



## **Policy for the Provision of Cataract Surgery in Non-Hospital Designated Facilities**

Department of Health and Community Services

July 2024

Notice: This Policy is subject to review at the discretion of the Minister of Health and Community Services.

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## 1.0 Background

This policy establishes the guidelines by which the Minister of Health and Community Services (the Minister) may consider recommending a non-hospital facility to the Lieutenant-Governor in Council to attain “designated facility” status to allow for the provision of cataract surgery. For clarity, cataract surgery will continue to be provided in hospitals, this policy will only apply to cataract surgeries provided in non-hospital designated facilities.

By extending the provision of cataract surgeries to include non-hospital facilities, the Department of Health and Community Services will increase patient access to cataract surgery and reduce wait times overall.

The decision to designate a non-hospital facility to provide cataract surgery rests with the Lieutenant-Governor in Council as per subsection 3(2) of the **Medical Care Insurance Insured Services Regulations** under the **Medical Care and Hospital Insurance Act**: “For greater certainty, the medically necessary removal and replacement of a cataractous lens by any procedure is an insured service and shall be performed in a hospital or a facility designated by the Lieutenant-Governor in Council.”

A non-hospital facility in Newfoundland and Labrador cannot legally provide cataract surgery, as an insured service under the **Medical Care and Hospital Insurance Act**, without first being granted “designated facility” status by the Lieutenant-Governor in Council. Interested non-hospital facilities will have to demonstrate their ability to satisfy the requirements presented in this policy to be considered for “designated facility” status.

This policy is informed by “Schedule ‘O’ Cataract Surgery Service Fees in Non-Hospital Designated Facilities” that was signed as an amendment to the 2013-2017 Memorandum of Agreement between the Government of Newfoundland and Labrador and the Newfoundland and Labrador Medical Association. Schedule ‘O’ is attached as Annex A. This policy has been amended to incorporate the terms of an agreement between the Department of Health and Community Services and the Newfoundland and Labrador Medical Association finalized on July 10, 2024.

In addition to presenting the requirements that must be met to be considered for “designated facility” status, this policy serves as a reference document for the obligations of non-hospital designated facilities.

A patient information sheet is provided in Annex B. Non-hospital designated facilities **must** post this sheet in visible areas for public viewing in their offices and provide a copy of this information sheet, for signature, to all patients receiving cataract surgery in a non-hospital designated facility.

## **2.0 Requirements of a Non-Hospital Facility to be Recommended as a “Designated Facility”**

Non-hospital facilities that wish to be considered for “designated facility” status for the provision of cataract surgery will have to provide confirmation that they meet the following requirements:

- i. The non-hospital facility must be accredited by Accreditation Canada within 24 months of being granted “designated facility” status. Accreditation Canada is a not-for-profit agency dedicated to “working with patients, policy makers, and the public to improve the quality of health and social services for all.”

Accreditation Canada’s assessment process is undertaken through observation of the non-hospital facility carrying out its work in real time. In consideration of this non-hospital facilities who are awarded “designated facility” status, assuming Accreditation Canada does not already accredit them, will be provided 24 months to complete that process.

Once received, the non-hospital designated facility must maintain accreditation in good standing at all times going forward as a requirement of its “designated facility” status for the provision of cataract surgery.

If a non-hospital designated facility is not accredited by Accreditation Canada after 24 months of receiving “designated status”, or if it loses its accreditation, the Minister will recommend to the Lieutenant-Governor in Council that the non-hospital facility in question have its “designated facility” status suspended or cancelled as per section 2.7.

Applicants must provide confirmation that the applicant has initiated the accreditation process with Accreditation Canada at the time of the application.

Further details regarding the accreditation requirement are available in section 3.0.

- ii. Third party verification from an engineering firm, registered in Newfoundland and Labrador, confirming that the physical location of the non-hospital facility satisfies health industry standards conducive to the provision of cataract surgeries at the time of application.
- iii. The applying ophthalmologist must be in good standing with the College of Physicians and Surgeons of Newfoundland and Labrador. If an ophthalmologist other than the applying ophthalmologist is to be named Medical Director (refer to section 4.0) then that individual must also be clearly identified in the initial application submitted to the Minister (refer to subsection 2.1).
- iv. Liability Insurance: The facility must maintain public liability insurance of not less than \$1 million per claim.

## 2.1 Applying for “Designated Facility” Status

The Department of Health and Community Services invites applications from interested parties to be considered for recommendation by the Minister to attain “designated facility” status from the Lieutenant-Governor in Council.

Applicants will need to clearly identify the ownership, address and the physical location of the facility. Applicants will be expected to demonstrate the non-hospital facility’s ability to satisfy the expectations contained within this policy, Schedule ‘O’, and the contract that confers the “designated facility” status upon the non-hospital facility. The contract to which successful applicants would become party to will be with both the Department of Health and Community Services and the Provincial Health Authority. This contract will serve as the binding mechanism through which the Department of Health and Community Services will confer the “designated facility” status upon the non-hospital facility after a decision by the Lieutenant-Governor in Council.

