



KNOW YOUR RIGHTS

**ACCESSING
HEALTHCARE**

**WITHOUT PERMANENT RESIDENCE
OR CITIZENSHIP IN CANADA**



Know Your Rights: Accessing healthcare without permanent residence or citizenship in Canada

The information contained in this publication is about the law but is not legal advice. For legal advice, please contact a lawyer.

If you are in Canada, contact an organization serving immigrants and refugees, or an AIDS service organization in your area, and ask them if they can provide you with information on immigration issues or refer you to a lawyer specialized in immigration law. You may have to pay for the lawyer unless you are eligible for legal aid, or the lawyer is willing to provide services free of charge.

If you are outside Canada and can afford to pay a lawyer, you could contact a lawyer in Canada specialized in immigration law and who represents people outside Canada. You can also contact the HIV Legal Network at +1 416 595-1666 or info@hivlegalnetwork.ca for legal information. Please note that we cannot provide legal advice, but we will try to provide referrals to knowledgeable lawyers.

Land Acknowledgement: While what is now called Canada can be a refuge to countless people fleeing discrimination and persecution around the globe, the country exists on treaty lands, stolen lands, and unceded territories of many different Indigenous groups and communities who have respected and cared for this land since time immemorial. The HIV Legal Network works to address the ongoing injustices and resulting health inequities faced by Indigenous Peoples. We are committed to learning to work in solidarity and to dismantling and decolonizing practices and institutions to respect Indigenous Peoples and Indigenous ways of knowing and being.

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1. Do I have a right to healthcare in Canada?

A right to access healthcare is generally recognized in Canada — although the scope of this right has been contested by governments and in courts.¹ This right may be derived from the *Canadian Charter of Rights and Freedoms* (the *Charter*),² Canada’s international human rights obligations,³ and the *Canada Health Act* (the *Health Act*).⁴

The *Health Act*, a primarily political document, helps to establish a universal healthcare system whereby all eligible individuals — primarily citizens and permanent residents — have access to some medically necessary healthcare services without cost. Importantly, the *Charter* is meant to protect certain rights of all individuals who are physically present in Canada, regardless of their immigration status.⁵ The Federal Court has confirmed that limiting access to healthcare for certain vulnerable migrants, like children, can amount to “cruel and unusual treatment,” which is prohibited under the *Charter*.⁶

The right to healthcare is not, however, consistently extended to people who do not have Canadian citizenship or permanent residence. In other words, **access to healthcare is often restricted for individuals in the country who have only temporary immigration status or no immigration status**. As such, the United Nations Special Rapporteur on the right to health has called on Canada to “ensure public healthcare to all migrants,” particularly with respect to sexually transmitted and blood-borne infections.⁷

2. What is Canada’s universal healthcare system?

Canada has a publicly funded, universal healthcare system called **Medicare** that aims to ensure that all residents have reasonable access to medically necessary healthcare services.⁸ A **resident** is a person who is legally entitled to be in or remain in Canada and who is generally present in the province or territory in which they are seeking healthcare.⁹ **Medically necessary healthcare services** include hospital and physician services that are needed to maintain health, prevent or diagnose a health condition, or treat an injury, illness, or disability.¹⁰ The term “medically necessary” is not strictly defined, leaving room for discretion in its interpretation among relevant authorities.

While the **federal government** is responsible for setting the minimum national standards for the healthcare system,¹¹ each **provincial and territorial government** is responsible for the organization and delivery of their own healthcare services.¹² That means each province and territory has its own healthcare insurance plan, defining (1) who can access its publicly funded healthcare services, and (2) what healthcare services are covered under the insurance plan.

Individuals who do not qualify for Canada’s universal healthcare system, or who have healthcare needs not covered by the system, must often obtain private health insurance, unless they are covered by the Interim Federal Health Program (IFHP) (see q. 5-6, p. 8). Otherwise, they may be required to pay for their healthcare services out of pocket.

