces.

The CHA also requires provinces and territories to restrict physicians from charging a patient fee on top of what they claim for reimbursement under the public plan. These "top up" fees, referred to as "extra-billing and user charges", are deducted from the total federal contribution that each province/territory receives. This mechanism exists in part as a control to prevent a parallel stream of private health care from developing in Canada so that access to services is based on medical need, and not on a patient's ability to pay.

What led to this change?

Across Canada, there has been an expansion in the scope of practice of many health care professionals over the years, including nurse practitioners, midwives and pharmacists, meaning that these health care professionals can now deliver some of the services that would have historically been delivered only by a physician. These health care professionals were billing patients or their private insurers, and not the provincial/territorial health systems, for their time, as they are entitled to do so by the current CHA. Private clinics billing patients or their private insurers for such services have increased in recent years.

In his letter, the Federal Minister of Health expressed growing concern in this approach, "as individuals with the means to pay for health services can access them more quickly than individuals who cannot afford to do so". The new interpretation aims to maintain the Canadian universal health care against a parallel, emerging private system.

What does this mean for you?

The new policy does not expand the "core basket" of services insured under the CHA. Rather, it aims to make sure that patients are not charged for services in this core basket for which they wouldn't otherwise be charged if they visited a physician.

Business and health care providers that currently leverage non-physicians for the delivery of patient care may need to reconsider their fee models going forward for services that are currently paid by private insurers or patients out of pocket.

It is important to note that at this time, the "CHA Services Policy" is not the result of a statutory amendment to the CHA; rather, it results from a new interpretation of the CHA by the federal government. As such, it is yet to be seen whether amendments will be made to the provisions of the CHA itself to implement the changes, or whether the federal government intends to base its policy on interpretation principles only.

Interestingly, since Canada's parliament has now been prorogued until March 24, 2025, it is expected that this initiative will fall to the next federal government to pursue. If pursued, it is unclear what role provincial and territorial governments will have in directing the changes in their applicable jurisdictions. As with other public health insurance matters, it is likely that Canadian provinces and territories will differ in their support or opposition of the resulting changes, including when taking into account the different populations of each province (e.g. access to physicians, rural and remote populations, etc.).

To discuss these issues, please contact the author(s).