Conditions within the contract shall be limited to the following:

- The non-hospital facility adhere to this policy document and the expectations and requirements set forth within it;
- The non-hospital facility provide itemized billing to patients, which clearly separates the costs of any uninsured medical services from insured medical services;
- The non-hospital facility acknowledges responsibility for any potential liabilities linked to the provision of cataract surgery that are outside of the direct daily administrative or clinical oversight of both the Department of Health and Community Services and the Provincial Health Authority. Further to this condition will be the inclusion of an indemnity clause in the contract that will release the Department of Health and Community Services and the Provincial Health Authority from any liability arising from the non-hospital facilities conduct as a “designated facility” for the provision of cataract surgery;
- By way of the contract that will grant “designated facility” status upon the non-hospital facility it will also be acknowledged that the **Patient Safety Act** will be applicable to the non-hospital facility for the provision of cataract surgery;
- Payment of the service fee as per Schedule ‘O’;
- Payment of insured medical services under the Medical Care Plan (MCP) as per fee code rates set out in the Medical Payment Schedule;
- For clarity, as with other insured services under the Medical Care Plan, the Department of Health and Community Services retains the right to undertake audits of insured services provided by a non-hospital designated facility; and,
- Commitment by the non-hospital facility to work with the Provincial Health Authority to establish a process concerning the acquisition of infrequently used items listed in Exhibit A of Schedule ‘O’.

After an application to be considered for “designated facility” status is received by the Department of Health and Community Services, the applicant will be engaged directly by the

Department as the process towards consideration by the Lieutenant-Governor in Council is undertaken.

Notwithstanding the above, payment of the service fee referenced in Schedule 'O' shall be reduced for procedures in excess of 6,700 per the July 10, 2024 agreement between the Department of Health and Community Services and the Newfoundland and Labrador Medical Association.

## **2.2 Notice Required to Provide Cataract Surgery**

No person shall begin providing cataract surgery in a non-hospital facility without first receiving "designated facility" status from the Lieutenant-Governor in Council as per the **Medical Care Insurance Insured Services Regulations**.

A separate designation is required for each non-hospital facility location.

## **2.3 Duration of a Non-Hospital's "Designated Facility" Status**

Schedule 'O' is in effect for ten years from the date of signing on April 18, 2019 with a review after five years. Once granted a non-hospital facility will maintain its "designated facility" status for ten years regardless of the status of Schedule 'O' unless suspended or cancelled as per sections 2.6 and 2.7 or the expiration of Schedule 'O'.

## **2.4 Application for Renewal**

Operators of non-hospital designated facilities who wish to renew their "designated facility" status after ten years must apply for renewal at least nine months prior to the expiration of their current designation status.

## **2.5 Non-Transferable**

"Designated facility" status is not transferable to another non-hospital facility regardless of facility location or facility ownership.

## **2.6 Decision to Issue, Refuse, Suspend, or Cancel "Designated Facility" Status**

The decision to issue, refuse, suspend, or cancel a non-hospital's "designated facility" status rests with the Lieutenant-Governor in Council.

Operation of a "designated facility" consistent with this policy, the contract, and Schedule 'O' will be the basis of the Minister's recommendation to the Lieutenant-Governor in Council.

When issuing or renewing "designated facility" status the Lieutenant-Governor in Council may impose any terms or conditions that are considered appropriate and consistent with policy.

## **2.7 Suspension or Cancellation of a Non-Hospital’s “Designated Facility” Status**

The Lieutenant-Governor in Council has the authority to suspend or cancel a non-hospital facility’s designation status if:

- i. the non-hospital designated facility has failed to comply with this policy;
- ii. the non-hospital designated facility is not accredited by Accreditation Canada within 24 months of attaining “designated facility” status;
- iii. the non-hospital designated facility does not maintain its accreditation status with Accreditation Canada;
- iv. the Medical Director fails to maintain good standing with the College of Physicians and Surgeons of Newfoundland and Labrador;
- v. ophthalmologists active in the non-hospital designated facility fail to maintain their own individual good standing with the College of Physicians and Surgeons of Newfoundland and Labrador; or,
- vi. the non-hospital designated facility has failed to comply with a provision of any Act of House of Assembly of Newfoundland and Labrador, regulation made pursuant to any Act of the House of the Assembly of Newfoundland and Labrador, Act of the Parliament of Canada or regulation made pursuant to an Act of the Parliament of Canada.

## **2.8 Opportunity to be Heard**

Prior to the issuance, renewal, suspension, or cancellation of a non-hospital’s “designated facility” status representatives of the non-hospital facility may seek to be heard by the Minister, or an official designated by the Minister, for this purpose. The Minister will take into account the submission of the representatives of the designated facility. An opportunity to be heard may be in the form of a written submission or an oral presentation.

