1. **Coverage for Gender Affirming Surgeries**

**How do I apply for funding from OHIP for gender affirming surgery?**

You will need to have a physician or nurse practitioner apply to OHIP on your behalf using OHIP’s Form called the [Request for Prior Approval for Funding of Sex-Reassignment-Surgery](https://forms.mgcs.gov.on.ca/en/dataset/5041-77).

**What types of gender affirming surgeries are covered by OHIP?**

Overall, OHIP is supposed to provide coverage for gender affirming surgeries that are listed in the [Schedule of Benefits](https://www.ontario.ca/files/2025-03/moh-schedule-benefit-2025-03-19.pdf) (see Appendix D, paragraph 17, pages AD7 to AD9), as long as the prerequisites are met and no exclusions apply. The prerequisites and exclusions in Regulation 552 and the Schedule of Benefits are evaluated on a case-by-case basis. Note that OHIP still uses the outdated language of Sex-Reassignment Surgery in the Schedule of Benefits.

The Schedule of Benefits currently includes External Genital Surgery (clitoral release, glansplasty, metoidioplasty, penile implant, phalloplasty, scrotoplasty, testicular implants, urethroplasty, vaginectomy, penectomy and vaginoplasty), Hysterectomy, Salpingo-oophorectomy, Orchidectomy, Mastectomy and Augmentation Mammoplasty.

As a note, just because a procedure is listed (for example, vaginoplasty), it does not mean OHIP will agree to fund every method of performing of that procedure (for example, penile inversion or peritoneal or rectosigmoid).

It is also important to be aware that OHIP currently only covers gender affirming surgeries that have received prior approval.

**What types of gender affirming surgeries are not covered by OHIP?**

If the surgery you are seeking is not listed in the Schedule of Benefits, it is not currently covered by OHIP.

Some examples of services that are typically not covered by OHIP are facial feminization surgery (FFS), facial masculinization surgery (FMS) and hair removal. Some other services are funded, but only in very narrow circumstances, such as breast augmentation (which currently requires you to be on hormones for one year with zero growth of breast tissue).

The types of surgeries funded are also different whether offered in Ontario, within Canada or outside of the country, as there are more prerequisites for procedures offered outside of Ontario.

**What is being done to expand coverage for gender affirming surgeries not currently covered?**

Expanding coverage is one of the primary goals of the 519’s Clinic. We have several lawyers working on building what we call “test cases” to challenge OHIP’s restrictive approach to coverage.

For example, one of our lawyers just won the *OHIP v. K.S.* case at the Court of Appeal for Ontario, expanding coverage to include those seeking a vaginoplasty without a penectomy. In that case, the Court of Appeal confirmed that OHIP ought to interpret its coverage in line with the WPATH standards. We also have lawyers actively working on building “test cases” for funding for facial feminization surgery and to challenge the restrictive rules around breast augmentation.

**Can I seek funding retroactively if I get care out of the country?**

No. The rules are quite strict that if you did not have prior approval, even if you would have met the requirements for pre-approval, OHIP will not fund procedures retroactively. If you choose to get surgery out of the country before you have OHIP approval, you will not be eligible for funding.

Even if you bring an HSARB appeal, get treatment while awaiting the HSARB’s decision, and then win on HSARB appeal, OHIP will not fund your procedure because of the lack of prior approval.

1. **Challenging OHIP’s Denial of Coverage**

**OHIP has denied me coverage. What should I do next?**

When OHIP denies coverage, you will receive a letter that tells you about your right to appeal OHIP’s decision to a tribunal called HSARB (see below for more information on HSARB). Before you take this step, you can try to negotiate with OHIP, or provide OHIP with additional information that may help show why you meet the prerequisites.

You can write to OHIP and explain why you think they got it wrong. We would recommend speaking to one of our volunteers at the Clinic before responding to help you frame how you say it. OHIP will review and respond to your request.

As well, if your circumstances change, such that you think you have a stronger case to meet the prerequisites, you can provide new information to OHIP at any time and ask them to reconsider. OHIP will re-evaluate based on that information.

If you aren’t successful in having OHIP change its decision, then the typical process is to appeal to HSARB. You can speak with one of our volunteers to help you assess the strength of your appeal to HSARB.

**What is the HSARB?**

The Health Services Appeal and Review Board (“HSARB”) is an independent administrative tribunal. Tribunals are similar to courts, but are meant to facilitate more flexible and timely access to justice.

As part of its role, the HSARB can review decisions made by OHIP denying coverage to someone for gender affirming care. When they do these reviews, HSARB is limited to applying the rules in the [*Health Insurance Act*](https://www.ontario.ca/laws/statute/90h06/v3) (Act) and its [Regulations](https://www.ontario.ca/laws/regulation/900552). If the HSARB is satisfied that OHIP made an error in interpreting the Act, its Regulations or the Schedule of Benefits, it can order OHIP to cover the surgery.

