

# Notice: Proposed Amendments to Ontario Regulation 201/96 made under the Ontario Drug Benefit Act to Change Mark-ups Paid to Dispensers

February 9, 2024

Link to Regulatory Registry Posting:

<https://www.ontariocanada.com/registry/view.do?postingId=46454&language=en>

As announced in Budget 2019, initiatives have been implemented to support sustainability of the Ontario Drug Benefit (ODB) program and allow the government to continue to fund new drug therapies, bring innovation to health care system and deliver better, connected patient care. The Ministry of Health is proposing amendments to Ontario Regulation 201/96 under the *Ontario Drug Benefit Act* (ODBA) that, if approved, would expand the current mark-up payment structure for Ontario pharmacies and dispensing physicians (“dispensers”) from a two to a six-tier payment structure.

On January 1, 2020, O. Reg. 201/96 was amended to include a pharmacy payment reconciliation adjustment, a temporary measure while the government and pharmacy sector continued to consult to identify longer-term solutions. The reconciliation adjustment was applied from January 1, 2020, to March 31, 2023, and extended for one year. The reconciliation adjustment will conclude on or before March 31, 2024.

Under the proposed 6-tier mark-up payment structure, mark-up payments for lower-cost drug claims would be increased and the percentage for higher-cost drug claims would be decreased. Drugs over \$1,000 made up only 0.6% of all claims but contributed to 38% of total mark-up expenditure.

The proposed mark-up on the drug benefit price of a listed drug product per claim is:

- Where total drug cost of the product when supplied is less than \$100, there would be a mark-up of 8.5%.
- Where total drug cost of the product when supplied is \$100 or more but less than \$500, there would be a mark-up of 8%.
- Where total drug cost of the product when supplied is \$500 or more but less than \$1000, there would be a mark-up of 7%.
- Where total drug cost of the product when supplied is \$1000 or more but less than \$2000, there would be a mark-up of 6%.

- Where total drug cost of the product when supplied is \$2000 or more but less than \$4000, there would be a mark-up of 5.5%.
- Where total drug cost of the product when supplied is \$4000 or more, there would be a mark-up of 5%.

The proposal would apply to most Ontario public drug programs claims for which a mark-up is paid: all Formulary benefits including General Benefit drugs, Limited Use drugs, Extemporaneous Preparations, all drug products reimbursed through the Exceptional Access Program, Facilitated Access Products; and individual claims for long-term care home residents.

The ministry does not anticipate any additional administrative or operating costs for businesses resulting from the proposed mark-up payment structure change.

Ontario recognizes and values the role pharmacists play as part of the health care system and continues to expand and strengthen their scope of practice including administration COVID-19 vaccines, COVID-19 specimen collection for PCR testing, prescribing of antivirals (Paxlovid and Tamiflu) and prescribing for 19 common ailments.

### **Regulatory Registry Posting**

A summary and draft of the proposed amendments to the mark-up framework in O. Reg. 201/96 are available on the Regulatory Registry at:

<https://www.ontariocanada.com/registry/view.do?postingId=46454&language=en>

**The final content of any regulatory amendments described in this notice, including those in the above link, are at the discretion of the Lieutenant Governor in Council (“LGIC”) who may make, or not make, the regulatory amendments with any changes that the LGIC considers appropriate.**

The government is committed to embedding a focus on efficiencies into future multi-year planning processes and into the culture of the Ontario Public Service more broadly. To that end, the government will undertake program evaluations on a permanent and ongoing basis to ensure government services are meeting people’s needs and to identify ways to modernize programs and save money.

Interested parties are invited to provide written comments on the proposed changes to the regulation as part of the review. The ministry will consider comments received on or before March 10, 2024, at midnight EST. Please be advised that submissions received after this date may not be considered.

Please submit your written comments to:  
Health Programs and Delivery Division  
Ministry of Health

5700 Yonge Street, 3<sup>rd</sup> Floor  
Toronto ON  
M2M 4K5  
Fax: 416-325-6647  
Email: [PublicDrugPrgrms.moh@ontario.ca](mailto:PublicDrugPrgrms.moh@ontario.ca)

**Statement about Comments**

Unless requested and otherwise agreed to by the ministry, all materials or comments received from organizations in response to the notice will be considered public information and may be used and disclosed by the ministry as part of its review. The ministry may disclose materials or comments, or summaries of them, to other interested parties during and after the comment period.

An individual who makes a submission and who indicates an affiliation with an organization in his or her submission will be considered to have made his or her submission on behalf of the affiliated organization. The ministry will not disclose any personal information contained in a submission of an individual who does not specify an organizational affiliation in his or her submission without the individual's consent unless required by law. However, the ministry may use and disclose the content of the individual's submission to assist the ministry in its review.

If you have any questions about the collection of this information, you can contact the ministry's Freedom of Information and Privacy Coordinator at (416) 327-7040.

**Additional Information:****For pharmacies:**

For billing inquiries, please call ODB Pharmacy Help Desk at: 1-800-668-6641

**For all other Health Care Providers and the Public:**

Please call ServiceOntario, Infoline at 1-866-532-3161 TTY 1-800-387-5559. In Toronto, TTY 416-327-4282