

ARBITRATION AWARD QUESTIONS AND ANSWERS

Recognizing we have just recently received the arbitration award, we have done our best to anticipate questions. This list will be updated as members ask questions. Please remember that we are interpreting the award of the arbitration board and may well need to seek clarification from the board on certain matters.

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Overall

1. Why an April 1, 2017 start date of this award?

The term for this Physician Services Agreement is specified in the Binding Arbitration Framework (BAF) ratified by the membership in June 2017. As per section 44(a) of the BAF, the term of the PSA will be 4 years, April 1, 2017 to March 31, 2021.

2. Can I vote on this award?

No, the award made by the board of arbitration is binding on both the Government and the OMA, as such the award is not be subject to ratification.

3. Is the Charter Challenge continuing?

This award has no bearing whatsoever, on the OMA Charter Challenge which continues and if successful, will address the unilateral changes imposed for the period between April 1, 2014 and March 31, 2017.

4. What happens if the government legislates this award away?

Government always has the ability to legislate against this award and impose their own terms and conditions on doctors., However, if this were to occur, the OMA would have the right to bring a constitutional challenge. In this sense, the OMA is not in any different position than employees with the right to strike or with interest arbitration – if the government legislates, and imposes terms, and removes the right to strike or arbitrate, the remedy is to challenge that decision in court.

Funding

5. Is there a hard cap?

No, there is no hard or soft cap awarded by the board of arbitration. As part of this award, there will not be any limits placed on either individual billings or global spending on insured physician services.

Establishment of a hard cap on the Physician Services Budget was a key issue before the arbitration board. While the ministry maintained that the growth on the Physician Services Budget should not exceed 1.9% per year, the OMA argued that it is government's responsibility to pay for growth in physician services provided to patients. The board of arbitration agreed with the OMA and awarded no cap on Physician Services Budget.

6. Are physicians' responsible for any overages to the PSB?

No, the board of arbitration agreed with the OMA's position that physicians should not be responsible for funding services to a growing, aging and increasingly medically complex population.

7. The government proposed significant cuts to Ophthalmology, Cardiology and Diagnostic Imaging, what happened with those?

The government submission to the arbitration board included significant fee cuts to diagnostic x-rays, diagnostic CT/MRI, cardiac diagnostics, cataract and laser eye surgeries while the OMA argued against these arbitrary cuts. The arbitration board agreed with the OMA's position and did not order fee reductions to Ophthalmology, Cardiology and Diagnostic Imaging.

8. Did the Arbitration Board consider inflation in the award?

For the four-year period of the award, CPI is approximately 8.5%.

In the award, Mr. Kaplan looked at increases to physician income over an extended time period, increases in other sectors, and the total compensation impact of the award.

The effective impact of his award is:

- There will be no hard cap on the Physician Services Budget
- That the payment discount will be eliminated for services provided on or after April 1, 2019 (approximately 4%)
- Normative increases of 3.5% over the contract will be applied

This represents a total of 7.5% over the four years. Physicians were in a deep hole because of the unilateral actions of the previous government.

Redress

9. Why is the effective date of the removal of payment discounts April 1, 2019?

The OMA's position submitted to the arbitration board included reversal of the payment discount effective April 1, 2017. The ministry position was that the payment discount should continue.

Although the board of arbitration agreed to discontinue the payment discounts to fee-for-service payments (4.45%) and non-fee-for-service payments (3.15%), it did not agree for the reversal of cuts to be retroactive to April 1, 2017. Instead, the award calls for the government to discontinue the discount as of April 1, 2019.

10. How will this be implemented? When will I see the money?

The reduction in payments of 4.45% on fee-for-service claims, 3.15% on non-fee-for-service claims and 0.5% on HOCC will be discontinued as of April 1, 2019.

11. Will the fee code and program specific cuts imposed by the ministry since 2015 be reversed as well?

As part of the OMA's submission to the arbitration board, the OMA argued for a reversal of these targeted cuts. The government position was that these cuts should not be reversed. Unfortunately, the arbitration award did not include reversal of these targeted cuts.

12. Are the restrictions for joining Family Health Organizations lifted?

As part of the OMA's arbitration submission on redress, the OMA argued that the limits currently placed on physicians wishing to join Family Health Networks and Family Health Organizations be adjusted to the pre-2015 levels. The ministry does not want to expand these programs without changing them and argued that the board of arbitration does not have a jurisdiction to compel the ministry to allow physicians into capitated models.

Unfortunately, the board of arbitration did not lift the current restrictions for joining FHN/FHO models. The OMA will continue to look for opportunities to work with the ministry on ways to address these restrictions.

13. OMA sought to receive funding to account for changes to federal tax legislation. Is there any funding for that?

The OMA argued that the right of physicians to incorporate and ability for income-splitting with family members was an achieved through collective bargaining with the government. The OMA submission to the arbitration board requested a compensation increase to make up for the loss of this benefit.

The government argued that tax changes should not be and in fact are never a factor which should determine or impact the decision of an Interest Arbitration panel as it relates to changes or levels of compensation.

The award by the board of arbitration was for an overall compensation increase and did not include specific compensation increase to account for changes to the federal tax legislation.

14. Does the redress or normative increases include technical fees?

The discontinuation of the 4.45% payment discount will apply to all fee codes to which the discount was applied. This will include both professional and technical fees.

Global increases of 0.75%, 1.25%, 0.5% and 1.0% are calculated based on all payments, except the technical fees paid to the hospitals and the Ontario Physician Insurance Plan. Allocation of these increases to specialties will be negotiated/arbitrated as part of Phase II.

