



## **Uninsured Services: Billing and Block Fees**

### **Introduction**

Some services provided by physicians are not covered by the Ontario Health Insurance Plan (OHIP). These are often referred to as uninsured services and may include services such as sick notes for work, the copy and transfer of medical records, prescription refills and medical advice over the phone, the completion of insurance and/or medical forms, and even some medical procedures.

Physicians are entitled to charge patients for uninsured services, and in some instances, may elect to offer patients the option of paying for uninsured services through a block fee.

The purpose of this policy is to set out the College's expectations of physicians who charge for uninsured services and/or offer the option of a block fee.

### **Principles**

The key values of professionalism articulated in the College's Practice Guide – compassion, service, altruism and trustworthiness – form the basis for the expectations set out in this policy. Physicians embody these values and uphold the reputation of the profession by:

1. Respecting patient autonomy regarding payment decisions for uninsured services;
2. Acting in the best interests of their patients;
3. Communicating effectively with patients to foster a trusting physician-patient relationship;
4. Practising altruistically by helping patients understand their options regarding payment for uninsured services;
5. Maintaining public trust in the profession by ensuring that patient decisions regarding payment for uninsured services do not pose a barrier to accessing health care services or negatively affect the physician-patient relationship;
6. Participating in self-regulation of the medical profession by complying with the expectations set out in this policy.



27 **Definitions**

28 **Insured services:**

29 Services listed in the *Health Insurance Act* and the Schedule of Benefits that are publicly funded  
30 under OHIP,<sup>1</sup> provided that the service is being rendered to an insured person.<sup>2,3</sup>

31 All insured services include the provision of the service itself, as well as any constituent  
32 elements associated with the service. Examples of constituent elements of insured services  
33 include the referral of a patient to a specialist, the administrative processing for a new patient  
34 being accepted into a practice, and making arrangements for an appointment.<sup>4</sup>

35 **Uninsured services:**

36 Services which are not publicly funded under OHIP, and which may be directly billed to the  
37 patient or a third party.<sup>5</sup> This includes physician services provided to uninsured individuals.

38 **Block fee:**

39 A block fee is a flat fee charged to patients for a predetermined set of uninsured services during  
40 a predetermined period of time. This flat fee may also be referred to as an 'annual fee' if it  
41 covers a period of 12 months.<sup>6</sup>

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<sup>1</sup> The services paid for by the Ontario Health Insurance Plan (OHIP) are set out in Section 11.2 of the *Health Insurance Act*, R.S.O. 1990, c. H.6 (hereinafter, *Health Insurance Act*) and the Schedule of Benefits: Physicians Services under the *Health Insurance Act* (hereinafter, *Schedule of Benefits*).

<sup>2</sup> An insured person is entitled to insured services as per provincial legislation and regulations. In Ontario the *Health Insurance Act* and its regulations set out the definition of insured persons who are covered by OHIP.

<sup>3</sup> The College acknowledges that individuals not covered by OHIP, may be covered by other insurance programs such as the Interim Federal Health Programme (which provides basic health care for refugees or refugee claimants), the Non-Insured Health Benefits program (which provides coverage for certain services to eligible First Nations and Inuit people), or by another provincial health insurance plan. As there are unique requirements, processes, and challenges related to each of these programs, for the purposes of this policy, the definitions of insured and uninsured services or persons are framed in relation to the *Health Insurance Act* and OHIP.

<sup>4</sup> For a complete list of the common and specific elements of insured services that are considered to be constituent elements of the insured medical services covered by OHIP, see the preamble of the Schedule of Benefits.

<sup>5</sup> For example, a representative from an insurance company or a lawyer. For more information see the Third Party Reports policy.

<sup>6</sup> This does not prevent physicians from calling a flat fee charge for a predetermined set of uninsured services by another name (i.e., 'Patient Supplemental Plan', 'Block Billing Plan', etc.), provided that it is not misleading.



42 **Scope**

43 This policy articulates the College's expectations of physicians who charge for uninsured  
44 services and/or offer patients the option of paying for uninsured services by way of a block fee.  
45 These expectations apply regardless of practice area or specialty and regardless of the type of  
46 uninsured services charged for. Such services include, but are not limited to, commonplace  
47 uninsured services such as sick notes and prescription refills over the phone through to medical  
48 procedures that are not or are only partially covered by OHIP.

