

POLICY BRIEF:

Copy EU Policy, Reduce Patient Suffering

Colin Craig | July 2022



Executive Summary

Prior to COVID-19, Canada's public health care system was already in crisis. Headlines about "hallway medicine" and patients waiting years for surgery were all too common. Government data shows that thousands of patients were dying each year while waiting for surgery.¹ In most cases, patients died while waiting for surgeries that could have improved their quality of life during their final years, but there are also many cases where timely surgery could have saved lives.

The pandemic exacerbated Canada's health care crisis. Fraser Institute research suggests waiting lists have never been longer.²

Provincial governments across Canada have been scrambling to develop strategies to reduce ballooning surgical backlogs. Some measures they've pursued include providing more surgical funding to public hospitals, hiring private clinics to perform surgeries for patients and – with at least one province – negotiating an arrangement to send patients to a health care facility in the United States for surgery.

This policy brief examines an additional solution worth considering – the European Union's (EU) cross-border health care policy.

Instead of governments negotiating to send patients to a single health care facility in another country, the EU policy empowers patients by allowing them to choose a public or private health care facility in another EU country and be reimbursed for their surgical bills by their home country.



While the way this policy is implemented differs slightly from country to country, this approach puts patients in control, rather than bureaucrats, and gives the former an opportunity to avoid long waiting lists. As long as they have a referral from a doctor, and the surgery is covered by their home country's own health care system, patients are reimbursed up to the cost the government would have covered had the surgery taken place in their home country. (Note: Some nations require prior authorization before travelling abroad for surgery.)

Provincial governments in Canada already cover some health procedures outside of Canada, but on a very limited basis. These programs could be amended to follow the EU model, so that reimbursements for eligible services are the standard rather than the exception. Patients could be reimbursed for what the government would have paid to have the surgery completed within the province (or a portion of the cost). Not only would this reduce patient suffering for those who travel for surgery (by receiving treatment sooner), but it could also reduce the waiting period for those who remain in the queue. Considering Canada's enormous surgical backlog, this option could see significant interest among patients.

Background

It is well known that provincial governments across Canada postponed hundreds of thousands of surgeries, diagnostic scans and appointments with specialists after COVID emerged. For instance, on March 15, 2020, the Ontario government asked hospitals across the province to ramp down elective surgeries in order to “preserve capacity” in the health care system and help prevent the spread of COVID-19.³ On March 26, 2020, Alberta’s Chief Medical Officer announced that those waiting for “elective or non-urgent” procedures would see their appointments postponed.⁴ Provincial governments across the country announced similar steps during the first two years of the pandemic.

These decisions allowed governments to focus the health care system’s limited resources towards fighting COVID rather than providing “elective” procedures.

However, delaying “elective” procedures cost some patients their lives.

In Alberta, Jerry Dunham, a father of two, was told in April 2020 that his pacemaker surgery was postponed and that he would have to wait “one to two years” before receiving the procedure. Several weeks later, he passed away.⁵

In Ontario, the University Health Network reported in May 2020 that upwards of 35 patients passed away due to having their cardiac surgeries postponed.⁶

Judy Anderson, a retired Ontario nurse, shared with SecondStreet.org how her daughter Shannon passed away after being forced to wait too long for a treatable heart condition. Sadly, this was the second time Judy lost a daughter due to long waiting periods in the health care system.⁷

All told, postponed procedures and surgeries nation-wide contributed to a sizable increase in government waiting lists. The Fraser Institute estimated in December 2019 that

Canadian patients were waiting for 1,062,286 procedures.⁸ Just two years later, the total had increased 34% to 1,425,517.⁹

To address the backlog, governments have pursued several different options.

Across Canada, we have seen governments increase funding for surgeries. For instance, in July 2021, the Ontario government announced an additional \$324 million in funding to reduce surgical waiting lists.¹⁰

However, the public system can only increase output by so much in the short term. That is why many provincial governments have been hiring private clinics to perform surgeries to help reduce the government’s backlog – British Columbia and Alberta are two such examples.^{11 12}

In Manitoba, the government has even sent patients to a facility in North Dakota for surgeries.¹³

The EU’s Cross-Border Directive

One measure that could help reduce waiting lists would be for provincial governments to copy the European Union’s cross-border initiative (Directive 2011/24/EU).

Unlike the Manitoba government’s approach – in which health officials decided where to send patients for surgery in the United States – this option empowers patients by letting them choose for themselves where to receive surgery. Passed in 2011, the European Union’s (EU) policy allows patients to select a public or private health provider in another EU country, pay for surgery at the facility and then be reimbursed by their home country once the procedure has been completed. (Patients are reimbursed for the lesser of what they paid for the surgery abroad or what their government would have paid in their home country for the same procedure.)

