Property and Casualty - Auto Bulletins

Pension Bulletins

Monitoring and Enforcement Bulletins

Licensing Changes Bulletins

Bulletins by Sector

Bulletin

No. A-11/03

Property & Casualty

- Auto

Additional Automobile Insurance Regulation Amendments

To the attention of all insurance companies licensed to transact automobile insurance in Ontario

With this Bulletin, the Financial Services Commission of Ontario (FSCO) is highlighting, for your reference, two additional regulation changes recently filed by the Ontario Government.

1. **Increased Deductible for Pain and Suffering Awards** (Ontario Regulation 312/03 amending Ontario Regulation 461/96 - *Court Proceedings for Automobile Accidents that Occur on or after November 1, 1996*)

As outlined in the Ministry of Finance's recently released White Paper, *Automobile Insurance Affordability Plan for Ontario: Next Steps*, the deductible for pain and suffering awards under the Insurance Act will be increased from $15,000 to $30,000 and from $7,500 to $15,000 for Family Law Act awards. This amendment will be effective for all accidents that occur on or after October 1, 2003.

2. **New Process for Selecting Designated Assessment Centres (DACs) within a Geographic Region** (Ontario Regulation 313/03 amending Ontario Regulation 403/96- *Statutory Accident Benefits Schedule -*

Accidents on or after November 1, 1996) (SABS)

Section 53 of the SABS, which outlines how DACs are selected, has been amended. The selection of the DAC will no longer be based only on the centre nearest to the insured person's home address.

In situations where a designated assessment is required, if the insured person's residence is located in the Greater Toronto Area (specifically in the City of Toronto, or the Regional Municipality of Durham, Halton, Peel or York) the insurer and the claimant may agree to use any DAC authorized to conduct the assessment within 30 kilometres of the insured person's home.

If the insured person's residence is outside of the Greater Toronto Area, the insurer and the insured person may agree on the selection of any DAC authorized to conduct the assessment within 50 kilometres of the insured person's home.

If there are no DACs within 50 kilometres of the insured person's home that are authorized to assess the type of impairments and conduct the type of assessment required, the insurer and insured person may agree to use any authorized DAC in the Province.

If no agreement is reached within two business days after the insurer or the insured receives notice a designated assessment is required, the DAC will be selected by FSCO. DACs selected by FSCO will notify the parties of any conflict of interest the DAC may have relating to the assessment. Following this disclosure, if the insurer and the claimant cannot agree to continue the assessment by the selected DAC, another DAC will be selected by FSCO.

In addition, if the DAC is unable to begin an assessment within 14 days of the request for an assessment, the insurer or the insured person may require that another DAC be selected by FSCO as described above.

This amendment will apply to all designated assessments required on or after October 1, 2003.

FSCO Selection Process

Details of FSCO's process for selection of a DAC where there is no agreement reached between the insurer and the insured person will be released in a forthcoming Bulletin.

Copy of Regulation

Ontario Regulation 312/03 amending Ontario Regulation 461/96 (Court Proceedings for Automobile Accidents on or after November 1, 1996) and Ontario Regulation 313/03 amending Ontario Regulation 403/96 (Statutory Accident Benefits Schedule - Accidents on or After November 1, 1996), are enclosed for your information and will be published in the August 16, 2003 edition of The Ontario Gazette. The regulations can also be downloaded from the Ontario e-Laws website at: www.e-laws.gov.on.ca

Bryan P. Davies

Chief Executive Officer and Superintendent of Financial Services

August 13, 2003

Attachments (PDF):

- Ontario Regulation 312/03
- Ontario Regulation 313/03
- Règlement de l'Ontario 313/03

To view PDF files, you will require Adobe Acrobat® Reader version 7.0. You can download this free software from Adobe's Web site.

Last Modified: 8/23/2005 3:30:38 PM

Financial Services Commission of Ontario
5160 Yonge Street
Toronto, ON M2N 6L9
1-800-668-0128
(416) 250-7250

ONTARIO REGULATION 312/03

made under the

INSURANCE ACT

Made: July 24, 2003
Filed: July 28, 2003
Printed in *The Ontario Gazette*: August 16, 2003

Amending O. Reg. 461/96
(Court Proceedings for Automobile Accidents that Occur on or after November 1, 1996)

Note: Ontario Regulation 461/96 has not previously been amended.

1. Ontario Regulation 461/96 is amended by adding the following sections:

DEDUCTIBLE AMOUNTS

5.1 (1) The amount of $30,000 is prescribed for the purpose of sub-subparagraph 3 i B of subsection 267.5 (7) of the Act in respect of incidents that occur on or after October 1, 2003.