49 **Policy**

50 Physicians who charge for uninsured services, either individually or by way of a block fee, must  
51 comply with the expectations set out in this policy, other relevant College policies,<sup>7</sup> and  
52 applicable legislation.<sup>8</sup>

53 The first section of the policy sets out general expectations for physicians when charging for  
54 uninsured services, whether these services are paid for individually or by way of a block fee.  
55 The second section of the policy sets out expectations for physicians who offer patients the  
56 option of paying for uninsured services by way of a block fee. Expectations for physicians who  
57 use a third party to collect payment for uninsured services and/or administer block fees are set  
58 out in the final section of the policy.

59 **Charging for Uninsured Services**

60 *Determining what can be Charged For*

61 Physicians are entitled to charge for the provision of uninsured services (e.g., sick notes for  
62 work, the copy and transfer of medical records, prescription refills and medical advice over the  
63 phone, the completion of insurance and/or medical forms, some medical procedures, etc.).

64 Physicians cannot, however, charge patients for insured services, including the constituent  
65 elements of insured services.<sup>9</sup> Additionally, in accordance with regulation, there are a number  
66 of restrictions on what physicians may charge patients for. For example, physicians may not

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<sup>7</sup> This includes, but is not limited to, the Medical Records and Third Party Reports policies, as both touch on the issue of billing for uninsured services.

<sup>8</sup> This includes, but is not limited to, the *Health Insurance Act*; the *Professional Misconduct*, O. Reg. 856/93 enacted under the *Medicine Act, 1991*, S.O. 1991, C.30 (hereinafter, *Professional Misconduct Regulation*); and the *Commitment to the Future of Medical Care Act, 2004*, S.O. 2004, c.5 (hereinafter, *CFMA, 2004*).

<sup>9</sup> A physician may charge patients for services if the physician opted out of OHIP prior to December 23, 2004; the patient is not eligible for OHIP insurance; or if the services are not insured services which would otherwise be paid for by OHIP.



67 charge for services not performed<sup>10</sup> or for an undertaking to be available to provide services to  
68 a patient.<sup>11</sup>

69 *Setting Fees that are Reasonable*

70 Physicians must ensure that the fees charged for uninsured services are reasonable. In  
71 accordance with regulation, it is an act of professional misconduct to charge a fee that is  
72 excessive in relation to the services provided.<sup>12</sup> This requirement applies to fees set for  
73 individual uninsured services, but also applies to block fees. More specifically, the amount  
74 charged for the block fee must be reasonable in relation to the services covered by the block  
75 fee.

76 When determining what is reasonable to charge for individual uninsured services, physicians  
77 must ensure that the fee is commensurate with the nature of the services provided and their  
78 professional costs.

79 In making this determination, physicians must review the most recent version of the Ontario  
80 Medical Association's *Physician's Guide to Uninsured Services* ("the OMA Guide"), which sets  
81 out a recommended schedule of fees for common uninsured services and provides guidance for  
82 setting fees when a recommended fee is not provided. While physicians are not obliged to  
83 adopt the schedule of fees set out in the OMA Guide, in accordance with regulation, if a  
84 physician intends to charge more than the current schedule of fees they must notify the patient  
85 before the service is provided of the excess amount that will be charged; failure to do so is an  
86 act of professional misconduct.<sup>13</sup>

87 In addition to ensuring that the fee is commensurate with the nature of the services provided  
88 and the physician's professional costs, when determining what is reasonable to charge for  
89 individual uninsured services, physicians must consider the patient's ability to pay.<sup>14</sup> In  
90 particular, physicians must consider the financial burden that these fees might place on the  
91 patient and consider whether it would be appropriate to reduce, waive, or allow for flexibility  
92 with respect to fees based on compassionate grounds.

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<sup>10</sup> Section 1(1) paragraph 20 of the *Professional Misconduct Regulation*. Notwithstanding the prohibition on charging for services not performed, physicians are permitted to charge for missed or cancelled appointments in specific circumstances. See Section 1(1) paragraph 20 of the *Professional Misconduct Regulation* or below for more information.

