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Bulletin

No. A-14/96

Property & Casualty

- Auto

Implementing Bill 59: New/amending regulations

To the attention of all insurance companies licensed

to transact automobile insurance in Ontario

With this Bulletin, the Ontario Insurance Commission (OIC) is outlining, for your reference, all the various new and amending regulations made under the *Insurance Act* following the enactment of the *Automobile Insurance Rate Stability Act, 1996 (Bill 59)*. Also outlined are matters currently under discussion that will form the basis of draft regulations for consideration and approval by the Government of Ontario in the future.

All of the new and amending regulations **come into effect November 1, 1996**.

1. **Regulations establishing Statutory Accident Benefits for accidents on or after November 1, 1996 (Bill 59)**

   Ontario Regulation 403/96, made under the *Insurance Act*, entitled, "Statutory Accident Benefits Schedule - Accidents on or after the Day Section 29 of the Automobile Insurance Rate Stability Act, 1996 Comes into Force" appeared in The Ontario Gazette on September 7, 1996.

   This regulation establishes a new schedule of accident benefits that are a mandatory component of every motor vehicle liability policy issued by insurers licensed to transact automobile insurance in Ontario. The types of benefits mandated by the regulation include an income replacement benefit, non-earner benefit, caregiver benefit, medical, rehabilitation and attendant care benefits, death and funeral benefits, and a benefit that pays certain kinds of other expenses.

Insurers should note that section 70 of *Ontario Regulation 403/96* provides for transition provisions applicable to policies that are in force November 1, 1996 and require that certain benefits be "read in" to policies until the first renewal date after November 1, 1996.

In addition, the regulation requires insurers to offer prescribed accident optional benefits in excess of the mandatory basic benefits provided under motor vehicle liability policies.

A number of technical changes were made to *Ontario Regulation 403/96* by way of an amending regulation which is *Ontario Regulation 462/96*. This regulation appeared in The Ontario Gazette on October 26, 1996. One of the changes is an adjustment to Form 1, "Assessment of Attendant Care Needs", which is to be used to report the future needs for attendant care by persons injured in accidents.

2. **Regulation on Statutory Accident Benefits for accidents between January 1, 1994 and October 31, 1996 (Bill 164)**

   Ontario Regulation 463/96, made under the Insurance Act, appeared in The Ontario Gazette on October 26, 1996.

   This regulation clarifies that the *Statutory Accident Benefits Schedule* under *Bill 164* (*Ontario Regulation 776/93*, as amended) applies only to accidents before November 1, 1996. The title is amended accordingly.

3. **Regulation on procedures for tort claims and mediation, structured settlements and ' catastrophic impairment '**

   Ontario Regulation 461/96, made under the Insurance Act, entitled "Court Proceedings for Automobile Accidents that Occur on or after November 1, 1996" appeared in The Ontario Gazette on October 26, 1996.

   It outlines the notice and information disclosure requirements for persons wishing to pursue tort claims and the method of determining net income loss and net loss of earning capacity; defines "catastrophic impairment"; outlines the circumstances when damages for pecuniary loss must be paid periodically; and sets out procedures applicable to the mediation of tort claims.

4. **Regulation on lapse in coverage prohibition, arbitration expenses, rate filing benchmarks and the revocation of the Excess Economic Loss Endorsement (OPCF 45)**

   Ontario Regulation 464/96, made under the Insurance Act, appeared in The Ontario Gazette on October 26, 1996. It amends *Ontario Regulation 664*, *R.R.O. 1990*.

   This regulation prohibits the use of a lapse/gap in coverage as a risk classification element, subject to prescribed exceptions; establishes criteria for arbitrators at the OIC in determining whether an award of expenses is justified; allows an arbitrator to award expenses to insurers as well as insured persons and amends some expense amounts; facilitates an expedited risk classification and rate approval process; and revokes the requirement to offer the "Excess Economic Loss Endorsement" (OPCF 45).

5. **Regulation on deductibles for direct compensation and physical damage coverages**

   Ontario Regulation 399/96, made under the Insurance Act, appeared in The Ontario Gazette on September 7, 1996. It amends *Regulation 664, R.R.O. 1990*.

   This regulation has the effect of permitting a deductible amount for direct compensation coverage for automobiles insured under Ontario Automobile Policy 1. It also prescribes a deductible of $300 as a mandatory element of a risk classification system that all insurers must use in classifying risks for loss of or damage to an automobile or loss of its use. The contract between an insurer and insured may, however, allow for a different deductible.

