NOTE: The bulletins that are posted on this website are provided for historical reference purposes. The information in these bulletins is accurate on the date the information is published, but is subject to change and may be replaced by more recent bulletins. An order that is made regarding a licence holder reflects a situation at a particular point in time. The status of a licence holder can change. Readers should check the current status of a person's or entity's licence on the Licensing Link section of FSCO's website. Readers may also wish to contact the person or entity directly to get additional information or clarification about the events that resulted in the order.

These bulletins may include forms that are no longer up-to-date or accurate. Readers

Bulletin

No. A-03/11
Property & Casualty – Auto

Recent Automobile Insurance Amendments, Updated Professional Services Guideline and Updated Forms

With this Bulletin, the Financial Services Commission of Ontario (FSCO) is highlighting recent automobile insurance amendments, providing clarification regarding caps applicable to the costs of assessments and examinations under the Statutory Accident Benefits Schedule – Effective September 1, 2010 (SABS), and releasing the following:

- New Professional Services Guideline
- Amended Settlement Disclosure Notice (SDN)
- Amended Application for Accident Benefits (OCF-1)

AUTOMOBILE INSURANCE AMENDMENTS

In the 2011 Ontario Budget, the Government made a commitment to build on the September 2010 auto insurance reforms by taking further steps to reduce fraud. These steps include introducing new rules to ensure that treatments are provided as invoiced. Further, the Insurance Act was amended to help municipal transit systems control fraudulent claims.

As a result, the Government has recently passed the following regulation and legislation changes:

Statutory Accident Benefits Schedule – Effective September 1, 2010

O. Reg. 194/11, filed on Friday, June 3, 2011, amends the SABS to include provisions (ss. 46.1, 46.2 and 55) that enhance the ability of insurers to seek verification of invoices received for goods and services provided to claimants.

The amendments come into force on July 1, 2011.

Bill 173

Bill 173, the Better Tomorrow for Ontario Act (Budget Measures), 2011, came into force on May 12, 2011. Schedule 21 of Bill 173 made the following amendments to the Insurance Act, applicable to accidents that occur on or after May 12, 2011:

- s. 267.5 (6.1) of the Insurance Act now provides that subsections (1), (3) and (5) do should visit the forms section of the FSCO website, to ensure they are using the most recent version of a FSCO form.

not protect the owner or driver of a public transit vehicle from liability for damages for negligence if the public transit vehicle did not collide with another automobile or any other object.

- s. 268 (1.1) of the Insurance Act now provides that no statutory accident benefits are payable from any source to an occupant of a public transit vehicle if the public transit vehicle did not collide with another automobile or object.

PROFESSIONAL SERVICES GUIDELINE

The new Professional Services Guideline (Guideline) released with this Bulletin increases the maximum hourly rates by 1.8 per cent. This increase is based on the 2010 Consumer Price Index (CPI) and applies to services rendered on or after July1,2011.

Services rendered prior to July 1, 2011

The Superintendent's Professional Services Guideline No. 06/10 continues to apply to expenses related to services rendered between September 1, 2010 and June 30, 2011, whether they are billed before or after July 1, 2011.

CLARIFICATION REGARDING CAPS ON COSTS OF ASSESSMENTS AND EXAMINATIONS

The new Guideline provides that:

- The $200 maximum fee for a Treatment and Assessment Plan (OCF-18) applies only to the services of a health practitioner as referred to in subsection 25 (1) 3 of the SABS, namely reviewing and approving an OCF-18 under subsection 38(3)(c), including any assessment or examination necessary for the purpose of that review and approval by the health practitioner. The $200 maximum fee does not apply to assessments or examinations that are proposed in an OCF-18 and that an insurer agrees to pay for under subsection 38(8).
- Although the SABS does not expressly set out the criteria an insurer is to apply in determining whether or not to agree to pay for a proposed assessment or examination under subsection 38(8), an insurer should not act arbitrarily or fetter its discretion, but should instead consider each proposed assessment or examination on its merits with regard to the insurer's obligation to adjust and settle claims fairly and without unreasonable delay or resistance.
- As provided in subsection 25 (5) (a) of the SABS, an insurer may agree under subsection 38(8) to pay fees of up to $2,000 for any one assessment or examination proposed in an OCF-18.