The opportunity to be heard may be delayed if Accreditation Canada, or another reputable party, advises, that it is necessary to protect the public interest by immediately suspending or cancelling a non-hospital facility’s designation status. In such an event, an opportunity to be heard may not be provided beforehand. Representatives of the non-hospital facility will be provided an opportunity to be heard within 15 days of the date of any suspension or cancellation in such an event.

## **2.9 Decision by a Non-Hospital Designated Facility to Cease the Provision of Cataract Surgery**

As per Schedule ‘O’ if a non-hospital designated facility chooses to cease the provision of cataract surgery, at any time, it must provide six months’ written notice to the Department of Health and Community Services, and the Provincial Health Authority, to ensure planning for the ongoing provision of cataract surgery in the absence of the non-hospital facility is pursued.

After the non-hospital facility provides notice that it will cease the provision of cataract surgery, thereby relinquishing its “designated facility” status, if it subsequently chooses to offer cataract surgery again in the future it would have to make a new application to regain “designated facility” status.

For clarity, this section of the policy will not come into effect if the operations are interrupted temporarily due to unforeseen circumstances beyond the control of the non-hospital designated facility.

## **2.10 Publication of Information Pertaining to Non-Hospital Designated Facilities**

The Department of Health and Community Services will make information about non-hospital designated facilities available proactively to the public on its website. The information will include:

- i. the name and address of the non-hospital facility;
- ii. date the non-hospital facility was given “designated facility” status for the provision of cataract surgery;
- iii. the accreditation status of the non-hospital facility; and,
- iv. notification to the public in the event of a change to a non-hospital facility’s designation status.

Additional information pertaining to non-hospital designated facilities, other than what is stated above, may be released to the public as per the **Access to Information and Protection of Privacy Act, 2015**.

## **3.0 Accreditation**

Accreditation Canada is the sole accreditation body recognized by the Minister for recommending a non-hospital facility for “designated facility” status for the provision of cataract surgery. The Medical Director is responsible for ensuring accreditation requirements are met.

Non-hospital designated facilities must attain third party accreditation from Accreditation Canada; this requirement must be satisfied within 24 months of being granted “designated facility” status for the provision of cataract surgery. Once received, the non-hospital facility must maintain accreditation in good standing at all times going forward as a requirement of its “designated facility” status.

The non-hospital facility is responsible for paying all costs associated with attaining accreditation.

Once accreditation is attained non-hospital designated facilities must display their Accreditation Canada certificate in their facility in an area visible to the public.

For assessing and monitoring non-hospital facilities, Accreditation Canada uses the Independent Medical/Surgical Facilities (IMSF) standard developed by its affiliate the Health Standards Organization (HSO). HSO's IMSF standards apply to non-hospital facilities where invasive or operative procedures (including diagnostic and interventional endoscopic procedures) are performed with the administration of local/regional anesthesia, general anesthesia, or conscious sedation.

The IMSF standards are designed to address the level of risk according to the type of anesthesia provided to clients. Most of the criteria included in the IMSF standards are applicable to all facilities; however, some criteria are intended only for facilities providing a specific level of anesthesia.

For further information about Accreditation Canada, and to attain a copy of the IMSF standard, interested individuals can go online at [accreditation.ca/](http://accreditation.ca/). Other means to contact Accreditation Canada directly are:

Telephone	1-613-738-3800 or 1-800-814-7769 (within Canada)
Fax	1-613-738-1244
Mailing Address	1150 Cyrville Road Ottawa, Ontario, Canada K1J 7S9

## **4.0 Medical Director**

To be considered for “designated facility” status a non-hospital facility must have a Medical Director.

The Medical Director of each non-hospital designated facility must be an ophthalmologist licensed and in good standing with the College of Physicians and Surgeons of Newfoundland and Labrador.

The Medical Director must also have privileges with the Provincial Health Authority to ensure a smooth transition of services.

The Medical Director is accountable for overall day-to-day operations of the facility, including supervision of staff, safety and quality of services, financial records, emergency preparedness, and the facility's policies and procedures.

## 5.0 Payment of the Ophthalmologist's Fee-For-Service Billing Claim

Continuing current practice, the ophthalmologist's fee-for-service (FFS) billing claim for performing cataract surgery will be paid directly to the ophthalmologist after they bill the Medical Care Plan (MCP).

When the ophthalmologist bills MCP for fee codes 98930 and 98934, they will also have to include the unique institution number that will be provided to each non-hospital designated facility. This institution number will take the place of the hospital code required for billing MCP when the cataract surgery is done in a hospital.

The institution numbers will be specific to each non-hospital designated facility and will enable an audit mechanism to be in place for the oversight administration of the service fee discussed in section 6.0.