3. Who is entitled to the public healthcare system in Canada?

Citizens and permanent residents are entitled to access Canada's healthcare system, once they meet the residency requirements set out in each province and territory's healthcare plan.¹³ Most provinces and territories require individuals to be physically present in their jurisdictions for at least 183 days each year to be considered residents.¹⁴ Many provinces and territories also require individuals who have been recognized as residents eligible for public healthcare to wait a maximum of three additional months to access public healthcare.¹⁵ More information on specific provincial/territorial requirements is below (q. 4, pp. 6-7).

People who are not citizens or permanent residents may be able to access the healthcare system. However, they are not guaranteed such access. In addition to meeting the residency requirement, they must also have a legal right to remain in Canada, for instance, through work or study permits. In most cases, those permits must allow for residence in Canada for a minimum of six months.¹⁶ Individuals who are on shorter-term permits are typically barred from accessing public healthcare. Individuals who are in the country on tourist visas, or without status, are entirely barred from the healthcare system.



Accessing Healthcare in an Emergency:

The Government of Canada states that emergency medical treatment is available free at *hospitals* throughout Canada, regardless of immigration status.¹⁷ In an emergency, individuals should go to the nearest hospital emergency department and/or call 911. Note, however, there have been cases in which individuals have been invoiced after leaving the hospital.

Individuals may be required to pay for ambulances and/or emergency medical treatment provided at *healthcare clinics*. People accessing healthcare services may have their immigration status reported to immigration authorities.



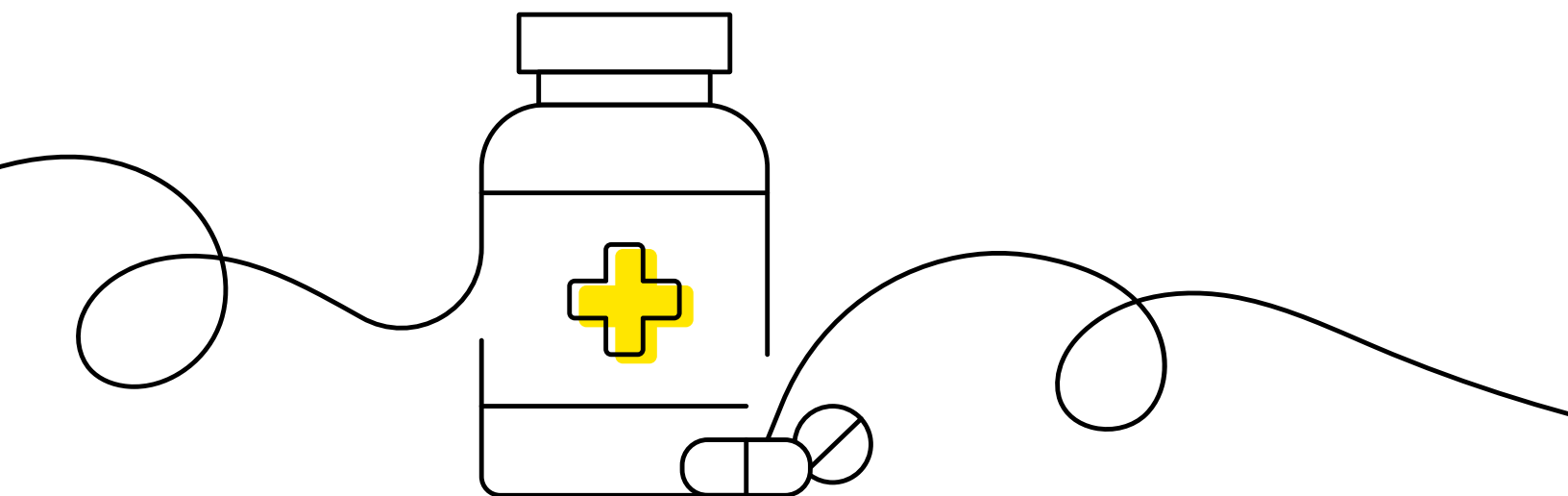
4. How can I access HIV medication?