<sup>11</sup> Section 1(1) paragraph 23.2 of the *Professional Misconduct Regulation*.

<sup>12</sup> Section 1(1) paragraph 21 of the *Professional Misconduct Regulation*.

<sup>13</sup> Section 1(1) paragraph 22 of the *Professional Misconduct Regulation*.

<sup>14</sup> The Canadian Medical Association Code of Ethics #16 states that "In determining professional fees to patients for non-insured services, consider both the nature of the service provided and the ability of the patient to pay, and be prepared to discuss the fee with the patient."



93 *Communicating Fees*

94 Physicians must inform a patient or third party<sup>15</sup> of any fee that will be charged prior to  
95 providing an uninsured service, except in the case of emergency care where it is impossible or  
96 impractical to inform the patient.

97 If insured and uninsured services are being proposed or provided together, physicians must  
98 clearly communicate which services are associated with the fee and which are not. Additionally,  
99 in those instances where uninsured services are offered as an alternative to or as supplemental  
100 to insured services, physicians must clearly and impartially describe the differences between  
101 the insured and uninsured options, providing clear and unbiased information about the options  
102 available to the patient.<sup>16</sup> Physicians are also reminded that under regulation it is a conflict of  
103 interest to sell or otherwise supply any medical appliance or medical product to a patient at a  
104 profit.<sup>17</sup>

105 While physicians are encouraged to actively engage office staff in informing patients or third  
106 parties of the fees associated with uninsured services, physicians are ultimately responsible for  
107 ensuring that any applicable fees are communicated in advance and must be available to offer  
108 explanations and/or answer questions about the fees that will be charged.

109 Similarly, while a general notice to patients in a physician's office listing fees for common  
110 uninsured services can assist in patient education and is recommended, it is not a substitute for  
111 informing patients or third parties of fees for uninsured services. Additionally, prior to providing  
112 an uninsured service, physicians are advised to provide patients with a copy of this policy  
113 and/or the appended Patient Information Sheet or provide instructions on how to access these  
114 documents, as this will assist in patient education.

115 *Charging for Missed or Cancelled Appointments*

116 In general, physicians are prohibited from charging for services that are not rendered. However,  
117 in accordance with regulation, physicians are permitted to charge for a missed appointment or  
118 a cancelled appointment where the cancellation is made less than twenty-four hours before the  
119 appointment time, or in a psychotherapy practice, in accordance with any reasonable written

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<sup>15</sup> See footnote 5 or the Third Party Reports policy for more information.

<sup>16</sup> It is an act of professional misconduct to make a misrepresentation respecting a remedy, treatment or device (Section 1(1) paragraph 13 of the *Professional Misconduct Regulation*) or to make a claim respecting the utility of a remedy, treatment, device or procedure other than a claim which can be supported by reasonable professional opinion (Section 1(1) paragraph 14 of the *Professional Misconduct Regulation*).

<sup>17</sup> Section 16(d) of *General Regulation*, Part IV, Conflicts of Interest, O. Reg. 114/94 enacted under the *Medicine Act, 1991*, S.O. 1991, C.30



120 agreement with the patient.<sup>18</sup> Physicians who intend to charge patients in these circumstances  
121 must: have a system in place to facilitate the cancellation process, ensure that the patient was  
122 informed of the cancellation policy and associated fees in advance, and have been available to  
123 see the patient at the time of the appointment.

124 When determining what to charge for missed or cancelled appointments, physicians must  
125 ensure that the fee reasonably reflects the costs incurred and be able to justify the amount  
126 billed. Physicians must also consider the patient's ability to pay the fee and consider granting  
127 exceptions where it is reasonable to do so (e.g., first or isolated incident, intervening  
128 circumstances, etc.) or on compassionate grounds.