Patients are required to have a doctor's referral first, and, depending on their home country's rules, they may require authorization prior to proceeding. According to a May 2022 report by the European Commission, eight countries (Cyprus, Czechia, Estonia, Finland, Latvia, Lithuania, Sweden and Norway) have waived the "prior authorization" process, making it even easier for patients to pursue health options in other nations.¹⁴

For example, if an Irish patient received hip replacement surgery in Ireland, the government would pay approximately €10,967 for the procedure.¹⁵ If the patient wanted to avoid a long waiting period in Ireland, he or she could find a provider elsewhere in Europe that would charge €10,967 or less. The patient would then schedule the procedure, pay for it and then apply for reimbursement from the Irish government. However, if the patient wanted to have the surgery provided by a facility that charged more than €10,967, the difference would be the patient's responsibility to cover.

The Irish government described the practice as follows:

*"In general, healthcare accessed in mainland Europe is usually at costs which are lower than our reimbursement rates. However, patients are less likely to travel to mainland Europe than they were to travel to the UK or to Northern Ireland under the Northern Ireland Planned Healthcare Scheme. Healthcare in Northern Ireland where most patients are accessing the care is more expensive than our reimbursement rates and patients have shortfalls which they assume the costs of."*¹⁶

Two Irish legislators, Michael Collins and Danny Healy Rae, have even organized "cataract express" buses to take Irish patients from Ireland to Northern Ireland (United Kingdom) to avoid long surgical waits in the former. As of December 2019, they had helped over 1,500 patients make the trip to Northern Ireland for cataract surgery.¹⁷

While the "cataract express" buses have proven to be popular in Ireland, data from the European Commission indicates that overall usage of the cross-border directive has been relatively low among patients in the EU. The commission attributes the

problem to low awareness of the option among patients, a disproportionate administrative burden in some jurisdictions and uncertainty over cost reimbursement. In 2019 – the last full year prior to the pandemic – there were 290,654 requests for reimbursement and 243,655 approvals (a rate of 84%).¹⁸ In terms of cost, this worked out to €92.1 million or approximately 0.1% of health spending in Europe that year. However, this money is not entirely an additional costs but more a shift in terms of when the costs are expensed – the patients required care, and it would have been paid for in their home jurisdiction eventually as long as they remained alive and continued to be eligible for the service.

Moving forward, the EU aims to improve usage of this policy, noting that patients in border regions in particular have benefitted greatly from the program and that the tool is quite useful during pandemics and emergencies.

It is reasonable to expect that replicating the EU's cross-border directive would be welcomed by Canadian patients.

In 2017, SecondStreet.org obtained Statistics Canada data that showing between 217,500-323,700 Canadian patients went to other countries specifically for "medical or health reasons."¹⁹ Thus, the number of Canadians travelling for health care is not far off the aforementioned EU total, despite the EU having more than ten times Canada's population. In the vast majority of Canadian cases, patients would also not have been reimbursed by the government for their health expenses abroad.

Would this Policy Comply with the Canada Health Act?

Provincial governments have reimbursed patients for out-of-country health procedures for decades – albeit on a much more limited basis than the EU policy.

For instance, in 2004, Alberta patient Aruna Thurairajan faced a "three-year" wait for spinal surgery. Having to take "20 to 40 painkillers a day" and unwilling to continue to endure pain for so long, she travelled to India for surgery. The CBC reported

she was reimbursed by the Alberta government for “almost the entire cost of the surgery despite the fact that it was done in a foreign private hospital.”²⁰

In 2017, CTV documented retired RCMP officer Bob Bridger’s story. The Alberta patient explained how he traveled to the U.S. in 2015 for hip surgery, noting that he could not endure sitting on the province’s 18-month waiting list. Bridger noted he was reimbursed for a tiny portion of the bill – “It cost me about \$32,000 Canadian to get this job done in Kalispell, Montana. I got back \$1,800, almost \$1,900, out of that.”²¹

These two cases demonstrate that provincial governments have the ability to reimburse patients for planned, non-emergency health care expenditures abroad.

In early 2020, prior to the pandemic taking hold in Canada, the Alberta government announced it would be discontinuing coverage of non-emergency health care services provided to Albertans abroad. At the time, roughly 2,400 patients filed claims for such services per year, costing the government \$1 million.²²

While the government characterized the decision as a cost savings measure, in many cases, it was merely shifting the timing of such costs. Instead of reimbursing a patient for their hip procedure this year, the government would pay the bill in the future (as long as the patient remained alive and continued to be eligible for the service.) In cases like Bob Bridger’s, where the government reimbursed him for far less than what it would have paid had he received the surgery in Alberta, cancelling this option could be more expensive as governments pay the full cost at a later point in time.