HIV medications — or antiretroviral medications (ARVs) — are available in Canada.¹⁸ Each province and territory provides access to such medication, though access varies by jurisdiction, depending on healthcare eligibility requirements and ARV program eligibility requirements and coverage.¹⁹

The following chart summarizes each province and territory's healthcare eligibility requirements and ARV coverage, with a focus on the requirements for people without permanent residence or citizenship in Canada. The chart details:

- (1) **Eligibility requirements**, including the minimum duration of a work or study permit, the minimum length of time in a jurisdiction to be considered a resident, and the period a person must wait to access healthcare following eligibility; and
- (2) **ARV Program eligibility requirements and coverage**, including whether fees are required and what portion of ARV costs are covered by the government.²⁰

The table is a brief summary. For detailed information, please contact relevant provincial or territorial authorities, particularly as rules concerning health insurance coverage change regularly.



	(1) Medicare Eligibility				(2) ARV Program			
	Min. work permit duration	Min. study permit duration	Time to establish residency	Waiting period following residency	Name	Fees	ARV Cost Coverage	Additional requirements
AB ²¹	6 months	6 months	183 days in a year	None	Specialized High-Cost Drug Program	None	100%	HIV diagnosis & doctor referral
BC ²²	6 months	6 months	183 days in a year	2 to 3 months	BC-CfE Drug Treatment Program	None	100%	HIV diagnosis & doctor enrollment
MB ²³	12 months	Not eligible	183 days in a year	None	Pharmacare Program	Based on income	100%	N/A
					ART Program (if financial need)	None	100%	HIV diagnosis & doctor referral
NB ²⁴	12 months	12 months	183 days in a year	2 to 3 months	HIV/AIDS Prescription Drug Plan	Annual fee	80%	HIV diagnosis & doctor enrollment
NL ²⁵	12 months	12 months	Intent to stay a year	None	Prescription Drug Plan (multiple programs)	None	Based on income	Varies by program
NS ²⁶	12 months	12 months	183 days in a year	None	Family Pharmacare Program	User fee	None	Access to specific pharmacy
NU ²⁷	12 months	12 months	92 days straight	None	Extended Health Benefits	None	100%	HIV diagnosis
NWT ²⁸	12 months	12 months	153 days in a year	None	Specified Disease Conditions Program	None	100%	HIV diagnosis & need for ARV
ON ²⁹	6 months	6 months	153 days in 6 months	None	Multiple programs	Based on program	Based on program	Based on program
PEI ³⁰	6 months	N/A – must allow for work off campus	183 days in a year	None	HIV Drug Program	None	100%	HIV diagnosis & access to specific pharmacy
QC ³¹	6 months	N/A – must be from listed country	183 days in a year	3 months (many exceptions)	Public Prescription Drug Insurance Plan	Based on income	100%	N/A
SK ³²	12 months	12 months	153 days in a year	Up to 3 months	Exceptional Drug Status Program	None	100%	Approved ARV prescriber referral
YK ³³	12 months	Not eligible	183 days in a year	3 months	Chronic Disease and Disability Program	Annual fee	100%	Approved medical specialist referral

5. What is the Interim Federal Health Program?

IFHP is a healthcare insurance program that covers some healthcare costs for refugee claimants, individuals determined to be victims of human trafficking or domestic violence, individuals detained for immigration reasons, and others.³⁴ The program aims to respond to the challenges these groups face in accessing necessary services in Canada, and provide urgent and essential healthcare that would not otherwise be accessible, due primarily to their cost.³⁵ The program does not extend to people who do not have immigration status, or to individuals who, for other reasons, cannot access healthcare.

IFHP offers **basic healthcare coverage** including hospital services; services from medical doctors, registered nurses, and other licensed healthcare professionals; and laboratory, diagnostic, and ambulance services.³⁶ IFHP also offers **supplemental coverage**, which includes vision and urgent dental care; services from psychologists and other therapists; and other services and supplies. Notably, IFHP mirrors the **prescription drug coverage** offered by the province or territory in which a person is settled. IFHP does not cover the cost of healthcare services that a person can access through other insurance programs.