Normative Compensation Increases

15. When will normative increases be paid out?

Phase II will resolve matters relating to how compensation changes resulting from Phase I are to be allocated and distributed to specialties. This is where relativity adjustments will be addressed and

determined. Implementation details such as timing of any payments will be determined once Phase II is complete. The OMA will keep the membership apprised of any implementation details.

16. Normative increases are retroactive to April 1, 2017, will I see a lump sum payment amount retroactive to April 1, 2017?

Phase II will resolve matters relating to how compensation changes resulting from Phase I are to be allocated and distributed to specialties. This is where relativity adjustments will be addressed and determined. Specialties that are allocated funding increases will receive retroactive payments.

17. How will normative increases be applied to each specialty?

Phase II will resolve matters relating to how compensation changes resulting from Phase I are to be allocated and distributed to specialties. This is where relativity adjustments will be addressed and determined. At this point it is not known which specialties will receive normative increase or the scale of these increases.

Primary Care

18. As part of their arbitration position, the government proposed t a series of cuts to FHN/FHO models, are these still before the arbitration board?

No, there are no changes to any Primary Care models ordered as part of the board of arbitration award. The award calls for establishment of a Multi-Stakeholder Primary Care Working Group to examine and make recommendations regarding access and quality issues, walk-in clinic and, complexity modifiers for both capitated and non-capitated practices to PSC by July 1, 2020.

As part of its submission to the board of arbitration, the government proposed significant changes to the FHO model. Changes proposed by the ministry included changes to minimum group sizes, establishment of minimum number of patient visits per physician and urgent access to patients, changes to after-hours coverage and access bonus as well as adding codes to the current basket of services.

The OMA rejected the suggestion that there is any basis to the government's proposals.

Instead, the OMA submission included a proposal to establish a Multi-Stakeholder Primary Care Working Group to make recommendations in relation to access issues and operation and practices of walk-in clinics and similar episodic care models.

In its award the arbitration board ordered the establishment of a Multi-Stakeholder Primary Care Working Group.

19. What is the purpose of the Multi-Stakeholder Primary Care Working group?

The Multi-Stakeholder Primary Care Working Group is to examine and make recommendations regarding access and quality issues, walk-in clinics, complexity modifiers for both capitated and non-capitated practices to PSC by July 1, 2020.

20. Who are the members of the Multi-Stakeholder Primary Care Working group?

That will need to be determined as one of the issues in the implementation of the arbitration award.

21. What will happen to the recommendations made by the Multi-Stakeholder Primary Care Working Group?

The Multi-Stakeholder Primary Care Working Group will make recommendations to the Physician Services Committee by July 1, 2020. These recommendations will inform the parties ahead of 2021 PSA negotiations.

Appropriateness Working Group (AWG)

22. What is the role of the Appropriateness Working Group?

The government proposal was for a hard target in the third and fourth year of the PSA for savings resulting from appropriateness changes, including through rule changes and fee reductions.

The OMA rejected the idea of reducing the price of services that continue to be publicly insured as medically necessary as means of achieving appropriateness. The OMA argued that appropriateness of care is about physician-led and patient focused improvements to the quality of care, by identifying not only overuse and misuse but also underuse.

OMA proposed a joint Appropriateness Working Group (AWG), allowing Physicians and the government to work together to establish evidence-based standards with a goal of reducing expenditures on and the provision of inappropriate services.

The board of arbitration award calls for establishment of a bilateral committee to discuss and establish evidence informed amendments to payments by eliminating or restricting inappropriate or overused physician services, or physician payments, with the arbitration board empowered to determine changes where the parties cannot agree. The award also precludes fee reduction as a means to achieve “appropriateness”

23. What happens if the savings targets are not achieved?

The Appropriateness Working Group is tasked with identifying \$100M (\$120 M annualized) in appropriateness changes by May 1, 2019 for the 2019/20 fiscal year and a further \$360M in appropriateness changes by September 30, 2019 for the 2020/21 fiscal year. However, as proposed by the OMA, the AWG cannot set, change or reduce fees for the provision of individual services.

Furthermore, there will not be any consequences for the OMA or physicians during the term of this PSA should the estimated value of changes not materialize.

24. Who will sit on the Appropriateness Working Group?

This will need to be determined as one of the issues in the implementation of the arbitration award.

25. What happens if there is a dispute over whether a service is appropriate or not?

The board of arbitration will settle disputes over the changes to be made or the estimated value of those changes.

Phase II

26. When will Phase II negotiations start?

Phase II discussions will begin as soon as possible. The OMA will keep members apprised as to the status of these discussions.

27. How will the Phase II process work?

Discussions around the process for negotiating Phase II issues will begin immediately. At this point we expect the process to be similar to Phase I discussions where the parties try to settle any outstanding issues through a short negotiations/mediation prior to having disputes resolved by the board of arbitration.

28. What are the issues being negotiated/arbitrated as part of Phase II?

Phase II will resolve matters relating to how compensation changes resulting from Phase I are to be allocated and distributed to specialties. There may well be further arbitration to address implementation issues and any remaining unresolved proposals.

29. Will my section have an opportunity to present our proposal regarding relativity to the arbitrator?

Discussions around the process for negotiating Phase II issues will begin immediately. The OMA will discuss with government the proposal for a dispute resolution mechanism that involves submissions by the sections to the arbitration board. As stated previously, the government must agree with this approach. With Phase I concluded, we will immediately turn our attention to this issue.

30. When will the Phase II process end?

Given that Phase II discussions have not yet started, it is too early to speculate on the end date of the process