

Medical Eligibility Committee
Comité d'admissibilité médicale



Annual Report
2017-18

Medical Eligibility Committee

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The Honourable Christine Elliott
Deputy Premier and Minister of Health and Long-Term Care
Minister's Office
Hepburn Block, 10th Floor
80 Grosvenor Street
Toronto ON M7A 2C4

June 29, 2018

Dear Minister:

RE: Medical Eligibility Committee Annual Report

On behalf of the Medical Eligibility Committee, it is my pleasure to submit the 2017-18 Annual Report.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "DL Borenstein".

Dr. David Borenstein
Chair, Medical Eligibility Committee

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Chair's Message



On behalf of the Medical Eligibility Committee (MEC), it is my pleasure to submit our Annual Report for the fiscal year of 2017-18.

MEC is mandated to conduct reviews when there is a dispute regarding a decision by the General Manager of the Ontario Health Insurance Plan (OHIP) and an insured person. These disputes are in relation to insured services in a hospital, or health facility that are deemed not medically necessary.

The Board's activities in 2017-18 were primarily focused on the recruitment of members. By legislation, to constitute a quorum and exercise all functions of the Committee, three members must be appointed. A third member was recruited in April of 2018, giving MEC a sufficient number of members to constitute a quorum.

Recruitment will continue to take place in 2018-19 to ensure continuity of operations, reflect the cultural diversity of the province's population, and to meet the 40 per cent target for women on the Committee.

The total number of requests received by MEC in 2017-18 was the highest level in the last three years, with a total of 14 requests received. With the additional member recruited, and quorum established, the Committee will shift its focus in the upcoming year to reviewing the requests that have been received while the Committee did not have quorum.

MEC is supported by physician members and staff who are committed to excellence in the service we provide to Ontarians. I look forward to the year ahead and leading the ongoing work of the Committee.

A handwritten signature in blue ink, appearing to read 'DL Borenstein'.

Dr. David Borenstein, Chair
Medical Eligibility Committee

Legislative Authority and Mandate

The Medical Eligibility Committee (MEC) is created under the authority of the *Health Insurance Act*, R.S.O. 1990, C.H.6, and is given independence in the determination of all questions of law and fact with respect to matters within its jurisdiction.

When there is a dispute regarding a decision by the General Manager of the Ontario Health Insurance Plan (OHIP) that an insured person is not entitled to an insured service in a hospital or health facility because such services are not medically necessary, the matter may be referred to MEC.

When considered necessary by MEC, the Committee may interview the insured person and discuss the matter with him/her and/or their physician. After giving consideration to the matter, MEC shall make recommendations to the General Manager that the sum or sums claimed by the insured person should be paid, or that the General Manager refuse payment. Decisions of MEC are binding upon the General Manager of OHIP.

Mission

MEC will act with integrity to provide fair, ethical and professional review of the cases before it while complying with all applicable laws and being accountable for its decisions and actions.

Operational Highlights

Member Recruitment

The recruitment of a new Chair for MEC was undertaken in 2016-17 with the new Chair, Dr. David Borenstein, appointed on May 23, 2017. Recruitment of additional members for MEC was undertaken in 2017-18, with one additional member, Dr. John Davidson, being appointed in April of 2018. Dr. Susan Au was also reappointed to the Committee in 2017-18. These appointments support the Board's effort to meet its legislatively required membership composition and to produce a quorum. Further efforts will be undertaken in the 2018-19 fiscal year to recruit additional members.

Gender Diversity

Provincial gender diversity targets were announced in 2016 to ensure that more women have the opportunity to reach top leadership positions on provincial boards and agencies. The target set was that by 2019, women would make up at least 40 per cent of all appointments to every provincial board and agency, including MEC. As of March 31, 2018, 33 per cent of MEC members are women. Additional recruitment is being undertaken in 2018-19 and this recruitment will consider gender diversity.

Process Review

In 2017-18, the Health Boards Secretariat, which provides case management and administrative support for MEC, as well as the Health Professions Appeal and Review Board (HPARB), Health Services Appeal and Review Board (HSARB), Ontario Hepatitis C Assistance Plan (OHCAP) Review Committee, and Physician Payment Review Board (PPRB), began to put into effect the recommendations that it received from a process review that took place in 2016-17 of the operations of the Secretariat. The operational process review, which was undertaken by the Business Innovation Office of the Ministry of Health and Long-Term Care, provided recommendations to update the Health Boards Secretariat's processes in order to strengthen the protection of personal health information of patients where there is a dispute over whether a service is deemed as medically necessary.

Mandate Review

The *Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009*, requires that all adjudicative tribunals participate in a mandate review once every six years. The purpose of a mandate review is to ensure that the tribunal's mandate continues to be relevant, its governance structure and management systems continue to be appropriate to its mandate and functions, and to ensure that it is accountable, transparent, and efficient in its operations while remaining independent in its decision making. A mandate review also examines whether the functions performed by the tribunal are best performed by the tribunal, and whether they could be better performed by a ministry, another agency or entity. In 2017-18, MEC participated in a mandate review led by the Ministry of Health and Long-Term Care and looks forward to receiving information on the outcomes of the review from the ministry.