6. Who is eligible for the Interim Federal Health Program?

IFHP is available to all refugee claimants, beginning on the date the government confirms that they are allowed to claim refugee protection in Canada — although, in practice, the government has begun initiating coverage as soon as someone claims protection.³⁷ Coverage typically continues until a decision is made in a refugee claim — i.e. a person is found to need Canada's protection, or not. Following a positive decision, IFHP usually continues until a person becomes eligible for the public healthcare system. However, not everyone is able to satisfy the requirements on time. Individuals who have successfully claimed refugee protection in Canada should immediately contact their local health authority to apply. Following a negative decision, IFHP continues until a person leaves Canada, or until the date on which that person is required to leave Canada, even if they remain in the country after that date.

Individuals considered by the government to be victims of human trafficking or of domestic violence have access to IFHP for the duration of their Canadian temporary residence permit (TRP).³⁸ These TRPs allow them to remain in Canada for a specified period, despite not meeting the usual criteria for status in the country. IFHP coverage will typically end on the date that the TRP expires.

Individuals who are detained for immigration purposes are covered by IFHP throughout their detention.³⁹ Detention is decided by immigration authorities and occurs, for example, because immigration authorities are unable to verify an individual's identity or because immigration authorities do not believe that an individual will attend their removal from Canada. Upon an individual's release from immigration detention, IFHP coverage ends.

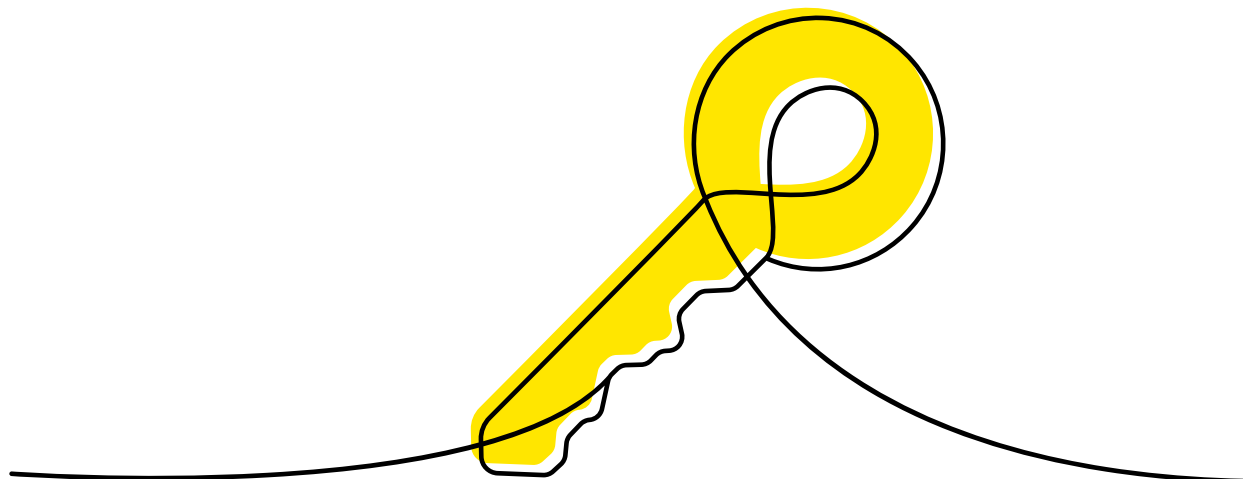
7. How can I access HIV medication through the Interim Federal Health Program?

IFHP provides the same coverage for prescription medication as is provided by the province or territory in which a person is living.⁴⁰ For instance, a person who is claiming refugee protection and who is settled in British Columbia will have 100% of the cost of their ARV medication covered, as is the case for British Columbia residents who have access to the BC-CfE Drug Treatment Program.