(2) The amount of $15,000 is prescribed for the purpose of sub-subparagraph 3 ii B of subsection 267.5 (7) of the Act in respect of incidents that occur on or after October 1, 2003.

AMOUNTS DEEMED TO BE IN RESPECT OF INCOME LOSS OR LOSS OF EARNINGS

5.2 For the purposes of paragraph 2 of subsection 267.8 (1), paragraph 2 of subsection 267.8 (9) and subclause 267.8 (12) (a) (ii) of the Act, payments in respect of an incident for income loss or loss of earning capacity under an income continuation benefit plan shall be deemed to include the following payments if the incident occurs on or after October 1, 2003:

1. Payments of disability pension benefits under the *Canada Pension Plan*.
2. Periodic payments of insurance, if the insurance is offered by the insurer,
    i. only to persons who are employed at the time the contract of insurance is entered into, and
    ii. only on the basis that the maximum benefit payable is limited to an amount calculated by reference to the insured person's income from employment.

2. This Regulation comes into force on the later of October 1, 2003 and the day it is filed.

ONTARIO REGULATION 313/03

made under the

INSURANCE ACT

Made: July 24, 2003
Filed: July 28, 2003
Printed in *The Ontario Gazette*: August 16, 2003

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 (Legislative History) which can be found at http://www.e-laws.gov.on.ca.

1. (1) Subsection 53 (1) of Ontario Regulation 403/96, as remade by section 26 of Ontario Regulation 281/03, is revoked and the following substituted:

(1) A designated assessment shall be conducted by a designated assessment centre selected in accordance with this section.

(1.1) A designated assessment must be conducted by a designated assessment centre that,

(a) is authorized to assess impairments of the type sustained by the insured person; and

(b) is authorized to conduct the type of designated assessment that is required.

(1.2) A designated assessment must be conducted by a designated assessment centre that is located within,

(a) 30 kilometres of the insured person's residence, if,

(i) the insured person's residence is located in the City of Toronto or the regional municipality of Durham, Halton, Peel or York, and

(ii) a designated assessment centre that complies with subsection (1.1) is located within 30 kilometres of the insured person's residence; or

(b) 50 kilometres of the insured person's residence, if,

(i) the insured person's residence is not located in the City of Toronto or the regional municipality of Durham, Halton, Peel or York, and

(ii) a designated assessment centre that complies with subsection (1.1) is located within 50 kilometres of the insured person's residence.

(1.3) Subject to subsections (1.1) and (1.2), the insurer and the insured person may jointly select the designated assessment centre if the selection is made not later than the second business day after the insurer or the insured person, as the case may be, receives notice from the other that a designated assessment is required under this Regulation.

(1.4) If the insurer and the insured person do not jointly select the designated assessment centre in accordance with subsection (1.3), the Superintendent shall, subject to subsections (1.1) and (1.2), select the designated assessment centre.

(2) Subsection 53 (2) of the Regulation, as remade by section 26 of Ontario Regulation 281/03, is revoked and the following substituted:

(2) If the designated assessment centre is selected by the Superintendent, the designated assessment centre shall, before conducting the designated assessment, give the insurer and the insured person notice disclosing any conflict of interest that the centre has relating to the designated assessment.

(3) Clause 53 (4) (b) of the Regulation, as made by section 26 of Ontario Regulation 281/03, is revoked and the following substituted:

(b) if the insurer and the insured person do not agree, the designated assessment shall be conducted, subject to subsections (1.1), (1.2) and (2), by another designated assessment centre selected by the Superintendent.

(4) Subsections 53 (6), (7) and (8) of the Regulation, as remade by section 26 of Ontario Regulation 281/03, are revoked.

(5) Subsection 53 (10) of the Regulation, as remade by section 26 of Ontario Regulation 281/03, is revoked and the following substituted:

(10) If a designated assessment centre is unable to begin a designated assessment within 14 days after receiving the request for the assessment, the insured person or the insurer may require that, subject to subsections (1.1), (1.2) and (2), the designated assessment be conducted by another designated assessment centre selected by the Superintendent.

(10.1) The Superintendent may, with the consent of the Minister, delegate in writing to any person the Superintendent's authority to select designated assessment centres under this section.

