

INFOBulletin

Keeping health care providers informed of payment, policy or program changes

To: Physicians, Hospitals and Independent Health Facilities

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Re: Cataract and Lens Insertion Surgeries

The Ministry of Health and Long-Term Care receives a significant number of inquiries related to charges associated with eye tests for cataract surgery, and intraocular lenses. This INFOBulletin is being issued to remind providers of the payment rules related to these services. Providers can help reduce the number of extra-billing investigations by ensuring that patients understand any potential additional charges for these services.

Background

- Cataract and associated intra-ocular lens insertion surgeries are insured under OHIP.
- No amount can be charged to the patient for the medically necessary lens or eye tests, or for constituent elements of any insured service regardless of the type of setting in which the service is provided.
- A physician must give the patient the option of receiving the medically necessary tests and lenses without charge.
- Charges to patients beyond the fees payable by OHIP for insured physician and hospital services are violations of the *Health Insurance Act* (HIA) and the *Commitment to the Future of Medicare Act* (CFMA). When provided in a non-hospital setting, charges for the medically necessary services beyond the fees payable by OHIP, including additional charges for the lens, are in violation of the *Independent Health Facilities Act* (IHFA).

A physician might offer a patient:

- lenses with features that are not medically necessary, such as multi-focal lenses to correct refraction, and/or
- tests that are not medically necessary.

Physicians who offer and charge patients for uninsured services may wish to review their legal obligations under the *Medicine Act*. This information related to this issue can be found in Regulation 856, “Professional Misconduct”, under the *Medicine Act*, and in the College of Physicians and Surgeons of Ontario policy “Block Fees and Uninsured Services”.

When a patient makes a voluntary choice to purchase an uninsured lens, test or other service:

- The physician is required to obtain the patient's informed consent for receipt and purchase of a medically unnecessary test and/or lens.
- The physician, hospital or other entity is required to give the patient credit for the cost of the medically necessary lens applied against the cost of the elective lens.
- The physician is required to provide the patient with an itemized invoice and receipt that shows that credit was given for the cost of the medically necessary lens and amounts charged for each uninsured service.
- For transparency, it is recommended that hospitals and other entities provide itemized invoices and receipts.

Features of lenses that are not medically necessary

Examples of lens features that the Ontario Health Technology Advisory Committee has determined do not provide significant clinical advantage include, but are not limited to, the following:

- multi-focal
- hydrophilic acrylic
- sharp-edged
- 3-piece
- aspherical modified prolate anterior surface
- blue or violet light filtering

Legal framework

When the service is provided in a hospital, the patient is entitled to receive the medically necessary lens or eye tests without charge under Section 7 or Subsection 8(1) of Regulation 552 under the *Health Insurance Act* (HIA) as the case may be. Any amount that is charged or received by any person or entity in addition to the amount that is payable by OHIP for the medically necessary lens or diagnostic test is an unauthorized payment that would be in violation of Section 10 under the *Commitment to the Future of Medicare Act* (CFMA).

When the service is provided in any other type of setting, whether or not the facility is licensed under the *Independent Health Facilities Act* (IHFA) to provide insured cataract and clear lens exchange surgeries, any charge to the patient for a medically necessary lens or eye test, or other necessary adjunct to the insured physician service, such as the premises, equipment, supplies and personnel that are required to provide the service, would be an illegal facility fee in contravention of Section 3 under the IHFA.

For information regarding charges for uninsured services, please see Regulation 856 under the *Medicine Act* and the College of Physicians and Surgeons of Ontario policy, "Block Fees and Uninsured Services" (www.cpsso.on.ca/policies/policies).

In any setting, access to insured cataract or clear lens insertion surgery cannot be conditional on a person's decision to pay for uninsured services. It would be a violation of Section 17 under the CFMA for any person or entity to pay or confer a benefit, or to charge or accept payment or a benefit in exchange for preference in obtaining or providing access to an insured service.

References

The Ontario Health Technology Advisory Committee Recommendation “Intraocular Lenses for the Treatment of Age-Related Cataracts”, October 2009, is available on the ministry website at www.health.gov.on.ca.

The College of Physicians and Surgeons of Ontario policy on “Block Fees and Uninsured Services” is available on the College website at www.cpsso.on.ca.

Advisement

This INFOBulletin is a general summary provided for information purposes only. In the event of a discrepancy between this INFOBulletin and the HIA, CFMA, IHFA and Regulations, the text of the law prevails. For complete text, health care providers are directed to review the HIA, Regulation 552 under the Act, the Schedules under Regulation 552, the CFMA and the IHFA. Ontario laws and regulations are available on-line at www.e-laws.gov.on.ca.