Accessing IFHP-Covered Services:

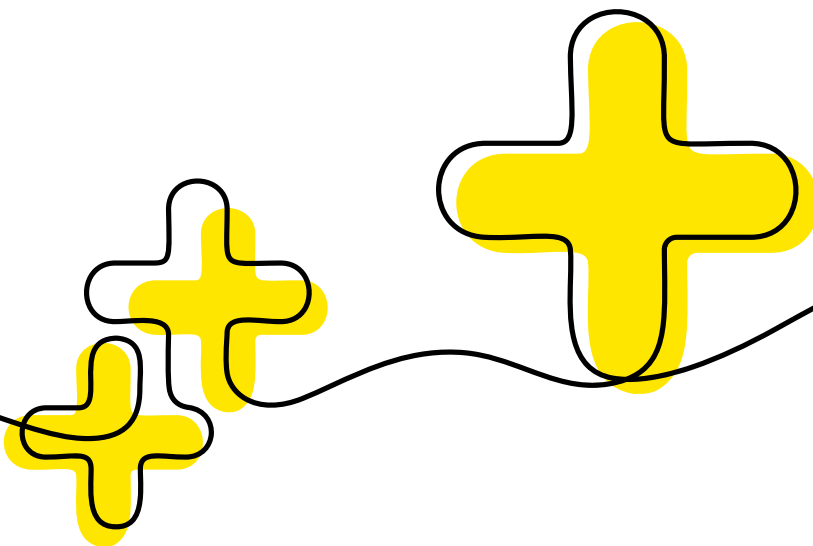
Healthcare providers must register themselves as IFHP providers to offer such coverage, and many do not because of confusion around registration and burdensome processes for reimbursements.⁴¹ Before approaching a healthcare provider, IFHP-eligible individuals should search the government database to find an IFHP provider in their area.⁴²



8. I do not have access to Medicare or the Interim Federal Health Program. How can I access healthcare?

Individuals who do not qualify for Medicare or IFHP must either obtain private insurance or pay for healthcare services themselves.

- **Individuals on work permits may have access to private health insurance through their employer.** Employers who hire individuals through the Temporary Foreign Worker Program *must* pay for private health insurance until their employees become eligible for the public healthcare system.⁴³ Other employers do not face the same requirement and need not pay for private insurance. In cases in which employers do not provide insurance, employees must often pay for their own private insurance or for healthcare services out of pocket.
- **Individuals on student visas must have either public or private health insurance while studying.** In some provinces and territories, students are eligible for the public healthcare system and do not need to purchase private insurance (see q. 4, pp. 6-7). In provinces and territories where students are not eligible, students usually must purchase private health insurance to cover their healthcare costs during their period of study. Notably, some provinces have developed healthcare plans for international students. For instance, to study at many universities in Ontario, individuals must enroll in, and pay for, the University Health Insurance Plan.⁴⁴
- **Individuals without status in Canada must usually pay for healthcare services out of pocket.** A limited number of healthcare clinics in the country provide services to individuals without status free of charge, or at a reduced rate. However, these clinics are sparse and primarily concentrated in large cities (see “Healthcare for Individuals Without Status,” p. 11).





Healthcare for Individuals Without Status:

- **Blue Door Clinic** (Toronto, Ontario) provides free healthcare and other supports to people who are living with HIV and who do not have access to healthcare coverage or to HIV medication.⁴⁵
- **Canadian Centre for Refugee & Immigrant Healthcare** (Toronto, Ontario) offers free healthcare services to newcomers who face barriers to obtaining necessary medical treatment.⁴⁶
- **Community Health Centres** (Ontario) provide free primary healthcare to individuals who do not have health insurance, including newcomers to Canada.⁴⁷
- **Doctors of the World** (Montreal, Quebec) offers free services, through a clinic solely for migrants without permanent status who do not have access to healthcare.⁴⁸
- **FCJ Refugee Center** (Toronto, Ontario) runs a free primary care clinic for individuals who do not have access to publicly funded healthcare.⁴⁹
- **HealthLink BC** (British Columbia) provides healthcare information and advice for free to individuals in British Columbia, via phone, website, or mobile app.⁵⁰

The above is a sample of healthcare clinics and services support individuals without status in Canada. If you are in Canada without immigration status, we recommend contacting a local newcomer agency for more information on other accessible healthcare services in your area.

