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Changes to Automobile Insurance Regulations; Guideline Update

Bulletin

No. A-06/15

Property & Casualty

– Auto

To the attention of all insurance companies licensed to transact auto 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NOTE: The bulletins that are posted on this website are provided for historical reference purposes.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 highlighting recent amendments to some of Ontario's automobile insurance regulations and revisions to the Attendant Care Hourly Rate Guideline. FSCO is also communicating the results of the annual review of the Professional Services Guideline (PSG).

The amendments to the Statutory Accident Benefits Schedule – Effective September 1, 2010 (O. Reg. 34/10) (SABS) and Automobile Insurance (R.R.O. 1990, Reg. 664) under the Insurance Act follow announcements made by the government in the 2015 Ontario Budget. In the upcoming months, FSCO will issue additional bulletins relating to the implementation of automobile insurance reforms.

[Statutory Accident Benefits Schedule – Effective September 1, 2010 \(O. Reg. 34/10\)](#)

The following amendments to benefit limits in the SABS apply only to policies issued or renewed on or after June 1, 2016. Existing contracts remain subject to the current limits until the contract is terminated or renewed.

Medical, Rehabilitation & Attendant Care Benefit

- A new standard benefit that combines medical, rehabilitation and attendant care benefits is set at \$65,000. The current system provides for a standard medical and rehabilitation benefit of \$50,000 and a separate standard attendant care benefit of \$36,000. For catastrophic impairment claims, a new combined medical, rehabilitation, and attendant care benefit of \$1 million is available. The current system provides for two separate limits of \$1 million for medical and rehabilitation benefits and attendant care benefits for catastrophic impairment claims.
- The duration of the new standard medical, rehabilitation and attendant care benefit is five years for non-catastrophic impairments; the current duration limit for medical/ rehabilitation benefit is 10 years. The new duration period does not apply to children under 18 at the time of the accident. These time limits also do not apply if the insured person sustains a catastrophic impairment, or has purchased the additional optional \$1 million medical, rehabilitation and attendant care benefit.

Non-earner Benefit

- The duration of the non-earner benefit is changed to two years following the accident with an initial waiting period of four weeks.
- The non-earner benefit is payable to an insured person who is 18 or older.

Optional Benefits

- A new combined optional medical, rehabilitation and attendant care benefit of \$130,000 will be available to consumers in addition to the existing optional \$1 million combined medical, rehabilitation and attendant care benefit that is available currently.
- A new optional benefit for catastrophic impairment of up to an additional \$1 million for medical, rehabilitation and attendant care will be available, if the insured person sustains a catastrophic impairment.
- The current optional \$100,000 medical and rehabilitation benefit and \$72,000 attendant care benefit have been eliminated.

The following amendments to the SABS apply to accidents that occur on or after June 1, 2016.

Catastrophic Impairment Definition

- The definition of catastrophic impairment is revised to reflect more current and up to date medical information from the Superintendent's 2012 report on the definition of catastrophic impairment, as well as feedback from government consultations.
- The definition includes new and/or updated definitions and criteria for traumatic brain injuries for adults and children, amputations, ambulatory mobility, loss of vision, and mental and behavioral impairments, and introduces a new process for combining physical with mental and behavioral impairments.
- The revised definition also provides for an automatic designation of catastrophic impairment for children with traumatic brain injuries in specified circumstances.

Test for Other Goods and Services

- Other goods and services under clauses 15 (1) (h) and 16 (3) (l) are subject to a new requirement that an insurer agree that the goods and services are essential for the treatment or rehabilitation of the insured person.

Professional Attendant Care Benefit Limited to Actual Expenses Incurred

- If the actual expenses incurred for paid attendant care service providers are lower than the monthly amount assessed under Form 1, the insurer is liable to pay only for the incurred expenses.

Automobile Insurance (R.R.O. 1990, Reg. 664)**Monthly Premium Payments**

- With respect to contracts issued or renewed on or after June 1, 2016, the maximum interest rate insurers may charge on installment payments for contracts that are twelve months or more is 1.3 per cent; for contracts that are six months or more but less than twelve months, the rate is 0.65 per cent; and for contracts that are less than six months, the rate is 0.22 per cent. The current specified interest rates will continue to apply to contracts issued or renewed before June 1, 2016.

