Chapter 3
Section
3.05

Ministry of Health and Long-Term Care

Physician Billing

Standing Committee on Public Accounts Follow-Up on Section 3.11, *2016 Annual Report*

In March 2017, the Standing Committee on Public Accounts (Committee) held a public hearing on our 2016 audit of physician billing. The Committee tabled a report in the Legislature resulting from this hearing in February 2018. The report can be found at **www.auditor.on.ca/en/content/standingcommittee/standingcommittee.html**.

The Committee made six recommendations and asked the Ministry of Health and Long-Term Care (Ministry) to report back by June 22, 2018. Due to the recent provincial election and the reconstitution of new Committee members, the Ministry was unable to formally respond to the new Committee until August 21, 2018. A number of issues raised by the Committee were similar to the audit observations in our 2016 audit, which we have also followed up on this year (see **Chapter 1**). The status of each of the Committee's recommended actions is shown in **Figure 1**.

We conducted assurance work between April 2, 2018 and August 31, 2018, and obtained written representation from the Ministry of Health and Long-Term Care that, effective October 31, 2018, it has provided us with a complete update of the status of the recommendations made by the Committee.

Figure 1: Summary Status of Actions Recommended in February 2018 Committee Report
Prepared by the Office of the Auditor General of Ontario

		Status of Actions Recommended				
	# of Actions Recommended	Fully Implemented	In Process of Being Implemented	Little or No Progress	Will Not Be Implemented	No Longer Applicable
Recommendation 1	4	1	3			
Recommendation 2	3		1	2		
Recommendation 3	3	2		1		
Recommendation 4	3	1	1	1		
Recommendation 5	3	1	2			
Recommendation 6	1	1				
Total	**17**	**6**	**7**	**4**	**0**	**0**
%	**100**	**35**	**41**	**24**	**0**	**0**

Overall Conclusion

As of August 31, 2018, the Ministry had fully implemented 35% of the Committee's recommended actions, and was in the process of implementing a further 41% of the recommended actions. However, there had been little or no progress on 24% of the recommended actions. For example, the Ministry is ensuring that all primary care providers are given the necessary training on the use and management of the provincial clinical viewers (web-based portals used for sharing patient information, formerly known as Connected Backbones) and has made progress in expanding access to the clinical viewers for primary care providers. However, the Ministry has made little progress in obtaining accurate information on physicians' practices, including operating costs and profit margins.

Detailed Status of Recommendations

Figure 2 shows the recommendations and the status details that are based on responses from the Ministry, and our review of the information provided.

Figure 2: Committee Recommendations and Detailed Status of Actions Taken
Prepared by the Office of the Auditor General of Ontario

Committee Recommendation	Status Details
Recommendation 1 The Ministry of Health and Long-Term Care:	
• expand access to Connected Backbones to include all primary care providers; **Status: In the process of being implemented by March 2022.**	At the time of this follow-up, the Ministry had expanded access to the provincial clinical viewers (formerly known as Connected Backbones) to over 100 of the 857 primary care group practices in the province, and 800 of 2,739 physician solo practitioners in the province. The Ministry is working with Local Health Integration Networks to expand access to the provincial clinical viewers, and targets access for 80% of primary care providers by March 2022. The connectivity specifications that health vendors can use to integrate with the clinical viewers have already been developed.
• ensure that all primary care providers are given the necessary training on the use and management of Connected Backbones; **Status: Fully implemented.**	Before the Ministry grants primary care providers access to the provincial clinical viewers, they must take mandatory user training that includes education on use and best practices for data privacy and security. Controls include requiring providers to sign agreements confirming they will follow privacy and security policies and training policies, as well as complete mandatory eLearning orientation before being granted access. Training materials are updated annually.
• ensure that data is also shared outward from primary care providers to Connected Backbones; **Status: In the process of being implemented. The Ministry was unable to provide a specific timeline until March 2019.**	A pilot project began in January 2016 and was under way at the time of our follow-up. It enables the sharing of clinical data from primary care providers to the clinical viewers. Four clinics are participating in the pilot project. Part of the pilot project is working to streamline use and collect lessons learned before a province-wide strategy can be developed, expected in March 2019. The Ministry was unable to provide a timeline for implementation of the outward sharing of primary care data until the province-wide strategy is developed.
• provide a timeline for implementation of the above; **Status: In the process of being implemented by March 2019.**	As mentioned above, the Ministry was unable to provide a timeline for the implementation of the outward sharing of primary care data until the province-wide strategy is developed, expected in March 2019.

