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Bulletin

No. A-03/94

Property & Casualty

- Auto

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Rental Vehicles and the Priority Rules

Background

The Commission has received a number of inquiries concerning certain amendments to the *Insurance Act* arising out of Bill 164 and how these changes relate to the priority of payments with respect to rental cars.

The purpose of these amendments was to provide greater certainty where a person could elect to apply to more than one insurer for statutory accident benefits. The object was not to change fundamentally the operation of the priority rules under section 268 of the Act. For the benefit of those who have been seeking clarification from the Commission, the following comments may be of assistance.

"Insured Persons"

Under the Statutory Accident Benefits Schedule ("S.A.B.S."), benefits are available to an **insured person** in respect of any motor vehicle liability policy.

In the S.A.B.S., **insured person** is defined to capture several classes of individuals. These include (this list is not exhaustive):

- the **named insured**;
- the spouse of the **named insured**; and
- any dependant of the **named insured** or spouse.

"Named Insureds"

A **named insured** is typically the person named in the certificate of insurance as the person with whom the contract of insurance has been made. However, the S.A.B.S. extends the definition for purposes of the regulation to include:

- a person who rents an automobile and the person lives in and is ordinarily present in Ontario; and
- a person for whom an automobile is made available for regular use and the person lives in and is ordinarily present in Ontario (i.e., a company car).

This provision ensures that all these individuals, their spouses and their dependants will be entitled to statutory accident benefits in the event of an accident where they otherwise may not be entitled. They are deemed **named insureds** for the purposes of the S.A.B.S. However, that does not make these individuals **named insureds** for the purposes of the application of the priority rules set out in the *Insurance Act*.

Persons appearing as **named insureds** on a certificate follow the standard priority rules and apply for statutory accident benefits from their own insurer. For example, where a person has an accident in a rental car they will apply to the insurer of their own car. Persons who do not own an insured car may apply for accident benefits from the company insuring the car they rent or regularly use.

Choice of Insurer where Person is a "Named Insured" under more than one Policy

Under section 268 of the Act, if the person appears as a **named insured** on a certificate, or if the person is the spouse of a **named insured** or a dependant of either, the person must apply to the insurance company that issued that policy. Normally, this would be the insurer of their own private passenger automobile.

If the person appears as a **named insured** on more than one policy certificate, and the person was an occupant of an automobile in respect of which the person is a **named insured** or the spouse of the named insured or a dependant of either, the person must apply to the insurer of the automobile in which the person was an occupant.

If the person appears as **named insured** on more than one policy certificate, and the person was not an occupant of an automobile in respect of which the person is a **named insured**, or the spouse of the **named insured** or a dependant of either, the person has absolute discretion to choose which insurer to apply to.

Caution

This bulletin deals with a specific situation and is not intended to provide an exhaustive explanation of how the priority rules operate. Other circumstances may give rise to different results. If in doubt, please consult the priority rules.

D. Blair Tully

Commissioner

March 2, 1994

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