The Medical Director must inform the Department of Health and Community Services' Medical Services Division of the names of the ophthalmologists who will be performing cataract surgery in the non-hospital designated facility for which they are responsible.

## 6.0 Payment of the Non-Hospital Designated Facility's Service Fee

The service fee to be paid to the non-hospital designated facility was established in Schedule 'O' as \$945.41 per surgery. The service fee represents the total compensation due to the non-hospital designated facility for the provision of cataract surgery. No additional compensation is payable to the non-hospital designated facility. Notwithstanding Schedule 'O' as agreed on July 10, 2024 a reduced service fee (i.e. facility fee) of \$850 shall be paid for any case in excess of 6,700.

The list of infrequently used items (subsection 7.1) is excluded from the service fee.

Non-hospital designated facilities will need to bill the Provincial Health Authority for the number of cataract surgeries performed to receive the service fee. The service fee will be paid monthly. The Department of Health and Community Services will maintain the ability to monitor the number of cataract surgeries carried out within a non-hospital designated facility.

No non-hospital designated facility shall charge any additional fees to a patient receiving cataract surgery for considerations included within the service fee.

## 7.0 Supplies

Non-hospital designated facilities will procure their supplies independently of the Provincial Health Authority. The costs of these supplies are included in the consideration of the service fee established in Schedule 'O' with the exception of the list of infrequently used items listed in Exhibit A and outlined in section 7.1.

### 7.1 List of Infrequently Used Items

The non-hospital designated facility is expected to work with the Provincial Health Authority to establish the procedures necessary to request and secure the items in this section as needed.

The list of infrequently used supplies, as per Exhibit A of Schedule 'O', to be provided by the Provincial Health Authority to the non-hospital designated facility:

- Malyugin ring
- Iris hooks
- Vision blue
- Capsular tension rings
- Capsular segments
- 10-0 nylon suture
- 10-0 vicryl suture
- Centurion vitrectomy kits
- Myostat
- Myochol
- Healon
- Implantable glaucoma devices
- Kenalog/triesence
- Cartridges for rarely used lenses
- Anterior chamber lenses for rare complicated cases
- And other rarely used consumables not included in a standard cataract surgery, to be provided on an as-needed bases, for complex cases

## **8.0 Participation in Central Intake**

Non-hospital designated facilities will participate in any future central intake developed for cataract surgery. Overseen by the Provincial Health Authority the central intake will cover both hospital and non-hospital designated facilities.

The Provincial Health Authority will maintain the central intake system and related policies and procedures.

Non-Hospital designated facilities will provide the Provincial Health Authority, upon request, all relevant data to establish and maintain a provincial central intake listing. Non-hospital designated facilities are required to draw cataract patients exclusively from the provincial central intake listing, in accordance with the Provincial Health Authority policy. Ophthalmologists are not permitted to maintain separate wait lists for their own use.

## **9.0 Documentation and Transfer of Information**

In accordance with the **Personal Health Information Act** the non-hospital designated facility is a “custodian” of personal health records.

To ensure both continuity of care and the continued adoption of electronic health tools within Newfoundland and Labrador’s health care system non-hospital designated facilities shall use an Electronic Medical Record (EMR). The non-hospital designated facility will commit to collaborating with the Department of Health and Community Services and its stakeholders to transfer data electronically from their EMR systems into a data collection system to facilitate wait time reporting and other data collection requirements.

## **10.0 Wait Time Reporting**

Wait times are a measure of how efficiently patients are gaining access to medical treatment and care. They also indicate the health care system’s ability to meet the continually changing demands to provide care in the most appropriate setting in a timely way. Wait time information increases accountability and supports decision-making.

In Newfoundland and Labrador, the Provincial Health Authority is responsible for monitoring and reporting wait time data to the Department of Health and Community Services on a regular basis in keeping with provincial and national definitions for public wait time reporting. This information is then compiled for reporting on the Department of Health and Community Services web site. The Provincial Health Authority is responsible for ensuring the information they provide is verified and accurate before being sent to the department.

Non-hospital designated facilities will also have to report their wait time data to the Department of Health and Community Services. The Medical Director of a non-hospital designated facility is responsible for ensuring wait time information is collected.

## 11.0 Annual Cap

As per Schedule 'O', commencing 2020-2021, there shall be an annual provincial cap of 3,500 cases to be performed in non-hospital designated facilities, comprising of a regional cap of 1,231 cases within the Eastern Urban Zone (formerly Eastern Health) and a regional cap of 2,269 cases within the Western Zone (formerly Western Health). Any cases performed in a hospital facility will not be deducted from the provincial or regional caps.