As previously noted, the Manitoba government recently began sending patients to a surgical facility in the United States to help ease the province’s backlog. A key difference with the EU program is that the government chose the facility rather than patients. However, the Manitoba government also

allows patients to apply for procedures if the treatment is “not available in Manitoba.” The government also notes “for medical and hospital services provided in the U.S., Manitoba Health will cover: doctor bills, at the same rate a Manitoba doctor would receive for similar services; and hospital bills, up to 75 per cent of insured hospital services.”²³

It is not clear how frequently Manitoba patients’ requests are approved, but evidence suggests approvals are the exception rather than the rule in Canada – more on this point to come.

In 2016, Ontario’s Ministry of Health announced it would spend more than \$100 million (\$USD) to send cancer patients to U.S. hospitals for stem cell treatment. The Waterloo Region Record noted:

“Since the early 1990s, doctors had repeatedly warned the health ministry about this inevitable collision between inadequate resources and ‘unprecedented demand’ for allogeneic stem-cell transplants, but the crisis went largely unaddressed. The health ministry responded last fall by approving more than \$100 million (U.S.) to send hundreds of Ontario patients who would have died waiting for treatment in this province to hospitals in Buffalo, Cleveland and Detroit.”²⁴

Ontario currently has an “Out of Country Prior Approval Program” for patients to receive coverage for planned health services provided outside the province. One problem, however, is that the program is quite obstructive, requiring patients to apply for approval from a provincial board ahead of time. According to one former Ontario Health Insurance Plan (OHIP) lawyer, “98 to 99 percent” of requests for funding come from individuals who represent themselves at the province’s approval board and they are denied.²⁶

SecondStreet.org spoke with a patient from Southern Ontario who indicated he applied for coverage prior to receiving a potentially lifesaving cancer scan in California and that his request was also rejected.^a

^a Chris Vander Doelen, a patient from Harrow, Ontario shared his story with SecondStreet.org. Most of his story was captured in our interview with him – https://youtu.be/_go99wnBTpc

Readers should note that other provinces have similar “out of country” programs.

Canada’s large surgical backlog and close proximity to the United States suggests that even more Canadians would take advantage of the opportunity to travel abroad for health care if the government standardized and routinely reimbursed patients for a portion of the cost, or for the full amount.

While provincial governments have reimbursed patients for out-of-country health care services for decades, this appears to have occurred only on a fairly limited basis. If those governments made reimbursements for insurable services a routine process for patients – similar to what we have seen in the EU – this could draw the ire of the federal government. In the past, the Canadian government has used vague language in the Canada Health Act to reject health reforms it does not support. For example, since 2016, Canada’s federal government has threatened Saskatchewan with health funding reductions due to its “two for one” arrangement for MRI scans with private clinics.²⁷

Policy Considerations

If Canadian governments decided to replicate the EU’s cross-border directive, there are a number of policy considerations that would follow:

Eligible Health Providers: Patients in the EU can apply for reimbursement after visiting public and private health facilities in the European Union and European Economic Area. How would Canada define eligible service providers?

The Ontario government’s “Out of Country Prior Approval Program” provides coverage for patients that receive treatment in a “hospital or licensed health facility.”

In order to streamline the process, provincial governments could, as a starting point, allow hospitals and licensed health care facilities in the United States and the EU to

qualify. This would immediately open up countless, high-quality options for Canadian patients to access. Greater analysis could also lead to development of criteria that allow patients to access high-quality health care facilities in other countries.

Private Options Within Canada: It would be difficult for provincial governments to justify paying for waves of patients to receive surgery abroad while not allowing private clinics in Canada to potentially earn the business.

However, if provincial governments reimburse patients for expenditures at private clinics in their province, that would likely be interpreted by the federal government as violating the *Canada Health Act* – especially if patients paid a fee for the service beyond what the government reimbursed. It would be more straightforward for governments to pay the facility directly – as they are right now.

More flexibility could exist for provincial governments in cases where their patients seek reimbursement for health services in another province. It is not uncommon for patients to travel to other provinces for surgery as they’re unable to pay for surgery locally. For example, it is not uncommon for B.C. surgical clinics to accept Alberta patients on a fee-for-service basis while Alberta clinics treat B.C. patients as well.