HSARB can conduct its reviews in writing, by phone or virtual (by Zoom). You should let HSARB know your preference and why, and then HSARB will decide how they want to proceed with the hearing.

**Can OHIP or HSARB approve funding for gender affirming surgery for compassionate reasons?**

No. Both OHIP and HSARB are bound by the *Health Insurance Act*, its Regulations and the Schedule of Benefits. Neither can choose to cover a surgery that is not listed in the Schedule of Benefits or does not meet the requirements just because they want to or because they feel the person’s circumstances are compassionate. However, whether the procedure is listed or meets the requirements is sometimes open to interpretation, which is where the appeal process can be helpful.

**Can I argue at HSARB that something should be covered by OHIP, even if it is not listed in the Schedule of Benefits?**

Unfortunately, no. You will not succeed on an argument to HSARB that something should covered when it’s not listed in the Schedule of Benefits, because HSARB is not allowed to order OHIP to cover something that is not listed.

The way to challenge OHIP’s decision not to list something in the Schedule of Benefits is either through a judicial review or a *Charter* challenge to the courts. This is a more intensive and complex process, and so we recommend you seek legal advice from the Clinic.

At HSARB, you are limited to arguing about the interpretation of the *Health Insurance Act* and its Regulations – i.e. you are arguing that OHIP is misinterpreting what is covered.

**OHIP says my procedure is experimental, what do I do?**

One of the exceptions to OHIP covering a procedure is if it is viewed by the medical community in Ontario as experimental. If OHIP is denying your funding for that reason, it is likely because OHIP has a medical consultant who has provided them with that opinion. But that doesn’t mean they are right.

We recommend speaking to the Clinic, as we may be able to help navigate you through challenging the consultant’s opinion, and potentially getting a medical opinion of your own to support your case. There are also certain circumstances where the experimental exclusion does not apply, so we can help you assess that argument as well.

**How long does the HSARB process take?**

This varies, but from initiating an appeal to HSARB to getting a decision, you are usually looking at 12 to 18 months. If OHIP further appeals HSARB’s decision to the Divisional Court, then it will take longer.

**What are the steps to an HSARB hearing?**

1. OHIP sends a denial letter. In that letter, OHIP will advise you about your right to apply to HSARB.
2. To start your appeal, you have to then write to HSARB and say you want to initiate the appeal process. An e-mail is fine – it doesn’t require a formal process like starting a proceeding in the court system.
3. If you want your name anonymized to just be your initials to protect your identity, you should ask OHIP to do so at this stage.
4. HSARB will send you a letter initiating the appeal, asking you for you to provide all relevant documents and your arguments. It will then get the written arguments from OHIP to provide to you. As a note, it is not uncommon for OHIP to raise new reasons for denying coverage that were not listed in its original denial letter.
5. It will then schedule what’s called a “pre-hearing conference”, where you will meet with a case manager from HSARB and a representative from OHIP to try to narrow or settle some or all of the issues in the case.
6. At this pre-hearing conference, if the matter is not settled, HSARB will also try to determine how long the review hearing needs to be, what format it will be in, and how many witnesses may be testifying. HSARB will typically also set a schedule for the steps leading up to the hearing.
7. The review hearing, if not in writing, may take anywhere between two hours and a couple of days (see below for how a review hearing works).
8. After a hearing, it usually takes between two to six months for the HSARB to issue its decision. Though, sometimes it can be longer than six months.

**What happens at an HSARB review hearing?**

This sets out the typical process/order of things, but the HSARB may change the order or approach it differently in any particular case.

1. The Board will introduce the panel members and address any preliminary issues. If you requested that your initials be used rather than your name, this would be a good time to remind HSARB to ensure there is no misunderstanding.
2. As the person bringing the appeal, the review starts with you:
	1. You will have the chance to make “opening submissions”, where you explain at a high level what arguments you are going to be making for why you believe OHIP is wrong to give the Board context.
	2. You will then typically be the first witness. If you don’t have a lawyer or representative, you will have the opportunity here to just speak and tell the Board about you, why you’re requesting the surgery and any other facts you think are relevant. This is not your time to make legal arguments. It’s what we call evidence – what information does the Board need to be able to apply the law?
	3. Then, OHIP will have the chance to ask you questions about your evidence. Sometimes their lawyers will come across quite direct and harsh. They are just trying to get the relevant information about the prerequisites for HSARB to consider. Try not to let them get under your skin. The Board may then also ask you questions.
	4. You will have the chance to give further evidence in response to OHIP’s and the Board’s questions if you feel you missed something.
	5. Then, if you have any other witnesses, the same thing happens – you will ask them questions, then OHIP, then the Board, then you.
	6. Once that process is done, your part of the case is over. You typically will not be allowed to raise new evidence after this (but you will have the chance to make your legal arguments at the end).
3. Then, it is OHIP’s turn:
	1. OHIP will typically do an opening submission as well.
	2. OHIP may or may not have testimony from a witness or witnesses, in which case they would ask the first questions, then you would have the chance to ask questions, then the Board, then OHIP.
4. Then, it is time for arguments. First, you will get the chance to make your arguments. This is where you highlight the evidence that supports your case and explain the evidence that may not help your case. Once you are done, OHIP has the same opportunity. And finally, you get one last chance to respond to anything OHIP raised.
5. Once this is done, the hearing is over. Typically, HSARB will not provide a decision on the spot.