As per Schedule 'O', commencing in 2020/2021, the number of procedures comprising the annual provincial cap and the corresponding regional caps shall be adjusted annually. Changes shall be based on demographic projections from the Department of Finance, and a calculation of total predicted regional demand based on factors derived from relevant peer-reviewed evidence. The factors are the rate of cataract surgeries for the population 65 and over, plus the ratio of surgeries performed for people under the age of 65 to the total number of cataract surgeries.

The cap will be shared among non-hospital designated facilities if multiple non-hospital facilities within a region are granted "designated facility" status by the Lieutenant-Governor in Council. The determination as to how the cap will be shared among non-hospital designated facilities will be made in consideration of, among other things, the number of ophthalmologists operating in the non-hospital designated facilities and the development of central intake for cataract surgery. The implementation of the provision of cataract surgeries in designated facilities is anticipated to occur in a staggered manner as individual non-hospital facilities undertake the necessary preparations.

Notwithstanding the above, on July 10, 2024 it was agreed that there shall be an increase in the number of procedures at the facility fee of \$945.41 and then an additional number of procedures at a lesser fee of \$850 as follows:

- An additional 3,200 procedures at \$945.41 (1,320 Western Zone and 1,880 Eastern Urban Zone); and
- Then an additional 2,100 at Reduced Facility Fee of \$850 (866 Western Zone and 1,234 Eastern Urban Zone).

### 11.1 Biannual Allocation of the Regional Cap

The regional caps will be allocated biannually in consideration of the following:

- To facilitate the potential inclusion of a new non-hospital designated facility within a region, a biannual distribution of the regional cap will allow for a fair approach to the sharing of the annual regional cap.
  - Non-hospital facilities, once they attain "designated facility" status, would be given a start date corresponding to the beginning of the upcoming biannual period (refer to Table 1 below).
- Biannual allotments will allow for better planning and scheduling by ophthalmologists operating from a non-hospital designated facility.

- To ensure the ongoing sustainability of ophthalmology support services in the public hospitals, separate from non-hospital facilities, it is vital that cataract surgeries continue to occur in hospitals on a routine basis. This approach addresses that concern for regions where the majority of cataract surgeries can be reasonably anticipated to occur outside the public hospital system in the future.
- A non-hospital designated facility will be able to carry forward unused portions of their biannual allotment within a fiscal year (April 1 to March 31). No carry over is permitted between fiscal years.
- As noted in section 11.0 the cap will be shared in the event there are multiple non-hospital designated facilities within the same region.
- If a non-hospital facility is granted “designated facility” status by the Lieutenant-Governor in Council, any non-hospital designated facility that will experience a change in its cap allocation will receive notice of the date on which its allocation will be changed in accordance with this section.
  - **Notice Period:** The Department of Health and Community Services will provide a six-month notice period to each non-hospital designated facility affected by a new entrant being granted “designated facility” status.
- The table below provides biannual distribution numbers for the regional caps. This table will be updated and provided for general circulation in the future to correspond with any changes to the cap as per Schedule ‘O’.

**Table 1: Biannual Allocations of the Regional Caps**

	Eastern Urban Zone	Western Zone
1 <sup>st</sup> biannual period (April to September)	616	1,135
2 <sup>nd</sup> biannual period (October to March)	615	1,134
Total Regional Cap (annually)	1,231	2,269

For greater certainty, one-time procedure allocations, in excess of those expressly included in Schedule O, are one-time allocations which are subject to the ophthalmologists providing the appropriate level of service required by the Provincial Health Authority in its facilities as noted in section 12.0. In the event this service is not maintained, one-time allocations will not be renewed in the next bi-annual period and the non-hospital designated facility will be advised twelve months prior to the commencement of that bi-annual period.

## **12.0 Connection to the Provincial Health Authority and Comprehensive Care**

All ophthalmologists, or locums on their behalf, who operate in a non-hospital designated facility must:

- maintain privileges with and provide comprehensive ophthalmology care within the Provincial Health Authority facilities;
- participate and share equally in on-call coverage with the Provincial Health Authority; and,
- provide comprehensive ophthalmology care in their practice.

For greater certainty, the ophthalmologist cannot cancel Provincial Health Authority clinic time in favour of non-hospital designated facility activity and MUST undertake the full scope of practice in their Provincial Health Authority based clinics. Ophthalmologists must ensure intra-facility operating room and clinic utilization are maintained.

Furthermore, ophthalmologists are not permitted while providing Provincial Health Authority based services to refer patients to their non-hospital designated facility and subsequently charge them for services that would be free if conducted in a Provincial Health Authority facility.

## **13.0 Patient Safety**

The **Patient Safety Act** will apply to non-hospital facilities by way of their contract after the issuance of “designated facility” status for the provision of cataract surgery. For clarity non-hospital designated facilities will be considered “health care providers” as referred to within the Patient Safety Act and they will be providing a “health service” through the provision of cataract surgery.

Non-hospital designated facilities must develop an internal process to report and investigate close calls and occurrences.