Committee Recommendation	Status Details
Recommendation 2 The Ministry of Health and Long-Term Care:	
• develop and distribute educational resources to the public that provide guidelines and information about non-urgent care; **Status: Little or no progress.**	At the time of our follow-up, the Ministry had not developed or begun developing educational resources that provide guidelines and information for the public about non-urgent care. However, the Ministry did advise that it will be developing patient education materials in consultation with the Ontario Medical Association (OMA). The Ministry and the OMA have been without a contract since the previous agreement expired on March 31, 2014. In May 2017, the two parties agreed to a Binding Arbitration Framework Agreement (arbitration). Phase one of arbitration began in May 2018. In June 2018, the parties agreed to return to negotiation in July in an attempt to reset the relationship and explore the possibility of reaching a mutually accepted settlement. Dates in July that had been scheduled for arbitration were used for negotiation instead, and further negotiation dates were added for August and September. The parties returned to arbitration in October and have hearings scheduled to December. Phase two of arbitration will follow. Education materials will be developed contingent on the outcome of negotiations or arbitration, with a targeted date of March 2020.
• track the number of patient visits to emergency departments for non-urgent care to assess the effectiveness of the educational campaign; **Status: In the process of being implemented by March 2020.**	The Ministry and Health Quality Ontario began collecting data on patient visits to emergency departments for all primary care models, in 2017. The data collected includes information on visits to emergency departments for cases best served in primary care by patients in patient-enrolment models (where physicians are paid for providing a basket of services to a group of enrolled patients). These models support increased access to primary care, which can help patients avoid visiting emergency departments for non-urgent care.
• adjust, if necessary, and repeat the campaign until a satisfactory level of patient visits to emergency departments for non-urgent care is achieved and sustained. **Status: Little or no progress.**	The Ministry advised it would consider the effect of education materials on patient visits to emergency departments for non-urgent care once the materials are developed pending negotiations or arbitration results and consultation with the OMA, with a targeted date of March 2020. The Ministry added that multiple factors influence emergency department visits, and as a result it may not be entirely possible to isolate the specific effect that the educational campaign would have.
Recommendation 3 The Ministry of Health and Long-Term Care:	
• establish ranges for average payments to physicians by medical specialty; **Status: Fully implemented.**	The Ministry has begun using Canadian Institute for Health Information data and fee-for-service claims data to establish ranges for average payments to physicians for 64 medical specialties. The calculation uses a standard deviation around the average to create a range which the majority of physicians will fall within. In 2016/17, the lowest-paying specialty based on the range was Community Medicine with a range of $65,107–$131,974, while the highest was Ophthalmology with a range of $659,049–$1,237,715.)
• regularly track and identify reasons when payments to physicians exceed the average payment within the same specialty; **Status: Fully implemented.**	In 2017, the Ministry began using physician income levels and average ranges by specialty as part of the risk assessment when considering physicians for investigation. At the time of our follow-up, the Ministry was reviewing a number of high-billing physicians from various specialties. The purpose of these reviews is to better understand the practices of these physicians who bill in amounts that are higher than others in their specialty, and to identify any inappropriate billing.

