Cost of Goods Guideline

Bulletin

No. [A-01/12]
[Property & Casualty]
[-Auto]

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

NOTE: The bulletins that are posted on this website are provided for historical reference purposes.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 should visit the **forms** section of the FSCO website, to ensure they are using the most recent version of a FSCO form.

With this Bulletin, the Financial Services Commission of Ontario ("FSCO") is releasing the Cost of Goods Guideline ("the Guideline") for the purposes of the Statutory Accident Benefits Schedule – Effective September 1, 2010 ("new SABS") and the Statutory Accident Benefits Schedule – Accidents on or After November 1, 1996 ("old SABS").

This Guideline has been developed as a result of a recommendation by the Auto Insurance Anti-fraud Task Force in its interim report regarding measures that should be undertaken as soon as possible. Consistent with Ontario's crackdown on criminal and opportunistic automobile insurance fraud, the interim report suggested the creation of "a guideline to address the issue of insurers being invoiced for medical devices at prices considerably higher than their normal retail value". The interim report reflected input received from insurance industry stakeholders, the police, health care professionals and legal professionals.

Effective Date

The Guideline will be effective for any Treatment and Assessment Plan (OCF-18) and Auto Insurance Standard Invoice (OCF-21) submitted in respect of a medical or rehabilitation benefit claim made under the new SABS or old SABS, after the date of publication in the Ontario Gazette.

Authority

The Guideline is issued pursuant to section 268.3 (1) of the Insurance Act for the purposes of the SABS. As required by section 268.3 (2) of the Insurance Act, the Guideline shall be considered in any determination involving the interpretation of the SABS.

A copy of the Cost of Goods Guideline is attached and is also available on FSCO's website at www.fsco.gov.on.ca. The Guideline will also be published in a forthcoming edition of The Ontario Gazette.

Philip Howell
Chief Executive Officer and
Superintendent of Financial Services

January 6, 2012

Attachment:

- **Cost of Goods Guideline No. 01/12**

Ontario

Financial Services
Commission
of Ontario

Commission des
services financiers
de l'Ontario

January 2012

Cost of Goods Guideline

Superintendent's Guideline No. 01/12

Introduction

This Guideline is issued pursuant to section 268.3 (1) of the *Insurance Act* for the purposes of sections 15 and 16 of the *Statutory Accident Benefits Schedule - Effective September 1, 2010* (“new SABS”) and 14 and 15 of the *Statutory Accident Benefits Schedule – Accidents on or After November 1, 1996* (“old SABS”).

Purpose

Sections 15 and 16 of the new SABS and sections 14 and 15 of the old SABS require insurers to pay for “reasonable and necessary” expenses incurred by or on behalf of an insured person for the types of goods described in those sections.

The purpose of this Guideline is to provide direction concerning the appropriate interpretation of the term “reasonable” for the purpose of those sections.

Retail Price to Govern

For the purposes of this Guideline, the retail price is the lowest price, including delivery charges (if delivery is required), duties and taxes, that would be payable by or on behalf of an insured person to acquire an item of goods from a source that is available to a member of the general public in Ontario.

Where a retail price exists for an item of goods, a “reasonable” expense for that item for the purposes of sections 15 and 16 of the new SABS and sections 14 and 15 of the old SABS is that retail price, or the price actually paid or payable by or on behalf of the insured person to acquire the item, whichever is lower.

In the event of a dispute over whether an expense for an item is “reasonable”, the onus is on the insurer to provide reasonable evidence of the retail price of the item.

Reasonable evidence includes, but is not limited to: an advertisement; written confirmation from a vendor; or any other reliable form of proof of the retail price.

Harmonized Sales Tax (HST)

The applicability of the HST to goods referred to in sections 15 and 16 of the new SABS and sections 14 and 15 of the old SABS falls under the jurisdiction of the Canada Revenue Agency (CRA). If the HST is considered by the CRA to be applicable to an item for which an insurer is liable under those sections, then the HST is payable by the insurer as part of the “reasonable” expense for that item.

This is consistent with the treatment of HST for services subject to the Professional Services Guideline – Superintendent's Guideline No. 01/11 and the Cost of Assessments and Examinations Guideline – Superintendent's Guideline No. 08/10.