A close call would be any potential occurrence that did not actually occur due to chance, corrective action or timely intervention.

An occurrence means an undesired or unplanned event that does not appear to be consistent with the safe provision of health services.

The Medical Director is to report all occurrences to the Provincial Health Authority and the Department of Health Community Services within 10 days of occurrence or discovery after the fact.

The Department of Health and Community Services will review the circumstances of any close call or occurrence brought to its attention. If necessary, the Minister may seek suspension of the

non-hospital facility's designation status, as per subsection 2.7, until satisfactory corrective action has taken place.

### 13.1 Queue Jumping

Queue jumping is prohibited. Non-hospital designated facilities are expected to ensure that ophthalmologists, and other staff, do not, for the purpose of giving patient preferential access to cataract surgery:

- give or accept any money or other valuable consideration;
- accept payment for enhanced medical goods or services or non-medical goods or services; or,
- provide a non-insured surgical service.

For clarity, queue jumping would **not** include instances when a patient requires urgent medical treatment.

## 14.0 Patient Charges

For MCP beneficiaries receiving cataract surgery there should be no distinguishable financial difference between receiving this insured service in hospital or in a non-hospital designated facility. The non-hospital designated facility must adhere to the **Canada Health Act** and the **Medical Care and Hospital Insurance Act**.

No amount can be charged to the patient for insured lens, diagnostic test, 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 insured lens and services at no cost to the patient.

Refer to section 15 for further information concerning the dual provision of insured and non-insured services.

### 14.1 Extra Billing and User Charges

MCP beneficiaries, and other insured persons, when receiving an insured service, such as cataract surgery, do not have to pay or compensate the non-hospital designated facility, ophthalmologist, or any staff any additional amount to cover the cost of the insured service being received.

Subsection 7(1) of the **Medical Care and Hospital Insurance Act** addresses extra billing and stipulates that a medical practitioner shall not charge or collect from a MCP beneficiary a fee for those insured services in excess of the amount payable under the Act and its regulations. Furthermore, subsection 7(2) goes on to state that a medical practitioner, or other person, who contravenes subsection 7(1) of the Act is guilty of an offence and liable on summary conviction to a fine of not more than \$20,000 for each contravention.

A user charge is defined in the **Canada Health Act** as "...any charge for an insured health service that is authorized or permitted by a provincial health care insurance plan that is not payable,

directly or indirectly, by a provincial health care insurance plan, but does not include any charge imposed by extra-billing.” No user charges are permitted in association with the provision of cataract surgery in non-hospital designated facilities for aspects of the surgery that are covered by MCP or the service fee set in Schedule ‘O’.

Non-insured services that could be offered in association with cataract surgery would typically require payment by the patient. Non-insured services are discussed further in subsection 14.2 and section 15.

## **14.2 Use of Block Fees and Distinguishing between Insured and Non-insured Services**

Block fees are a potential payment option to cover the cost of non-insured services whereby a physician and patient agree to a payment plan for a set period of time. This is commonly used payment method associated with non-insured services. However, for the provision of cataract surgery non-hospital designated facilities must offer itemized billing to ensure clarity for the patient between insured and non-insured costs. As such, block fees are not permitted in association with insured services such as cataract surgery.

As section 15 outlines it is anticipated that non-hospital designated facilities may offer both insured and non-insured services. MCP pays the cost of any insured services on behalf of MCP beneficiaries. All other costs incurred by a non-hospital designated facility for the provision of insured cataract surgery (e.g. supplies, staff, etc.) are paid for through the service fee as per Schedule ‘O’.

## **15.0 Duty to Inform: Planning for the Dual Provision of Insured and Non-insured Services**

All patients who have cataract surgery in a non-hospital designated facility must be clearly presented with the option to receive their cataract surgery, and all associated insured services at no cost (to the patient).

It is the ophthalmologist’s responsibility to ensure a patient understands that an insured lens is available to them without charge. Patients must be informed that they are not required to purchase any additional optional add-on services when receiving cataract surgery.

Ophthalmologists have an obligation to provide patients with information about non-insured options for eye health. The ophthalmologist may discuss non-insured services related to the patient’s condition without any suggestion that such non-insured services are necessary for receiving an insured service.

When a patient makes a voluntary choice to purchase a non-insured lens, diagnostic test, or other service:

- The ophthalmologist is required to obtain the patient’s informed consent for receipt and purchase of a non-insured lens, diagnostic test, or other service.

- The ophthalmologist is required to provide the patient with an itemized invoice and receipt that shows that credit was given for the cost of the insured lens and amounts charged for each non-insured lens, diagnostic test, or other service.
- For transparency, it is required that non-hospital designated facilities provide itemized invoices and receipts.

For clarity, both refractive lens exchange (RLE) and femto-second laser are not insured services.