Committee Recommendation	Status Details
• obtain accurate information on physicians' practices, including operating costs and profit margins. **Status: Little or no progress.**	The Ministry indicated that obtaining accurate information on physicians' practices, including operating costs and profit margins, would require consultation with the OMA through the negotiation or arbitration process as discussed in **Recommendation 2**. The Ministry had performed no preliminary work to determine how it should obtain financial information from physician practices or what information to obtain.
Recommendation 4 The Ministry of Health and Long-Term Care:	
• establish formal ranges for reporting the results of its payments to physicians to the public; **Status: Little or no progress.**	The Ministry has done no work to establish formal ranges for reporting to the public the results of its payments to physicians. The Ministry currently releases non-identifying information on physician billing in response to freedom of information requests.
• regularly track and monitor the accuracy of physician billings and compare these to the ranges; **Status: Fully implemented.**	As discussed in the status of **Recommendation 3**, in 2017 the Ministry began using physician income levels and average ranges by specialty as part of the risk assessment when considering physicians for investigation. The Ministry uses aggregate indicators such as total payments, number of days billed, patients seen and provincial comparisons as part of the selection criteria for investigation.
• ensure that inappropriate billings are recovered on a timely basis. **Status: In the process of being implemented by March 2020.**	The Ministry has hired eight full-time staff to be directly involved in physician billing oversight to allow for an increase in the number of interactions with physicians, the number of cases reviewed for potential inappropriate billings, and the number of voluntary repayment settlements reached. From 2016 to the time of our follow-up, the Ministry recovered or was in the process of recovering $819,950 from four physicians through proactive reviews. This represents a significant increase from the $19,700 recovered from 2013 to 2015, but is still far below the $1,837,000 recovered from 184 physicians in 2012 alone. Reactive reviews and recoveries based on complaints received have increased significantly since our audit. Between 2016/17 and 2017/18, the Ministry completed 338 reactive reviews and recovered or was in the process of recovering $2,436,500 from 57 physicians. This compares favourably to the 260 reactive reviews between 2014/15 and 2015/16, which led to $501,400 in recoveries from 19 physicians. The Ministry indicated that, as of June 2018, implementation of new software was not complete. Further investment is required to fully implement the tool. Upon implementation the software will enhance monitoring and data analysis in identifying, tracking and interacting with physicians on inappropriate payments. It explained that any changes to the review and education process would require legislative amendments to the *Health Insurance Act*. The majority of recoveries made by the Ministry are voluntarily returned by physicians after reviews are completed. Unless a physician agrees to repay amounts voluntarily, it is very difficult to recover inappropriate payments. Current legislation restricts the Ministry from ordering a physician to repay an overpayment or requesting reimbursement for payment of claims billed contrary to provisions of the *Health Services Act* unless it has an order from the Physician Payment Review Board. At the time of our follow-up, the same process was still in use for recovering overpayments from physicians. The Ministry explained that any changes to the recovery process would require legislative amendments to the *Health Insurance Act*.

Committee Recommendation	Status Details
Recommendation 5 The Ministry of Health and Long-Term Care:	
• review the recommendations from the third-party report and provide the Committee with corresponding timelines for expected implementation dates; • provide the Committee with its rationale for not implementing certain recommendations, if applicable; **Status: In the process of being implemented by March 2019.**	The third-party consultant requested an extension for completion of the report on medical liability protection costs, and as a result the report was released in April 2018, more than a year later than the original January 2017 due date. The report makes 40 recommendations. Due to the late release of the report, at the time of our follow-up the Ministry was reviewing the recommendations and committed to develop an appropriate implementation plan with corresponding timelines by March 2019.
• provide the Committee with a copy of the third-party report; **Status: Fully implemented.**	The third-party report is available on the Ministry's website at **http://health.gov.on.ca/en/common/ministry/publications/reports/medical_liability/default.aspx**.
Recommendation 6 The Ministry of Health and Long-Term Care provide the Committee with an update on the status of its billing review analysis and, if applicable, timelines for implementing changes. **Status: Fully implemented.**	On May 18, 2018, the Ministry requested written confirmation from the Canadian Medical Protective Association that the Ministry's subsidy excludes amounts associated with defending fee disputes between an Ontario physician and the government or criminal matters involving an Ontario physician. In July 2018, the Canadian Medical Protective Association responded to the Ministry's letter and indicated that billing and criminal matters represent a small percentage of overall medical liability protection costs and that the amount of funds that the Canadian Medical Protective Association expends annually on billing and criminal matters is significantly lower than the non-reimbursed portion of physician's membership fees in Ontario. Based on the response received from the Canadian Medical Protective Association, the risk of the Ministry being placed in a conflict-of-interest situation appears to be low and therefore no further action is required.