**Tips for giving evidence at HSARB**

We recommend you meet with one of the lawyers at the Clinic if you are preparing for an HSARB hearing. We can give you advice on your arguments, prepare you for questioning and even do a mock hearing.

Here are some general tips for giving evidence in any proceeding:

* Review the *Health Insurance Act*, its Regulations and Appendix D of the Schedule of Benefits before the hearing
* Re-review your evidence, your written arguments and OHIP’s written arguments
* Be honest in your evidence
* If you don’t know the answer to a question you’re being asked, it is best to say you don’t know rather than guessing
* If you don’t understand a question you’re being asked, ask them to repeat it
* Do your best not to get defensive. It can be tough when you are fighting for your very identity. But, if you come across defensive, HSARB may view your evidence as being less credible
* If you need a break – ask for one

**How do I anonymize my name on an HSARB appeal?**

At HSARB, you can [request anonymization](https://www.hsarb.on.ca/english/docs/directions/Public%20Access%20to%20Proceedings.pdf) of your name so that your name won’t be published with the decision. For this, they will use your initials rather than your name, and limit access to your records. It is best to ask for this at the outset, but if you forget, you can ask for it at the hearing itself.

Here are potential reasons you may want to raise to HSARB to support your request:

* There is very intimate personal health information included in the decision;
* If your name is unique;
* If you live in a small community;
* The increase in online attacks against trans and non-binary people and safety concerns you have

It is often helpful to explain the following to HSARB:

* Inclusion of your name on the reasons essentially outs your identity to the entire world, which is not appropriate;
* There is no reasonable alternative to anonymization here;
* The public interest in the open reporting of cases would only be minimally impacted as no other information would be removed;
* This is a proportionate request as the benefits significantly outweigh the harmful effects, including any negative impact on the open court principle.

Typically then, you will submit all your documents with your name and identifying information (like address, phone number, e-mail address, etc) redacted. If you don’t know how to redact that information from your records, we can assist you at the Clinic.

We recommend your remind HSARB on multiple occasions of this request, as in the past they have forgotten.

**How do I find a lawyer to represent me on an HSARB appeal?**

Talk to us at the Clinic and we will do our best to at least support you in representing yourself before HSARB. In certain cases, we will be able to provide representation at the hearing or assist in finding you legal counsel at a discounted/low rate.

**What do I do if OHIP adds a new ground of denial as the hearing approaches?**

You’ll have a further opportunity to respond in writing. OHIP is technically allowed to do this. If OHIP raises a new issue last minute and you feel you need more time, you can ask for an adjournment of the hearing to get more advice and respond with evidence.

**Expert witnesses**

If OHIP is bringing an expert witness to testify (for example on whether the procedure is experimental), you will have an opportunity to “cross-examine” (i.e. ask that expert questions). This is where you try to get that expert to admit things that undermine OHIP’s arguments and support your position.

If OHIP has an expert, it can be challenging to win your case without an expert of your own. You may want to ask your treating practitioner to testify on your behalf. You should also reach out to the Clinic and we will try to help you get an expert to help.

**Asking for an extension**

The HSARB [Rules of Practice and Procedure and Practice Directions](https://www.hsarb.on.ca/scripts/english/legal.asp#rules) are fairly flexible. If anyone needs an extension, normally the HSARB will grant it, unless it’s an unreasonable request. You are allowed to oppose extension requests, but usually HSARB will at least grant an extension request once per party.

**Is HSARB the final decision-maker?**

No. If you or OHIP believe HSARB made a wrong decision, then either can appeal the decision to three judges of the Divisional Court.

If you or OHIP then believe that the Divisional Court made a wrong decision, then either can ask for leave to appeal to the Court of Appeal, and if granted, appeal the decision to three judges of the Court of Appeal.

Though rare, there is one potential final avenue for appeal after this, with both sides being able to ask for leave to appeal to the Supreme Court of Canada. Less than 10% of cases are granted leave to appeal to the Supreme Court of Canada.