FORM UPDATES

With this Bulletin, FSCO is releasing amended versions of the Application for Accident Benefits (OCF-1) and the Settlement Disclosure Notice (SDN), to reflect minor corrections since the September 1, 2010 release. These amended forms are approved for use effective July 1, 2011. Earlier versions of the forms are not approved for use after July 1, 2011.

COPIES

The amended forms and the new Guideline are attached for your information and can also be downloaded from the FSCO website at www.fsco.gov.on.ca. In addition, the Guideline and O. Reg. 194/11 will be published in a forthcoming edition of *The Ontario Gazette*.

Bill 173 and O. Reg. 194/11 are available on the e-laws website at www.e-laws.gov.on.ca.

Philip Howell
Chief Executive Officer and
Superintendent of Financial Services

June 14, 2011

Attachments:

- Professional Services Guideline No. 01/11 (PDF)
- Application for Accident Benefits (OCF-1)
- Settlement Disclosure Notice (SDN)

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Commission des services financiers de l'Ontario

July 2011

Professional Services Guideline

Superintendent's Guideline No. 01/11

Introduction

This Guideline is issued pursuant to subsection 268.3 (1) of the Insurance Act for the purposes of subsections 15 (2) (b), 16 (4) (a), 17 (2) and 25 (3) of the Statutory Accident Benefits Schedule – Effective September 1, 2010 (SABS), and applies to expenses related to services rendered on or after July 1, 2011.

The maximum hourly rates and the maximum fees for the forms listed in this Guideline apply to services rendered on or after July 1, 2011, even if they are approved prior to July 1, 2011.

Purpose

This Guideline establishes the maximum expenses payable by automobile insurers under the SABS related to the services of any of the health care professions or health care providers listed in the Guideline. These maximums are applicable to:

- a medical benefit under clauses 15 (1) (a), (b), or (h) of the SABS;
- a rehabilitation benefit under clauses 16 (3) (a) to (g) or (l) of the SABS;
- case management services under subsection 17 (1) of the SABS; or
- conducting an examination, assessment or provision of a certificate, report or treatment plan under subsection 25 (3) of the SABS.

Insurers are not prohibited from paying above any maximum amount or hourly rate established in the Guideline.

Services provided by health care professionals/providers, unregulated providers and other occupations not listed in the Guideline are not covered by the Guideline. The amounts payable by an insurer related to services not covered by the Guideline are to be determined by the parties involved.

Maximum Hourly Rates and Fees

Automobile insurers are not liable to pay for expenses related to professional services rendered to an insured person that exceed the maximum hourly rates set out in the Appendix.

Forms

The maximum fees payable for the listed forms include all examinations, assessments and expenses related to professional services (as referred to below) that are involved in such examinations and assessments, and all other activities, tasks and expenses involved in the completion and submission of forms, whether they are made through the Health Claims for Auto Insurance (HCAI) system or otherwise. Automobile insurers are not liable to pay for any expenses related to the listed forms that exceed the maximum fees set out in the Appendix.

The $200 maximum fee referred to in this Guideline and in Superintendent's Guideline No. 06/10 (July 2010 Professional Services Guideline) for a Treatment and Assessment

Plan (OCF-18) applies only to the services of a health practitioner as referred to in subsection 25 (1) 3 of the SABS, namely reviewing and approving an OCF-18 under subsection 38 (3) (c), including any assessment or examination necessary for the purpose of that review and approval by the heath practitioner. The $200 maximum fee does not apply to assessments or examinations that are proposed in an OCF-18 and that an insurer agrees to pay for under subsection 38 (8) of the SABS.

As stipulated in section 25 (1) 3 of the SABS, the fee for the OCF-18 is payable only if any one or more of the goods, services, assessments or examinations described in the OCF-18 have been:

i. approved by the insurer;
ii. deemed by the SABS to be payable by the insurer; or
iii. determined to be payable by the insurer on the resolution of a dispute in accordance with sections 279 to 283 of the Insurance Act.

Although the SABS does not expressly set out the criteria an insurer is to apply in determining whether or not to agree to pay for a proposed assessment or examination under subsection 38 (8), an insurer should not act arbitrarily or fetter its discretion, but should instead consider each proposed assessment or examination on its merits with regard to the insurer's obligation to adjust and settle claims fairly and without unreasonable delay or resistance.

As provided in subsection 25 (5) (a) of the SABS, an insurer may agree under subsection 38 (8) to pay fees of up to $2,000 for any one assessment or examination proposed in an OCF-18.