9. I do not have access to healthcare insurance and cannot afford to pay out of pocket. Can I bring medication from my home country?

The Government of Canada allows individuals to bring their medication from their home country when they travel to Canada, or to have their medication shipped from their home country to Canada.⁵¹ In both instances, individuals are limited to bringing only 90 days' worth of medication to Canada every three months. The medication must be in its original packaging from the hospital or pharmacy where it was obtained, or have its original label attached. Immigration officials will look at the directions for use on the medications package or label to determine whether the amount being brought into Canada meets the quantity limits.

10. Will accessing healthcare in Canada have an impact on my immigration status?

Accessing healthcare in Canada will not, in and of itself, have an impact on an individual's immigration status. Healthcare providers are required to keep their patients' healthcare information confidential and are not required (or permitted) to share that information with immigration officials.⁵²

An individual's health condition may, however, be considered upon application to come to, or remain in Canada — be it an application for a temporary permit or permanent residence. Information on how an individual's health condition may impact their immigration status can be found in the HIV Legal Network's *Immigration and Travel to Canada for People Living with HIV – Questions and Answers*, [available online](#).⁵³

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- ¹ See, e.g., *Auton (Guardian ad litem of) v. British Columbia (Attorney General)*, 2004 SCC 78.
- ² *The Constitution Act, 1982, Schedule B to the Canada Act 1982 (UK)*, 1982, c 11, s. 7, 12, 15.
- ³ See, e.g., *International Covenant on Economic, Social, and Cultural Rights*, December 1966, United Nations (entered into force on 3 January 1976), Article 12, which confirms that governments have a duty to ensure that healthcare is available in sufficient quantity, accessible without discrimination, responsive to the needs of different populations, and of good quality.
- ⁴ *Canadian Health Act*, RSC 1985, c C-6.
- ⁵ *Singh v Minister of Employment and Immigration*, 1985 CanLII 65 (SCC), [1985] 1 SCR 177.
- ⁶ *Canadian Doctors for Refugee Care v Canada (Attorney General)*, 2014 FC 651, para 11.
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- ⁸ See, e.g., Government of Canada, *Canada's Universal Health-Care System*, October 2022, available online at www.canada.ca/en/immigration-refugees-citizenship/services/new-immigrants/new-life-canada/health-care/universal-system.html.
- ⁹ *Canada Health Act*, *supra* note 4, s. 2.
- ¹⁰ *Ibid.*
- ¹¹ Government of Canada, *supra* note 8.
- ¹² *Ibid.*
- ¹³ *Canada Health Act*, *supra* note 4, s. 10.
- ¹⁴ See, q. 4, pp. 6-7 below.
- ¹⁵ *Canada Health Act*, *supra* note 4, s. 11.
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- ²⁰ *Ibid.*
- ²¹ Alberta, *Apply for health care coverage if you move to Alberta*. Available at www.alberta.ca/ahcip-moving-to-alberta. Note, the waiting period may differ if the application for healthcare coverage is not made within three months of establishing residence.
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- ²³ Manitoba, *Moving to Manitoba*. Available at www.gov.mb.ca/health/mhsip/movingtomanitoba.html#:~:text=If%20you%20are%20eligible%2C%20Manitoba.coverage%20would%20begin%20July%20.

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- 25 Newfoundland & Labrador, *Medical Care Plan (MCP)*. Available at www.gov.nl.ca/hcs/mcp.
- 26 Nova Scotia, *MSI Moving and Travel*. Available at https://novascotia.ca/dhw/msi/moving_travel.asp.
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- ⁴⁰ Government of Canada, *supra* note 36.
- ⁴¹ See, e.g., Centre for Addiction and Mental Health, *Protecting Refugees' Health*, January 2022. Available at www.camh.ca/en/professionals/professionals--projects/immigrant-and-refugee-mental-health-project/newsletter/evidence-snapshots/es-january-2022---protecting-refugees-health.
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