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# Bulletin

No. A-11/01

Property & Casualty

- Auto

## Automobile Insurance Changes

**To the attention of all insurance companies licensed**

**to transact automobile insurance**

The Ontario Government has recently approved two changes to regulations relating to the operation of the statutory accident benefits. These amendments have been the subject of several consultations.

1. **Treatment of Income Continuation Plans**

   The *Statutory Accident Benefits Schedule-Accidents on or after November 1, 1996* (Ontario Regulation 403/96) has been amended to clarify that payments of disability pension benefits under the Canada Pension Plan and certain other periodic payments of insurance that meet criteria established by the regulation, can be deducted from income replacement benefits.

   This amendment will apply to accidents that occur on or after January 1, 2002.

2. **Settlement of Statutory Accident Benefits**

   Section 9.1 of Ontario Regulation 664, relating to the settlement of statutory accident benefits, has been amended to simplify and clarify the requirements for the settling of a claim. The revised regulation provides for a standard disclosure statement, a two-day “cooling off” period after a settlement release has been signed, the elimination of the requirement for insurers to provide a commuted value calculation, and clarification of a claimant's rights and obligations in order to dispute the settlement.

This regulation change will apply with respect to settlements made on or after March 1, 2002. Three new settlement forms will also be released early in the new year relating to the settlement of claims under the current (Bill 59) and previous (Bill 164, Bill 68) automobile insurance systems.

An insurance industry/legal working group recommended this regulation change to address concerns relating to the current requirements.

**Copies of the Regulations**

These regulation changes will appear in the December 29, 2001 edition of The Ontario Gazette. A copy of these regulation amendments are attached.

**Consultation Paper**

The Ontario Government is currently reviewing submissions received in response to its consultation paper, *Review of the Current Automobile System*. This will result in further changes to improve the automobile insurance system in 2002.

Philip Howell

Chief Executive Officer and

Superintendent of Financial Services (Acting)

December 19, 2001

Attachments (PDF):

Ontario Regulation 482/01 Made Under the Insurance Act

Ontario Regulation 483/01 Made Under the Insurance Act

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**ONTARIO REGULATION 482/01**
made under the
**INSURANCE ACT**

Made: December 12, 2001
Filed: December 14, 2001

Amending O. Reg. 403/96
(Statutory Accident Benefits Schedule – Accidents on or after November 1, 1996)

Note: Ontario Regulation 403/96 has previously been amended. Those amendments are listed in the Table of Regulations published in *The Ontario Gazette* dated January 20, 2001.

**1. Section 2 of Ontario Regulation 403/96 is amended by adding the following subsections:**

(9) For the purpose of this Regulation, payments for loss of income under an income continuation benefit plan shall be deemed to include the following payments:

1. Payments of disability pension benefits under the *Canada Pension Plan*.

2. Periodic payments of insurance, if the insurance,

    i. is offered by the insurer only to persons who are employed at the time the contract for the insurance is entered into, and

    ii. is offered by the insurer only on the basis that the maximum benefit payable is limited to an amount calculated with reference to the insured person's income from employment.

(10) Subsection (9) only applies in respect of accidents that occur on or after January 1, 2002.

**2. This Regulation comes into force on January 1, 2002.**

**ONTARIO REGULATION 483/01**
made under the
**INSURANCE ACT**

Made: December 12, 2001
Filed: December 14, 2001

Amending Reg. 664 of R.R.O. 1990
(Automobile Insurance)

Note: Regulation 664 has previously been amended. Those amendments are listed in the Table of Regulations published in *The Ontario Gazette* dated January 20, 2001.

**1. Subsections 9.1 (2) to (5) of Regulation 664 of the Revised Regulations of Ontario, 1990 are revoked and the following substituted:**

(2) The insurer shall give the insured person a written disclosure notice, signed by the insurer, with respect to the settlement.

(3) The disclosure notice shall be in a form approved by the Superintendent and shall contain the following information:

1. The insurer's offer with respect to the settlement.

2. A description of the benefits that may be available to the insured person under the *Statutory Accident Benefits Schedule*.

3. A statement that the insured person may, within two business days after the later of the day the insured person signs the disclosure notice and the day the insured person signs the release, rescind the settlement by delivering a written notice to the office of the insurer or its representative and returning any money received by the insured person as consideration for the settlement.

4. A description of the consequences of the settlement on the benefits described under paragraph 2 including,

    i. a statement of the restrictions contained in the settlement on the insured person's right to mediate, litigate, arbitrate, appeal or apply to vary an order under sections 280 to 284 of the Act, and

    ii. a statement that the tax implications of the settlement may be different from the tax implications of the benefits described under paragraph 2.

5. A statement advising the insured person to consider seeking independent legal, financial and medical advice before entering into the settlement.

6. A statement for signature by the insured person acknowledging that he or she has read the disclosure notice and considered seeking independent legal, financial and medical advice before entering into the settlement.

(4) The insured person may rescind the settlement within two business days after the later of the day the insured person signs the disclosure notice and the day the insured person signs the release.

(5) The insured person may rescind the settlement after the period referred to in subsection (4) if the insurer has not complied with subsections (2) and (3).

(6) Subsections (4) and (5) do not apply with respect to a settlement that has been approved by a court under Rule 7 of the Rules of Civil Procedure (Parties under Disability).

(7) The insured person shall rescind a settlement under subsection (4) or (5) by delivering a written notice to the office of the insurer or its representative and returning any money received by the insured person as consideration for the settlement.

(8) No person may commence a mediation proceeding under section 280 of the Act with respect to benefits that were the subject of a settlement or a purported settlement unless the person has returned the money received as consideration for the settlement.

(9) If the insured person returns money to the insurer under subsection (7) or (8) and a dispute arises between the insurer and the insured person with respect to the validity of the purported settlement or the right of the insured person to rescind the settlement, the insurer shall hold the money in trust until the matter is determined, at which time the amount and any income on the amount,

(a) shall be paid to the insured, if it is determined or agreed that there was a valid settlement that was not rescinded; and

(b) shall be returned to the insurer, if it is determined or agreed that there was no settlement, or that the settlement was invalid or was rescinded.

(10) A restriction on an insured person's right to mediate, litigate, arbitrate, appeal or apply to vary an order under sections 280 to 284 of the Act is not void under subsection 279 (2) of the Act if,

(a) the restriction is contained in a settlement; and

(b) the insurer complied with subsections (2) and (3).

**2. The Regulation is amended by adding the following section:**

**9.2** (1) Subsections 9.1 (2) to (8) apply only with respect to settlements made on or after March 1, 2002.

(2) Subsections 9.1 (2) to (5), as they read on February 28, 2002, continue to apply with respect to settlements for which written notice under subsection 9.1 (2) was given before March 1, 2002.

(3) Despite subsections (1) and (2), subsection 9.1 (8) applies with respect to an application for a mediation proceeding under section 280 of the Act if the application is filed on or after March 1, 2002.

**3. This Regulation comes into force on March 1, 2002.**