### 129 *Providing an Invoice*

130 Physicians are advised to always provide an itemized invoice<sup>19</sup> for any uninsured services that  
131 are provided and for which fees are paid.<sup>20</sup> However, physicians are required to provide an  
132 invoice when they are asked for one. In accordance with regulation, failure to provide an  
133 itemized invoice when asked is an act of professional misconduct.<sup>21</sup>

### 134 *Collecting Fees and Outstanding Balances*

135 Sometimes patients may accrue a balance owing for uninsured services received. Physicians  
136 may take action<sup>22</sup> to collect any fees owed to them, but must always do so with tact, sensitivity,  
137 and in accordance with privacy legislation. In so doing, physicians must consider the patient's  
138 ability to pay the outstanding balance and consider whether it would be appropriate to reduce,  
139 waive, or allow for flexibility based on compassionate grounds.

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<sup>18</sup> Section 1(1) paragraph 20 of the *Professional Misconduct Regulation*.

<sup>19</sup> Physicians must not charge for the production of an itemized invoice.

<sup>20</sup> This would include any fees charged for missed or cancelled appointments and fees that are charged to patients who have chosen to pay a block fee, but where the fees for some services are merely reduced as a result.

<sup>21</sup> Section 1(1) paragraph 24 of the *Professional Misconduct Regulation*.

<sup>22</sup> This may include physicians or their office staff contacting patients or hiring a third party (i.e., collection agency) to assist in the process.



140 **Offering a Block Fee**

141 *Assessing Whether a Block Fee is Appropriate*

142 Physicians who charge for uninsured services may, but are not required to, offer patients the  
143 option of paying for uninsured services by way of a block fee.<sup>23</sup>

144 A block fee may be a more convenient and/or economical way for patients to pay for uninsured  
145 services, and for physicians to administer fees for these services. However, a block fee may not  
146 be appropriate in all practice settings where uninsured services are provided. Appropriateness  
147 will depend on a number of factors, including but not necessarily limited to, the nature of the  
148 physician-patient relationship. It is not permissible to charge a block fee in order to cover  
149 administrative or overhead costs associated with providing insured services;<sup>24</sup> rather, a block  
150 fee is merely a way of facilitating the payment of uninsured services.

151 Physicians offering a block fee must ensure the fee covers a period of not less than three  
152 months and not more than 12 months.

153 *Ensuring Patient Choice and Access to Care*

154 Physicians who offer the option of payment for uninsured services by way of a block fee must  
155 always provide patients with the alternative of paying for each service individually at the time  
156 that it is provided.

157 Moreover, patient decisions regarding whether to pay for uninsured services individually or by  
158 way of a block fee must not affect their ability, or the ability of others in the physicians'  
159 practice, to access health care services. Physicians must not:

- 160
- 161 • Require that patients pay a block fee before accessing an insured or uninsured service;<sup>25</sup>
  - 162 • Treat or offer to treat patients preferentially because they agree to pay a block fee;<sup>26</sup> or
  - 163 • Terminate a patient<sup>27</sup> or refuse to accept a new patient<sup>28</sup> because that individual  
chooses not to pay a block fee.<sup>29</sup>

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<sup>23</sup> Although section 1(1) paragraph 23 of the *Professional Misconduct Regulation* lists “charging a block fee” as an act of professional misconduct, physicians are able to charge a block fee as this provision has been struck down by the courts in *Szmulowicz v. Ontario (Minister of Health)*, 1995 CanLII 10676 (ON SC) and is therefore not in effect.

<sup>24</sup> See the “Constituent and Common Elements of Insured Services” of the Schedule of Benefits, read in conjunction with section 37.1 (1) of R.R.O 1990, Reg. 552 General, enacted under the *Health Insurance Act* and Section 10 of the *CFMA, 2004*.

<sup>25</sup> Section 18(2) of the *CFMA, 2004*.

<sup>26</sup> Section 17(1) of the *CFMA, 2004*.