Prescribed Elements of Risk Classification System

- The standard deductible for comprehensive coverage is increased to \$500 from \$300 for contracts issued or renewed on or after June 1, 2016.

Minor Accidents

- Subject to the exception described below, an insurer may not take into consideration a minor accident that occurs on or after June 1, 2016 in deciding whether to issue, renew or cancel a contract or in determining the premium, if all of the following criteria are met:
 - The cost of damage to each vehicle involved in the accident, including any property damage, does not exceed \$2,000, and the cost of all such damages is paid by the at-fault party;
 - No personal injuries are sustained as a result of the accident;
 - No payment is made by any insurer for any damage to the vehicles or property resulting from the accident.
- Exception: An insurer may consider a minor accident that occurs on or after June 1, 2016 in deciding whether to issue, renew or cancel a contract or in determining the premium, if the vehicle was involved in a total of more than one minor accident in the previous three years, and in each accident the driver of that vehicle was at fault.

Attendant Care Hourly Rate Guideline

Attached to this bulletin is a new Attendant Care Hourly Rate Guideline (Guideline). The new Guideline reflects the scheduled increase in Ontario's general minimum wage to \$11.25 per hour on October 1, 2015. The general minimum wage is used to calculate an overall benefit for the Level 2 (Hourly Rate B) basic supervisory functions. The Guideline applies only to accidents occurring on or after October 1, 2015. The Attendant Care Hourly Rate Guidelines previously issued continue to apply according to their terms to accidents occurring before October 1, 2015.

Professional Services Guideline

The hourly rates in the Professional Services Guideline (PSG) are reviewed by the Superintendent of Financial Services every year. It was concluded after this year's review that no update is required at this time. Therefore, the hourly rates in the current PSG will continue to apply.

Implementing the Changes

Please ensure that your claims and underwriting staff, and any other staff who may be affected, are informed of these changes. Also ensure that you make any operational changes needed to implement these reforms by the effective date.

Copies of Regulations and Guideline

The regulations can be downloaded from the e-laws website at www.e-laws.gov.on.ca . The revised Attendant Care Hourly Rate Guideline is expected to be published in an upcoming edition of The Ontario Gazette.

Brian Mills
Chief Executive Officer and
Superintendent of Financial Services

August 31, 2015

Attachment:

- [Attendant Care Hourly Rate Guideline](#)  Size: ## kb



Financial Services
Commission
of Ontario

Commission des
services financiers
de l'Ontario

October 2015

Attendant Care Hourly Rate Guideline

Superintendent's Guideline No. 02/15

Attendant Care Hourly Rate Guideline

Introduction

This Guideline is issued pursuant to s. 268.3 (1) of the Insurance Act and is incorporated by reference in s. 19 (2) (a) of the Statutory Accident Benefits Schedule – Effective September 1, 2010 (SABS).

Purpose

This Guideline establishes the maximum expense that automobile insurers are liable to pay under the SABS related to attendant care services, and applies only to accidents that occur on or after October 1, 2015.

The maximum hourly rates applicable to accidents occurring before October 1, 2015 continue unchanged. For example, the rates applicable to accidents occurring on or after September 1, 2010 and before June 1, 2014 are governed by Superintendent's Guideline No. 03/10. Accidents occurring on or after June 1, 2014 and before October 1, 2015 are governed by Superintendent's Guideline No. 02/14.

Insurers are not prohibited from paying above the maximum hourly rates established in this Guideline.

Collateral Benefits

In respect of any expense referenced in this Guideline, 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.

Administration Fees

The hourly rates referred to in s. 19 (2) (a) of the SABS and this Guideline include all administration costs, overhead, and related costs, fees, expenses, charges and surcharges that have the result of increasing the maximum hourly rates. Insurers are not liable for any administration or any other charges or surcharges that have the result of increasing the effective hourly rate beyond what is payable under this Guideline.

Maximum Fees

Automobile insurers are not liable to pay for expenses related to attendant care costs rendered to an insured person that exceed the maximum hourly rates set out below.

Attendant Care Costs	Maximum Hourly Rate
Part 1: Hourly Rate A Level 1 Attendant Care is for routine personal care.	\$13.19
Part 2: Hourly Rate B Level 2 Attendant Care is for basic supervisory functions.	\$11.25
Part 3: Hourly Rate C Level 3 Attendant Care is for complex health/care and hygiene functions.	\$19.35