Expenses Related to Professional Services

"Expenses related to professional services" as referred to in the SABS and the Professional Services Guideline include all administration costs, overhead, and related costs, fees, expenses, charges and surcharges. Insurers are not liable for any administration or other costs, overhead, fees, expenses, charges or surcharges that have the result of increasing the effective hourly rates, or the maximum fees payable for completing forms, beyond what is permitted under the Professional Services Guideline.

Collateral Benefits

In respect of any expense referenced in this Guideline or in previous Superintendent's Professional Services Guidelines, the amount which an insurer would otherwise be liable to pay is subject to reduction by that portion of the expense for which payment is reasonably available under any insurance plan or law, or under any other plan or law.

Harmonized Sales Tax (HST)

The applicability of the HST to the services of any health care professionals or health care providers listed in this Guideline falls under the jurisdiction of the Canada Revenue Agency (CRA). If the HST is considered by the CRA to be applicable to any of the services or fees listed in this Guideline, then the HST is payable by an insurer in addition to the fees as set out in this Guideline.

APPENDIX – REVISED RATES AND FEES

Health Care Profession or Provider	**Maximum Hourly Rate *except catastrophic impairments***	**Maximum Hourly Rate *catastrophic impairments****
Chiropractors	$108.65	$130.37
Massage Therapists	$56.04	$85.70
Occupational Therapists	$96.07	$115.50
Physiotherapists	$96.07	$115.50
Podiatrists	$94.37	$115.50
Psychologists and Psychological Associates	$144.10	$172.68
Speech Language Pathologists	$108.09	$129.22
Registered Nurses, Registered Practical Nurses and Nurse Practitioners	$88.06	$105.22
Unregulated Providers		
Case Managers	$56.04	$85.79
Kinesiologists	$56.04	$85.79
Family Counsellors	$56.04	$85.79
Psychometrists	$56.04	$85.79
Rehabilitation Counsellors	$56.04	$85.79
Vocational Counsellors	$56.04	$85.79

*This rate applies to all services rendered on or after July 1, 2011 to an insured person whose impairment is determined to be a catastrophic impairment as defined in SABS s. 3 (2) whether such services are rendered before or after such determination is made.

Form	**Maximum Payable for Completion of Form**
Disability Certificate (OCF-3)	$200.00
Treatment and Assessment Plan (OCF–18)	$200.00
Automobile Insurance Standard Invoice (OCF-21)	$0.00

Auto Insurance Forms
Pension Forms
Insurance Forms
Dispute Resolution Forms
Motor Vehicle Accident Claims Fund (MVACF) Forms
Deposit Institution Forms
Mortgage Broker Forms
Financial Services Tribunal Forms
Forms for Hearings Before the Advisory Board
Forms for Hearings Before the Superintendent
Annual Returns and Instructions

Auto Insurance Claims Forms (OCF Forms)

The OCF forms and Settlement Disclosure Notice form, available for printing or downloading in Adobe Acrobat (.pdf), have been approved by the Superintendent for use in the circumstances described on each form.

The revised Assessment of Attendant Care Needs (Form 1) is also available below.

Please note that pursuant to Regulation 7/00 (Unfair or Deceptive Acts or Practices), the use of a document in place of a form approved by the Superintendent constitutes an unfair or deceptive act or practice unless none of the deviations in the document affects the substance or is calculated to mislead.

**** Please note: All forms effective September 1, 2010 and after are fillable and saveable. ****

OCF-1: Application for Accident Benefits

- Effective as of July 1, 2011 (PDF)*
- Effective as of September 1, 2010 (PDF)*
- Effective as of May 1, 2007 (PDF)*
- Effective as of March 1, 2006 (PDF) (MS Word)
- Effective as of December 1, 2004 (PDF)

OCF-2: Employer's Confirmation Form

- Effective as of December 1, 2004 (PDF)

OCF-3: Disability Certificate

- Effective as of September 1, 2010 (PDF)*
- Effective as of May 1, 2007 (PDF) (MS Word)
- Effective as of March 1, 2006 (PDF) (MS Word)
- Effective as of December 1, 2004 (PDF)

OCF-4: Death and Funeral Benefits Application

- Effective as of March 1, 2006 (PDF) (MS Word)
- Effective as of December 1, 2004 (PDF)

OCF-5: Permission to Disclose Health Information

- Effective as of September 1, 2010 (PDF)*
- Effective as of May 1, 2007 (PDF) (MS Word)
- Effective as of March 1, 2006 (PDF) (MS Word)