2. This Regulation comes into force on the later of October 1, 2003 and the day it is filed.

RÈGLEMENT DE L'ONTARIO 313/03

pris en application de la

LOI SUR LES ASSURANCES

pris le 24 juillet 2003
déposé le 28 juillet 2003
imprimé dans la *Gazette de l'Ontario* le 16 août 2003

modifiant le Règl. de l'Ont. 403/96

(Annexe sur les indemnités d'accidents légales - Accidents survenus le 1er novembre 1996 ou après ce jour)

Remarque : Le Règlement de l'Ontario 403/96 a été modifié antérieurement. Ces modifications sont indiquées dans la Table des règlements (historique législatif) qui se trouve sur le site http://www.lois-en-ligne.gouv.on.ca.

1. (1) Le paragraphe 53 (1) du Règlement de l'Ontario 403/96, tel qu'il est pris de nouveau par l'article 26 du Règlement de l'Ontario 281/03, est abrogé et remplacé par ce qui suit :

(1) Une évaluation désignée doit être faite par le centre d'évaluation désigné choisi conformément au présent article.

(1.1) Une évaluation désignée doit être faite par le centre d'évaluation désigné qui :

a) d'une part, est autorisé à évaluer les déficiences du type dont souffre la personne assurée;

b) d'autre part, est autorisé à procéder au type d'évaluation désignée qui est exigé.

(1.2) Une évaluation désignée doit être faite par le centre d'évaluation désigné qui est situé :

a) soit dans un rayon de 30 kilomètres de la résidence de la personne assurée si les conditions suivantes sont réunies :

(i) cette résidence est située dans la cité de Toronto ou dans la municipalité régionale de Durham, de Halton, de Peel ou de York,

(ii) un centre d'évaluation désigné conforme au paragraphe (1.1) est situé dans un rayon de 30 kilomètres de cette résidence;

b) soit dans un rayon de 50 kilomètres de la résidence de la personne assurée si les conditions suivantes sont réunies :

(i) cette résidence n'est pas située dans la cité de Toronto ni dans la municipalité régionale de Durham, de Halton, de Peel ou de York,

(ii) un centre d'évaluation désigné conforme au paragraphe (1.1) est situé dans un rayon de 50 kilomètres de cette résidence.

(1.3) Sous réserve des paragraphes (1.1) et (1.2), l'assureur et la personne assurée peuvent choisir conjointement le centre d'évaluation désigné s'ils font leur choix au plus tard deux jours ouvrables après que l'un d'eux reçoit de l'autre un avis l'informant qu'une évaluation désignée est exigée en vertu du présent règlement.

(1.4) Si l'assureur et la personne assurée ne choisissent pas conjointement le centre d'évaluation désigné conformément au paragraphe (1.3), le surintendant le fait, sous réserve des paragraphes (1.1) et (1.2).

(2) Le paragraphe 53 (2) du Règlement, tel qu'il est pris de nouveau par l'article 26 du Règlement de l'Ontario 281/03, est abrogé et remplacé par ce qui suit :

(2) Avant de procéder à l'évaluation désignée, le centre d'évaluation désigné que choisit le surintendant donne à l'assureur et à la personne assurée un avis divulguant toute situation de conflit d'intérêts dans laquelle le place l'évaluation.

(3) L'alinéa 53 (4) b) du Règlement, tel qu'il est pris par l'article 26 du Règlement de l'Ontario 281/03, est abrogé et remplacé par ce qui suit :

b) si l'assureur et la personne assurée ne s'entendent pas, l'évaluation désignée doit être faite, sous réserve des paragraphes (1.1), (1.2) et (2), par un autre centre d'évaluation désigné que choisit le surintendant.

(4) Les paragraphes 53 (6), (7) et (8) du Règlement, tels qu'ils sont pris de nouveau par l'article 26 du Règlement de l'Ontario 281/03, sont abrogés.

(5) Le paragraphe 53 (10) du Règlement, tel qu'il est pris de nouveau par l'article 26 du Règlement de l'Ontario 281/03, est abrogé et remplacé par ce qui suit :

(10) Si le centre d'évaluation désigné ne peut commencer l'évaluation désignée dans les 14 jours de la réception de la demande d'évaluation, la personne assurée ou l'assureur peut exiger que, sous réserve des paragraphes (1.1), (1.2) et (2), cette évaluation soit faite par un autre centre d'évaluation désigné que choisit le surintendant.

(10.1) Le surintendant peut, avec le consentement du ministre, déléguer par écrit à quiconque le pouvoir de choisir des centres d'évaluation désignés que lui attribue le présent article.

2. Le présent règlement entre en vigueur le dernier en date du 1er octobre 2003 et du jour de son dépôt.