A positive step would be amending the *Canada Health Act*, and in some cases restrictive provincial laws, to clearly allow patients to use private surgical clinics in their home provinces. This would be a positive development for Canadians, especially as universal health care systems which outperform Canada allow patients a choice between public and private options. For instance, Canada’s health care system came in 10th place out of 11 countries studied by the Commonwealth Fund’s extensive 2021 health care report. All nine of the countries that ranked ahead of Canada allow private options alongside public options.²⁸

Critics often argue that allowing more private health care would lead to surgeons and other health professionals leaving the public system. However, as noted above, European health care systems deliver better results while also offering patients a choice between both public and private options. One way European systems ensure the public system has enough staff is by capping how much time staff can spend working for private providers. For example, the British Medical Association’s website notes that a doctor’s “gross earnings from private practice for any financial year must not exceed 10 per cent of gross NHS salary.”²⁹

This claim that health care staff would abandon the public system also does not account for the fact that many surgeons in Canada have had trouble finding enough work, primarily due to the government not rationing enough funding for services. In 2016, the Ottawa Citizen reported:

“Last year, 178 fully trained orthopedic surgeons in Canada were unemployed. Dr. Robert Hollinshead, former president of Canadian Orthopedic Association, found that 80 per cent of residents from his Calgary residency training program left for the United States, largely due to lack of work in Canada.”³⁰

Similarly, in 2019, The Canadian Press reported:

“Despite long patient waiting lists, almost one in five Canadian medical specialists weren’t able to find work upon graduation from their training programs in 2017 -- the highest number ever reported, according to the Royal College of Physicians and Surgeons of Canada.”³¹

Allowing patients to have more private sector choices would also help Canada’s economy as more patients decide to pay for treatment locally rather than spending the funds abroad. An expanded private sector would also increase our nation’s health care capacity and our nation’s independence, especially during periods such as the recent pandemic when travel was limited.

Reimbursement Threshold: The EU policy sees governments reimburse patients for the lesser of: the cost of the procedure abroad or the amount the procedure would have cost in the patient’s home country.

If Canada adopted this approach, it could lead to an increase in health expenditures in the near term, but lower expenses in the medium term as governments simply shift when they pay for procedures.

An alternative approach – which could save governments money – would be to reimburse patients at a fraction of the amount the government would have spent for the service in their jurisdiction. Thus, if a hip operation costs, say, \$20,000 in Ontario, and the Ontario government provided a patient with \$15,000 after they received the surgery abroad, the government could save \$5,000 while continuing to ease patient suffering.

Of course, what both options don’t consider are the financial benefits that come from providing surgery sooner – savings from preventing health complications that arise due to patients facing longer waiting periods, higher tax revenues as patients returns to work sooner, lower long-term disability costs, etc.

Conversely, there are some financial costs to consider as well – paying for someone to receive surgery this year while they would have otherwise died on a waiting list, funding patients who would have traveled abroad for surgery even without a subsidy, higher debt interest costs in cases where reimbursements are paid out while governments are running deficits, etc.

One final note to consider is that governments have struggled in the past with properly allocating costs of different activities. For example, the Windsor Regional Hospital operates a money-losing Tim Hortons franchise. After investigating the franchise’s financials, SecondStreet.org discovered that the venture’s \$1.7 million in stated losses between 2010-11 to 2018-19 does

not include rent, accommodation expenses, utilities and overhead. Thus, if proper accounting methods had been used, these losses would have been higher.³²

The Canadian Institute for Health Information currently tracks health care data across the country, including estimates for the cost of various health procedures. These figures could serve as an initial guide for what procedures cost, but SecondStreet.org cannot confirm their accuracy.

The Bill for Complications: In the past, some critics have raised concerns about Canadians going abroad for health care, developing complications from those procedures and then relying on Canada's public system to remedy the situation.

This is indeed a potential problem when Canadians travel abroad for health care, but it is also a potential problem when Canadians receive surgery in Canada and it is not at all guaranteed that patients treated abroad will receive poorer quality services.

In fact, data from the Canadian Institute for Health Information (CIHI), a government-funded entity, suggests Canada trails other OECD countries in terms of patient safety care. According to a 2019 press release from the CIHI, "rates of avoidable complications after surgery, such as lung clots after hip or knee surgery, are 90% higher [in Canada] than the OECD average."³³

A study published in the *World Journal of Surgery* offers a similar conclusion. Researchers found "evidence of higher rates of mortality and surgical complications within 30-days of surgery for patients in Canada as compared to the US."³⁴

Conclusion

Replicating the EU's cross-border directive could help reduce patient suffering in Canada and ease pressure on domestic waiting lists. It is unlikely that a majority of patients would utilize this option, but those who remain on waiting lists in Canada would benefit each time a patient ahead of them in line does decide to travel abroad for surgery.

If governments reimbursed patients for even a portion of what the government pays right now for each procedure, this option could even allow for some cost savings.

The most effective way to implement the cross-border directive would be in lockstep with removing restrictions on private care in Canada. Without lifting this restriction, it is difficult to justify funding patients to go abroad for care while many private clinics in Canada would be keen to provide the same services.

About the Author

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