WHAT'S NEW
- Dispute Resolution Forms Amended as of September 1, 2010

MOST POPULAR
- Frequently Asked Questions
- Contact Information
- Somewhere to Turn: The Financial Services Commission of Ontario (PDF)
- How to Resolve a Complaint
- Consumer Brochures
- Helpful Links

- Effective as of December 1, 2004 (PDF)

OCF-6: Expenses Claim Form

- Effective as of September 1, 2010 (PDF)*
- Effective as of December 1, 2004 (PDF)

OCF-9: Explanation of Benefits Payable by Insurance Company

- Effective as of March 1, 2006 (PDF) (MS Word)
- Effective as of December 1, 2004 (PDF)

OCF-10: Election of Income Replacement, Non-Earner or Caregiver Benefit

- Effective as of September 1, 2010 (PDF)*
- Effective as of December 1, 2004 (PDF)

OCF-11: Designated Assessment Centre Referral, Plan and Summary Form

- No longer in use.

OCF-12: Activities of Normal Life

- Effective as of March 1, 2006 (PDF) (MS Word)
- Effective as of November 1, 1996 (PDF)

OCF-13: Declaration of Post-Accident Income and Benefits

- Effective as of December 1, 2004 (PDF)*

OCF-14: Permission to Disclose Health Information to the Designated Assessment Centre

- No longer in use.

OCF-17: Notice of Stoppage of Weekly Benefits and Request for Assessment

- Discontinued as of March 1, 2006.

OCF-18: Treatment and Assessment Plan

- Effective as of September 1, 2010 (PDF)*
- Effective as of January 7, 2008 (PDF) *
- Effective as of May 1, 2007 (PDF) (MS Word)
- Effective as of March 1, 2006 (PDF) (MS Word)
- Effective as of December 1, 2004 (PDF)

OCF-19: Application for Determination of Catastrophic Impairment

- Effective as of September 1, 2010 (PDF)*
- Effective as of May 1, 2007 (PDF) (MS Word)
- Effective as of March 1, 2006 (PDF) (MS Word)
- Effective as of December 1, 2004 (PDF)

OCF-20: Catastrophic Impairment Determination and Request for Assessment

- Discontinued as of March 1, 2006.

OCF-21: Auto Insurance Standard Invoice

- Effective as of September 1, 2010 (PDF)*

- Effective as of January 7, 2008 (PDF)*
- Effective as of April 2, 2007 (PDF)
- Effective as of March 1, 2006 (PDF) (MS Word)
- Effective as of December 1, 2004 (PDF)

OCF-22: Application for Approval of an Assessment or Examination

NB: Discontinued as of September 1, 2010.

- Effective as of January 7, 2008 (PDF)*
- Effective as of May 1, 2007 (PDF) (MS Word)
- Effective as of March 1, 2006 (PDF)
- Effective as of December 1, 2004 (PDF)

OCF-23: Treatment Confirmation Form

- Effective as of September 1, 2010 (PDF)*
- Effective as of January 7, 2008 (PDF)
- Effective as of March 1, 2006 (PDF) (MS Word)
- Effective as of December 1, 2004 (PDF)

OCF-24: Minor Injury Treatment Discharge Report

- Effective as of September 1, 2010 (PDF)*
- Effective as of October 1, 2007 (PDF)
- Effective as of December 1, 2004 (PDF)

OCF-25: Notice of Examination

- Effective as of March 1, 2006 (PDF)* (Fillable MS Word)

OCF-26: Voluntary Consent for Pre-Claim Examination

- Effective as of March 1, 2006 (PDF) (MS Word)

Settlement Disclosure Notice

- Effective as of Effective as of July 1, 2011 (PDF)*
- Effective as of September 1, 2010 (PDF)*
- Effective as of October 1, 2003 (PDF)

Form 1: Assessment of Attendant Care Needs

- On and after September 1, 2010, use this form for accidents occurring on or after March 31, 2008 (PDF)
- Until August 31, 2010, use this form for accidents occurring on or after March 31, 2008 (PDF)*
- Use this form for accidents occurring on or after February 1, 2007 and before March 31, 2008 (PDF) (MS Word)
- Use this form for accidents occurring on or after March 1, 2006 and before February 1, 2007 (PDF) (MS Word)
- Use this form for accidents occurring on or after October 1, 2003 and before March 1, 2006 (PDF)

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