**Here are some resources on the HSARB that you may find helpful:**

[HSARB FAQ](https://www.hsarb.on.ca/scripts/english/faq.asp)

[HSARB Rules of Practice and Procedure and Practice Directions](https://www.hsarb.on.ca/scripts/english/legal.asp#rules)

1. **Specific Questions about Coverage**

**Can OHIP cover my travel costs for surgery?**

No. OHIP is only allowed to cover what is listed in the *Health Insurance Act* and its Regulations as “insured services”.

Travel and food costs are examples of the expenses you may incur in getting surgery that are not considered “insured services”. Post-discharge medications are also not covered, unless you are living in Ontario and over 65 or under 25 years old.

**I want to get treatment at a specific clinic outside of Canada, but OHIP says the Clinic isn’t cooperating in providing the information necessary to approve funding. What are my options?**

You should try to work with that clinic to get the information for OHIP. If OHIP does not have enough information to understand the costs and what the costs of insured vs non-insured services are, OHIP will not cover it.

There are some clinics that refuse to provide this information to OHIP, and unfortunately, we have not been successful to date in pushing OHIP to cover procedures at those clinics.

**There is a long wait time for gender affirming surgery in Ontario, can I just go out of country?**

OHIP typically does not consider long wait times as a reason to approve coverage for a surgery out of country that otherwise is available in Ontario. The test for getting surgery out of country is either that (1) the procedure (or an equivalent) is not offered here; or (2) to wait for the procedure would result in death or medically significant irreversible tissue damage.

**OHIP is denying my coverage for facial feminization or masculinization surgery – what are my options?**

Right now, FFS and FMS are not typically covered. Individual aspects of these procedures may be covered in certain circumstances.

Since FFS/FMS are not listed in the Schedule of Benefits, it is not something that HSARB can order coverage for. Cases that have gone to HSARB for coverage of this have been denied. However, there are law firms working on advancing a case before the courts to force OHIP to fund FFS/FMS. It is hard to tell at this time what the chances of success are, but if successful, it will likely be years from now, unfortunately. Our hope, at the same time, is to engage OHIP in a dialogue to have them agree to cover these procedures in line with the WPATH SOC-8.

**OHIP is denying my coverage for hair removal – what are my options?**

Similar to FFS/FMS, hair removal is also not listed in the Schedule of Benefits, so is not covered. More challenging is that “destruction of hair follicles” is also explicitly excluded in the Regulation.

For hair removal that is a necessary precondition to another procedure that is funded, there is an argument to be made at HSARB if OHIP declines funding. However, if that hair removal is not necessary for another procedure, lack of funding would need to be challenged in the courts. We are not yet aware of a “test case” on this issue moving forward, but our hope is to help facilitate one in the future.

**I want to get a vaginoplasty without a penectomy, but OHIP denied coverage. Is it worth applying to HSARB?**

This was the issue in the *OHIP v. K.S.* case that went to the Court of Appeal. The Court of Appeal confirmed that under the current wording of the *Health Insurance Act* and its Regulations, a vaginoplasty without a penectomy is covered. If you are seeking this, we suggest you reach out to the Clinic and we can help you navigate this process.

1. **Human Rights/Discrimination Claims**

**I believe my healthcare provider or OHIP has discriminated against me, what are my options?**

This would be discrimination in the area of services on the ground(s) of gender expression, gender identity, sex and/or sexual orientation. You have one year from the date the discrimination happened to make an application to the Human Rights Tribunal of Ontario (“HRTO”).

The Human Rights Legal Support Centre provides pro bono legal support for stages of the HRTO process. If you think you have experienced discrimination, [contact the HRLSC](https://hrlsc.on.ca/contact-hrlsc/).

**Here are some resources on the human rights claim process that you may find helpful:**

[Human Rights Tribunal of Ontario](Human%20Rights%20Tribunal%20of%20Ontario%20%7C%20Tribunals%20Ontario%20%20Tribunals%20Ontario%20%C2%B7%20https%3A/tribunalsontario.ca)

HRTO: Forms & Filing

[HRTO Rules of Procedure](https://tribunalsontario.ca/documents/hrto/Practice%20Directions/HRTO%20Rules%20of%20Procedure.html)

[Human Rights Legal Support Centre How-To Guides](https://hrlsc.on.ca/how-to-guides/)

[Ontario Human Rights Commission](https://www3.ohrc.on.ca/en/ontario-human-rights-code)

[OHRC Policy on preventing discrimination because of gender identity and gender expression](Policy%20on%20preventing%20discrimination%20because%20of%20gender%20...%20%20Ontario%20Human%20Rights%20Commission%20%C2%B7%20https%3A/www3.ohrc.on.ca)