## **Annex A – Schedule ‘O’: Cataract Surgery Service Fees in Non-Hospital Designated Facilities**

**AMENDING AGREEMENT  
to add Schedule “O” to the 2013-2017 Memorandum of Agreement**

**BETWEEN:**

**HER MAJESTY IN RIGHT OF NEWFOUNDLAND AND LABRADOR,**  
represented herein by the President of the Treasury Board and the Minister of  
Health and Community Services (hereinafter referred to as the “Government”)

**AND:**

**THE NEWFOUNDLAND AND LABRADOR MEDICAL ASSOCIATION,** a  
body organized and existing under the laws of the Province of Newfoundland and  
Labrador and having its Registered Office in the City of St. John’s (hereinafter  
referred to as the “NLMA”)

**Together, the “Parties”**

**Whereas** Government and the NLMA have agreed to certain matters relating to cataract surgery service fees in non-hospital designated facilities;

**And whereas** the Parties agree that the matters agreed to be added as a schedule to the 2013-2017 Memorandum of Agreement;

**And whereas** Article 10.01 of the 2013-2017 Memorandum of Agreement requires mutual written consent of Government and the NLMA to amend the Agreement;

In consideration of the mutual covenants and promises and covenants exchanged herein, and for good and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, **the Parties hereby agree as follows:**

1. Schedule “O” attached hereto shall be added to the Agreement as Schedule “O”.
2. The following consequential amendments will be made to the Agreement:
  - a. The Index shall be amended to add the following text immediately after “N Interest Arbitration.....61”:

“O Cataract Surgery Service Fees in Non-Hospital Designated Facilities....66”
  - b. Article 7.01 shall be amended to add the following text immediately after “(xiv) Interest Arbitration – Schedule “N””:

“(xv) Cataract Surgery Fees in Non-Hospital Designated Facilities – Schedule “O”.

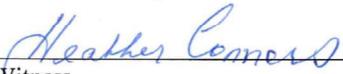
c. Article 8(a) of Schedule “N” is amended to add the following text immediately after “8. Schedule “N” Interest Arbitration”:

“9. Schedule “O” Cataract Surgery Service Fees in Non-Hospital Designated Facilities”.

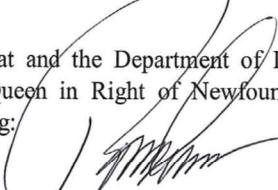
3. The terms and conditions of the Agreement remain in full force and effect.

**IN WITNESS WHEREOF** the parties hereto have executed this Agreement this \_\_\_\_ day of April, 2019.

**SIGNED** on behalf of the Human Resource Secretariat and the Department of Health and Community Services, representing Her Majesty the Queen in Right of Newfoundland and Labrador, in the presence of the witness hereto subscribing:

  
\_\_\_\_\_  
Witness

APR 17 2019  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Minister, Human Resource Secretariat,  
Executive Council, or Duly-Appointed  
Delegate

APR 17 2019  
\_\_\_\_\_  
Date

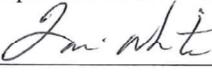
  
\_\_\_\_\_  
Witness

April 17, 2019  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Minister, Department of Health and  
Community Services, or Duly-Appointed  
Delegate

April 17, 2019  
\_\_\_\_\_  
Date

SIGNED on behalf of the Newfoundland and Labrador Medical Association by its proper officers in the presence of the witness hereto subscribing:

  
\_\_\_\_\_  
Witness

April 18, 2019  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
for President, NLMA

April 18, 2019  
\_\_\_\_\_  
Date

**Schedule "O"**

**Cataract Surgery Service Fees in Non-Hospital Designated Facilities**

1. The purpose of this Schedule is to outline the agreement reached between the Department of Health and Community Services (HCS) and the Newfoundland and Labrador Medical Association (NLMA) with respect to service fees for cataract surgeries carried out in a facility designated by the Lieutenant-Governor in Council. Service fees do not include professional fees for insured services as specified in the Medical Care Plan (MCP) Medical Payment Schedule.
2. Designated facilities will be those facilities designated by the Lieutenant-Governor in Council as meeting the established criteria as set by the Department of Health and Community Services.
3. A service fee will be payable to the operator of a designated facility on a per-procedure basis to be invoiced to the Regional Health Authority of the region in which the facility is located.
4. The service fee will be \$945.41.
5. The service fee may be reviewed at the request of the NLMA or HCS on a frequency no greater than annually. Upon request, both parties will undertake good faith discussions based on actual changes in the cost of insured cataract surgery services. During a review, HCS has the right to request verification of costs related to consumables, including rarely used consumables, staff compensation, and specific contracts.
6. The service fee represents the total compensation for the provision of cataract surgery in a designated facility and no additional compensation, except for the list of rarely used consumables attached hereto as Exhibit "A" and the MCP professional fee, is payable.
7. Rarely used consumables as identified in Exhibit "A" do not form part of this service fee and will be provided by the relevant regional health authority.
8. This Schedule shall remain in effect for ten years. The parties agree to review the Schedule at five years.
9. Any designated facility may cease provision of cataract surgery at any time by providing six months' written notice to the appropriate regional health authority.
10. Commencing in 2020/2021, and pro-rated for any portion of 2019/2020 in which a designated facility is in operation, there shall be an annual provincial cap of 3,500 cases to be performed in designated facilities, comprising a regional cap of 1,231 procedures within Eastern region and a regional cap of 2,269 procedures within Western region. HCS acknowledges that any procedures performed in a hospital facility at the request of HCS or a Regional Health Authority will not be deducted from the regional or provincial cap.
11. Commencing in 2021/2022, the number of procedures comprising the annual provincial cap and the corresponding regional caps shall be adjusted annually. Changes shall be based on demographic

