Extra-Billing and Queue-Jumping are prohibited under the Commitment to the Future of Medicare Act, 2004 (CFMA)

The CFMA, particularly Part II, confirms Ontario’s commitment to the principles set out in the Canada Health Act: Canadians should be able to access medically necessary health care based only on need and not on ability to pay. Specifically, the CFMA supports the prohibition of two-tier medicine, extra-billing and user fees for receipt of, or access to, insured health care services.

What are the hospital’s obligations under the CFMA?
Hospitals should be aware that they cannot charge an insured person for the provision of, or access to, insured health care services. In addition, physicians (and other prescribed persons as listed in the CFMA, Regulation 288 (section 7), have a mandatory obligation to report any incidence of suspected queue-jumping they discover during the course of their professional duties.

Violations of the CFMA are investigated by the ministry and any person or entity who contravenes the CFMA may be charged with an offence, and, if convicted, subject to a fine.

What is extra-billing?
Extra-billing is any charge or payment or other benefit received by any person or entity for an insured service in addition to the amount that is paid by the Ontario Health Insurance Plan (OHIP). Extra-billing is prohibited under the CFMA. This means hospitals cannot charge a patient any amount for an insured service, including the hospital personnel, equipment, supplies and services that are required to provide the service. To receive such payment or other benefit for the provision of an insured service is illegal and is referred to as receiving an ‘unauthorized payment’.

Hospital services that are set out in the Health Insurance Act (HIA), Regulation 552 (sections 7 and 8) are insured regardless of whether or not the particular service, technology, supply, program, etc., receives dedicated funding from the ministry or other source (e.g. Cancer Care Ontario).
Patients cannot be charged for insured hospital services. Examples of some common complaints for extra-billing are from patients who have been charged for:

- accommodation co-payments beyond those permitted under Regulation 552, section 10;
- upgraded lenses for cataract surgery without receiving a credit for the cost of the medically necessary lens (refer to INFOBulletin 4521 Cataract and Lens Insertion Surgeries);
- drugs, when administration of the drug is not the sole reason for the hospital visit. For example, a hospital cannot charge for a drug or administration of the drug if
  - a hospital service is required for safe storage, delivery, or administration of the drug, or
  - for patient assessment during and after the administration, and/or possible emergency intervention required as a result of the administration;
- audiology testing; and
- cochlear and ocular implants.

Simply put, if a medically necessary service is listed in one of the payment schedules prescribed under regulation, or is set out in Regulation 552 as a hospital service to which a patient is entitled without charge, it is insured. No charge can be made to the patient for the provision of that service.

What about uninsured services?
While there is no specific or inclusive list of uninsured services, Regulation 552, section 24 sets out what is not insured by OHIP. Excluded hospital services are set out in section 24(2). In the provision of uninsured services, hospitals are obligated to ensure they provide sufficient information to allow patients to make a decision about receiving and paying for the uninsured service.

For example, if a patient requests a private room and private accommodations are not medically necessary, the hospital is obligated to inform the patient

- that a ward room is insured and provided at no charge (Regulation 552, section 7), and
- that the private room is not insured and the patient is responsible for the additional charge.

What is queue-jumping?
Queue-jumping is requiring or accepting a payment or other benefit in exchange for the provision of access to an insured service. Such payments and benefits for preferential access are in violation of the CFMA. Examples of queue-jumping are:

- offering a patient an earlier appointment date for a test in return for payment (e.g. a donation), or
- asking a patient to purchase an insured device, such as a cochlear implant, in order to jump the queue to have the device inserted.

Complaints of extra-billing or queue-jumping
The ministry investigates all complaints of extra-billing and queue-jumping.

The CFMA sets out the process under which the ministry can investigate a complaint. During an investigation, individuals must provide any information requested by the General Manager of OHIP (GM).
When the GM is satisfied that there has been an unauthorized payment, the ministry will ask that the patient be reimbursed. If the person or entity (e.g. hospital) that received the unauthorized payment refuses to reimburse the patient, the ministry will reimburse the patient and recover the money from the person or entity plus an administrative fee of $150.00 per unauthorized payment received.

**What are the penalties under the CFMA?**

Individuals or corporations who contravene the CFMA can be subject to prosecution.

- An individual who contravenes a provision of the CFMA, other than the requirement for mandatory reporting of queue-jumping, is guilty of an offence and liable to a fine not exceeding $10,000, if convicted.
- An individual who contravenes the CFMA requirement for mandatory reporting of queue-jumping is guilty of an offence and liable to a fine not exceeding $1,000, if convicted.
- A corporation that contravenes a provision of the CFMA, other than the requirement for mandatory reporting of queue-jumping, is guilty of an offence and liable to a fine not exceeding $25,000, if convicted.
- In addition, the court may order an individual or corporation so convicted to pay compensation or make restitution to any person who suffered a loss as a result of the offence.

**How can I ensure that I am in compliance with the CFMA?**

Review your obligations under the CFMA by reading it online at [www.e-laws.gov.on.ca](http://www.e-laws.gov.on.ca). There are also INFOBulletins and fact sheets available on the ministry website that address this topic. If you still have questions, you may send an email to CFMA.Program@ontario.ca.

**Note:** This INFOBulletin is a general summary provided for information purposes only. Physicians and hospital administrators are directed to review the HIA, Regulation 552, the Schedules under that regulation and the CMFA, for the complete text of the provisions. You can access this information on-line at: [www.e-laws.gov.on.ca/index.html](http://www.e-laws.gov.on.ca/index.html).

In the event of a conflict or inconsistency between this bulletin and the applicable legislation and/or regulation, the legislation and/or regulations prevail.