6. **Regulation on uninsured coverage**

   Ontario Regulation 400/96, made under the *Insurance Act*, appeared in The Ontario Gazette on September 7, 1996. It amends *Regulation 676*, R.R.O. 1990 (Uninsured Automobile Coverage).

   This regulation increases the deductible amount applicable to damage to an automobile and its contents under the uninsured motorist coverage. The amount is increased to $300 from $100. For policies continuing in effect beyond November 1, 1996, the change does not apply until the following renewal.

7. **Regulation on health cost assessments**

   Ontario Regulation 401/96, made under the *Insurance Act*, entitled "Assessment of Health System Costs", appeared in The Ontario Gazette on September 7, 1996.

This regulation provides for an annual assessment of automobile insurers in the amount of $80 million to help offset the costs to the public health care system caused by automobile accidents. It also provides for a prorated assessment of health system costs for 1996-1997. The assessment period runs from April 1 of each year to March 31 of the following year, and the assessment levy will be based on insurers' market share.

The Ministry of Finance has requested that we administer the health system costs assessment. An invoice form entitled "Assessment for Health System Costs" (AHSC) has been designed. This invoice will be issued quarterly and will be mailed along with the quarterly OIC assessment invoice. A separate cheque for each of the assessments is required. The first AHSC invoice will be issued in January, 1997. It will cover the period November 1, 1996 to March 31, 1997, and will be due in February, 1997.

8. **Regulation on insurance card for out-of-province insureds**

Ontario Regulation 402/96, made under the *Compulsory Automobile Insurance Act*, appeared in The Ontario Gazette on September 7, 1996.

This regulation defines what constitutes an "insurance card" in the case of motor vehicles insured outside of the province of Ontario.

9. **Future Regulations**

This section deals with matters that will form the basis of future regulations to be made under the *Insurance Act* as amended by *Bill 59*.

(a) Pre-insurance inspection.

The Government of Ontario intends, early in the new year, to introduce a regulation to authorize pre-insurance inspections, as provided under section 232.1 of the *Insurance Act* as amended by *Bill 59*.

A suggested industry model has been developed by the industry task group and released to the industry for consideration. If you have not yet received it, please contact the Canadian Coalition Against Fraud at (416) 963-5519.

In the meantime, to assist those insurers who would like to introduce a pre-inspection program as soon as possible, the following information will provide a good basis for its operation.

It is anticipated that the regulation will require insurers to inspect all private passenger automobiles with several exceptions. In exempted cases, insurers will be expected to document the applicable allowable exemption. The inspection will consist of a visual inspection and photographs of the vehicle. The person doing the inspection will also need to keep proper records of the findings of the inspection. The inspection must be conducted within 10 days of entering into the contract.

The insurer will be responsible for the inspection which may be performed by anyone authorized by the insurer. The inspection costs are paid by the insurer. Relying on Statutory Condition 8, insurers may carry out additional inspections beyond the statutory minimum required by the proposed regulation. (Statutory Condition 8 requires an insured to permit the insurer to inspect the automobile and its equipment at all reasonable times.) Insurers may start pre-insurance inspection programs prior to the regulation coming in force. However, if insurers wish to delete the optional physical damage coverages because of non-compliance with the inspection request, an underwriting rule must be filed with the OIC.

(b) Provision of insureds' information to government and other agencies

Discussions are under way with the industry regarding the intention of the Government, under section 273.1 of the *Insurance Act* as amended by *Bill 59*, to develop a regulation regarding the mandatory provision of specific information about claimants by insurers to the Ministry of Community and Social Services.

(c) French-language version of the *Statutory Accident Benefits Schedule (SABS)*

A French version of the schedule of statutory accident benefits will be available in the near future.

Copies of the regulations can be obtained by purchasing the appropriate edition of The Ontario Gazette, which is available from Publications Ontario, 50 Grosvenor Street, Toronto, Ontario M7A 1N8, telephone (416) 326-5300; fax (416) 326-5317. The regulations are also available for down loading from the Ministry of Finance Internet Website. Please use the following address to access the site: http://www.gov.on.ca/fin/hmpage.html

D. Blair Tully

Commissioner

November 19, 1996

Last Modified: 10/3/2005 1:57:13 PM

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