164 To ensure patients are able to make fully informed choices regarding the payment of uninsured  
165 services, physicians who choose to offer a block fee must:

- 166 1. Offer a block fee in writing.<sup>30</sup> In so doing, physicians must:
- 167 ○ Indicate that payment of a block fee is optional and that patients may choose to
  - 168 pay for uninsured services individually as they use them;
  - 169 ○ Indicate that the patient’s decision to pay for uninsured services individually or
  - 170 through a block fee will not affect their ability to access health care services;
  
  - 171 ○ Identify those services that are covered by the block fee, provide a list of fees
  - 172 that will be charged individually for each of these services should the block fee
  - 173 option not be selected, provide examples of those services (if any) that are not
  - 174 covered, and indicate for which services (if any) the fee is simply reduced if the
  - 175 block fee option is selected;<sup>31</sup>
  - 176 ○ Use plain language and refrain from using language that is or could be perceived
  - 177 as coercive or which suggests that without payment of the block fee, services will
  - 178 be limited or reduced, or that quality of care provided in the physicians’ practice
  - 179 may suffer;
  - 180 ○ Invite patients to consider whether payment of a block fee is in their best
  - 181 interest given their needs or usage of uninsured services; and
  - 182 ○ Provide patients with a copy of this policy and/or the appended Patient
  - 183 Information Sheet or provide instructions on how to access these documents.<sup>32</sup>
- 184 2. Be available to answer any questions patients have about the physician’s billing policy  
185 and about any charges the patient does not understand.<sup>33</sup>
- 186 3. Be available to help patients assess whether payment of a block fee is in their best  
187 interest given their needs or usage of uninsured services.<sup>34</sup>

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<sup>27</sup> For more specific guidance on ending the physician-patient relationship, refer to the College’s Ending the Physician-Patient Relationship policy.

<sup>28</sup> For more specific guidance on accepting new patients, refer to the College’s Accepting New Patients policy.

<sup>29</sup> Section 18(2) of the *CFMA, 2004*.

<sup>30</sup> This can include e-communication; however, physicians must provide information to patients by other means (i.e., mailed letter) if their patient(s) do not have access to the internet. Physicians are reminded of the inherent risks in using e-communication with patients and are advised to refer to relevant privacy legislation, policies and guidelines for further direction.

<sup>31</sup> Some uninsured services are particularly time consuming (e.g. complex medical reports). Physicians may choose to provide a discounted fee for these services to those patients who elect to pay a block fee.

<sup>32</sup> For example, physicians can refer their patients to the College’s Public Advisory Service (1-800-268-7096 ext. 603) or direct patients to the College’s website for further information about the College policy.

<sup>33</sup> Physicians using a third party to administer their block fee may rely on the third party to provide assistance to the patient, but physicians must be available to help patients directly and patients must be informed that they can speak with the physician directly.





188 4. Obtain written confirmation if the block fee option is chosen and maintain it as part of  
189 the patient's medical record.<sup>35</sup>

190 Patients must be given the opportunity to rescind the decision to pay a block fee within a week  
191 of their original decision, in which case they would be required to pay for services individually  
192 as they are provided. In the event that the patient does rescind their decision to pay a block  
193 fee, physicians must refund the amount charged for the block fee and may then charge the  
194 patient individually for any uninsured services already provided.

195 When a patient leaves a practice or is terminated from a practice, or the physician ceases to  
196 practice, physicians are advised to consider whether it would be reasonable to refund a portion  
197 of the block fee. In so doing, physicians are advised to consider both the time remaining in the  
198 block fee and the services that have been provided to date.

#### 199 **Use of Third Party Companies**

200 Physicians may find it helpful to utilize the services of a third party company to assist them in  
201 administering and managing block fees or payment for uninsured services more generally. Any  
202 communication between the third party company and patients must identify the third party by  
203 name and indicate that they are acting on the physician's behalf.

204 Third parties who administer block fees or manage payment for uninsured services are acting  
205 on the physician's behalf. As such, physicians are responsible for ensuring these companies  
206 adhere to the same standards required of physicians, as outlined in this policy, other relevant  
207 College policies,<sup>36</sup> and applicable legislation.<sup>37</sup>

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<sup>34</sup> As with above, physicians may rely on the third party to provide this assistance, but must be available directly to the patient and patients must be informed that they can speak with the physician directly.

<sup>35</sup> For more specific guidance on medical records requirements, refer to the College's Medical Records policy.

<sup>36</sup> This includes, but is not limited to, the policies listed in Footnote 7.

<sup>37</sup> This includes, but is not limited to, the legislation listed in Footnote 8 and the *Protection of Personal Health Information Protection Act, 2004*, S.O. 2004, c.3, Sched. A.