Independent Legal Counsel

In 2017-18, MEC retained independent legal counsel. By statute, the agency's membership is composed of physician members. As proceedings of an adjudicative tribunal are inherently legal in nature, the agency must ensure it has the legal tools and resources readily available where questions of law are brought forward. Independent legal counsel is also able to provide advice to the agency on legislative obligations and risks inherent to tribunal decision making.

Updated Memorandum of Understanding

In 2017-18, the Memorandum of Understanding between the Chair of MEC and the Minister of Health and Long-Term Care was finalized. The Memorandum of Understanding establishes accountability relationships, roles and responsibilities, an ethical framework, reporting requirements, administrative arrangements, etc.

Professional Training and Development

In November 2017, the Chair of MEC attended the annual conference of the Society of Ontario Adjudicators and Regulators (SOAR) in Toronto. The mission of SOAR is to advance administrative justice through education, advocacy and innovation. The Chair of MEC also attended an Ethics Executive Orientation Workshop offered by the Conflict of Interest and Ethics Commissioner's Office to educate Ethics Executives on best practices regarding being an Ethics Executive and making ethical decisions. The Chair serves as the Ethics Executive for MEC.

Caseload Statistics

Summary of Activity

MEC received 14 requests for review in 2017-18. During 2017-18, MEC only had two members, one being the appointed Chair. As per the *Health Insurance Act*, any three members constitute a quorum and are sufficient for the exercise of all functions of MEC. Without three members, MEC was unable to consider any matters in 2017-18.

As noted above, recruitment of additional members for MEC is expected to be completed in 2018-19. Issuing decisions for outstanding requests for review will be a priority for MEC in 2018-19 as it has quorum.

	2013-14	2014-15	2015-16	2016-17	2017-18
Requests Received ¹	-	-	6	8	14
Matters Considered	8	4	8	0	0
Decisions Issued	8	4	8	0	0

Dispositions

As noted above, without three members, MEC was unable to consider any matters or issue any decisions in 2017-18.

	2013-14	2014-15	2015-16	2016-17	2017-18
Denied	7	4	8	0	0
Approved	0	0	0	0	0
Deferred	1	0	0	0	0
Total	8	4	8	0	0

¹ Administrative and case management support for MEC in 2013-14 and 2014-15 was provided by the Health Services Branch of the Ministry of Health and Long-Term Care and made publically available on the ministry's website.

Service Standards

Once MEC's legislated membership requirements have been met, MEC's service standard will be to review matters within the Committee's mandate within a four month period from receipt of request to decision issuance.

Membership

The Minister of Health and Long-Term Care can appoint up to fifteen physician members to MEC. However, as of March 31, 2018, MEC had only two appointed members, one being the Chair. As per the *Health Insurance Act*, any three members constitute a quorum and are sufficient for the exercise of all functions of MEC. In April of 2018, one additional member was recruited constituting a quorum for MEC. Additional recruitment is being undertaken to ensure there are additional Board Members appointed, and the Committee will not be unconstituted in the future.

MEC Members (March 31, 2018)

Name	First Appointed	Term Ends
Susan Au	February 2008	February 2018
David Borenstein (Chair)	May 2017	May 2019

Staff

MEC is supported by 21 staff in the Health Boards Secretariat of the Ministry of Health and Long-Term Care. The Health Boards Secretariat is led by a Registrar and includes an executive support team, case management team, administrative support team, and information technology team.

The Health Boards Secretariat's staff also provides support to four other adjudicative bodies – the HPARB, HSARB, OHCAP Review Committee and PPRB. MEC's office space and Toronto hearing rooms are also shared with these adjudicative bodies. The Health Boards Secretariat also processes per diem and expense claims to public members of the health regulatory colleges.

Financials

The below financial information does not include salary and wages for Health Boards Secretariat staff or facilities. These expenditures are shared between MEC, HPARB, HSARB, OHCAP Review Committee, and PPRB and also support the Health Boards Secretariat's function of processing per diem and expense claims to public members of the health regulatory colleges.

There have been expenditures realized in 2017-18 although no matters were considered by MEC during the fiscal year. MEC's expenditures are related to governance activities, such as finalizing the Memorandum of Understanding and business planning, the recruitment and reappointment of members, and working with the Committee's legal counsel to develop Committee processes and templates.

Expenditures are expected to increase in 2017-18 as MEC completes its recruitment of members and begins reviews for outstanding matters.

Expenditure Category	2013-14	2014-15	2015-16	2016-17	2017-18
Part-Time Per Diem Payments	3,733	1,328	1,328	739	10,961
Travel and Other Costs ²	508	111	24	1,495	7,069
Total³	4,241	1,439	1,352	2,234	18,030

² May include transportation, accommodation, meals, translation and making public documents (e.g. Business Plan) accessible.

³ Financial performance totals may not be consistent with previously reported expenditures by the Health Services Branch due to the provision of updated expenditure information received by the Health Boards Secretariat subsequent to the reporting by the Health Services Branch.