projections of the Department of Finance, and a calculation of total predicted regional demand based on factors derived from relevant peer-reviewed evidence. The factors are the rate of cataract surgeries for the population 65 and over, plus the ratio of surgeries performed for people under the age of 65 to the total number of cataract surgeries.

12. This Schedule is not subject to interest arbitration.

**Exhibit A**

Infrequently used, hospital provided items:

- Malyugin ring
- Iris hooks
- Vision blue
- Capsular tension rings
- Capsular segments
- 10-0 nylon suture
- 10-0 vicryl suture
- Centurion vitrectomy kits
- Myostat
- Myochol
- Healon
- Implantable glaucoma devices
- Kenalog/triesence
- Cartridges for rarely used lenses
- Anterior chamber lenses for rare complicated cases
- And other rarely used consumables not included in a standard cataract surgery, to be provided on an as-needed basis, for complex cases.

## Annex B – Patient Information Sheet: Cataract Surgery

## Patient Information Sheet: Cataract Surgery

Cataract surgery is an insured service under the Medical Care Plan (MCP) that is available in hospitals and “designated facilities” as per subsection 3(2) the **Medical Care Insurance Insured Services Regulations** under the **Medical Care and Hospital Insurance Act**: “...the medically necessary removal and replacement of a cataractous lens by any procedure is an insured service and shall be performed in a hospital or a facility designated by the Lieutenant-Governor in Council.”

### Queue Jumping

Queue jumping is prohibited. Non-hospital designated facilities are expected to ensure that ophthalmologists, and other staff, do not for the purpose of giving any individual **preferential access** to cataract surgery:

- give or accept any money or other valuable consideration;
- accept payment for enhanced medical goods or services or non-medical goods or services; or
- provide non-insured surgical services.

For clarity, queue jumping would **not** include instances when a patient requires urgent medical treatment.

### Patient Charges

- Cataract surgery is an insured service under MCP.
- No amount can be charged to the patient for the insured lens or services.
- A physician must clearly inform the patient that they can receive the insured services and lens without incurring any cost.
- Any charges to patients by medical providers for insured services are violations of the **Medical Care and Hospital Insurance Act**.
  - Such patient charges would constitute extra billing as described in subsection 7(a) of the **Medical Care and Hospital Insurance Act**.

**Insured Services** are paid for by MCP. A physician cannot charge you for these services or any element of the service which government considers to be essential to it or “medically necessary” (e.g. making an appointment, reviewing your medical history, etc.).

**Non-insured Services** are not covered by MCP. This most common examples are sick notes, the copy and transfer of medical records, or medically unnecessary tests or materials (e.g. multi-focal lenses, refractive lens exchange).

A physician (e.g. your ophthalmologist) might offer:

- A lens with features that are not medically necessary, such as multi-focal lenses to correct refraction; and/or,
- Tests that are not covered by MCP for cataract surgery.

When a patient makes a voluntary choice to purchase a non-insured lens, diagnostic test or other service:

- The ophthalmologist is required to obtain the patient's informed consent for receipt and purchase of a non-insured lens, diagnostic test, or other service.
- The ophthalmologist is required to provide the patient with an itemized invoice and receipt that shows that credit was given for the cost of the insured lens and amounts charged for each non-insured lens, diagnostic test, or other service.
- For transparency, it is required that non-hospital designated facilities provide itemized invoices and receipts.

For clarity, both refractive lens exchange (RLE) and femto-second laser are not insured services.

#### **Patient Signature**

“I have read and understood the contents of this information sheet, or had it discussed with me by staff, and any questions I have had of the non-hospital designated facility or the cataract surgery procedure were addressed.”

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**PATIENT NAME (TYPED)**

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**PATIENT SIGNATURE**

**DATE: \_\_\_ / \_\_\_ / \_\_\_ (MM/DD/YYYY)**

Record to be kept with the patient's file at the non-hospital designated facility.



## **Department of Health and Community Services**

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