



September 09, 2024

The Hon. Peter Bethlenfalvy, Minister of Finance
Ministry of Finance
7 Queen's Park Crescent
Toronto, ON
M7A 1Y7

Dear Minister Bethlenfalvy,

On behalf of the Coalition of Health Professions in Auto Insurance (the "Coalition"), I would like to thank you for the opportunity to respond to the proposed amendments to Ontario Regulation 34/10 (Statutory Accident Benefits Schedule (SABS) under the Insurance Act regarding optional benefits, and priority of payment for SABS medical and rehabilitation benefits. The Coalition appreciates your commitment to modernizing the auto insurance system to improve access to benefits and affordability for consumers in Ontario.

The Coalition was formed in 1990 with a membership of eight regulated health professional associations.¹ These Associations, in turn, represent over 40,000 regulated health professionals involved in the assessment and treatment of Ontarians injured in motor vehicle accidents (MVAs). The Coalition brings an important perspective -- shared across multiple health disciplines -- on the needs of claimants and consumers in a viable and sustainable auto insurance system in Ontario. Over more than three decades, we have actively participated and engaged in meaningful developments and reforms through our work with the Financial Services Regulatory Authority of Ontario (FSRA) presently, its predecessor, the Financial Services Commission of Ontario (FSCO), and the Ministry of Finance (MOF) and the Ministry of Health.

Extended Health Care (EHC) benefits as the First Payor for Auto Insurance

The Coalition supports the government's commitment to eliminating the requirement for consumers in motor vehicle accidents to exhaust employer-based extended health care (EHC) insurance prior to accessing the no-fault Medical and Rehabilitation Benefit. The current policy of exhausting EHC benefits adds complexity to an already complex auto insurance system, delays care and creates unintended impacts on claimants and their families. For claimants with minor,

¹The Coalition is comprised of the following member Associations: Ontario Association of Social Workers (OASW); Ontario Chiropractic Association (OCA); Ontario Dental Association (ODA); Ontario Physiotherapy Association (OPA); Ontario Psychological Association (OPA); Ontario Society of Occupational Therapists (OSOT); Registered Massage Therapist's Association of Ontario (RMTAO); and Speech-Language & Audiology Canada (SAC).

catastrophic or non catastrophic injuries, these consequences include delayed access to care, deterioration in condition, and loss of EHC benefit resources for non accident-related care.

Auto Insurance Benefits Coverage

While we support the need to ensure an affordable and sustainable auto insurance system, the Coalition believes that increased optionality will leave some of Ontario's most vulnerable residents exposed and without necessary coverage if they sustain a motor vehicle accident.

For example:

1. Non-income earning Ontarians, a majority of whom are seniors and students, or those working in low-income jobs, are unlikely to purchase optional benefits due to the additional cost. If these vulnerable Ontarians were to be involved in a car accident, they would be impoverished and unable to manage their day-to-day costs.
2. While Ontarians presently employed may choose not to opt-in for disability insurance, if they ever become unemployed and sustain a disabling motor vehicle accident, they may not be able to support themselves or their families. In addition, as employment status frequently changes, it is unreasonable to expect that consumers will inform their broker or insurance adjuster to add auto insurance replacement benefits each time they change jobs or become unemployed.
3. The design of Ontario's no-fault system would mean that innocent accident victims, for example, pedestrians, who are not at fault and do not have their own insurance would be dependent on the coverage purchased by the driver who caused the collision. This would result in an inequitable system, where they might only receive social services, such as Ontario Works and the Ontario Disability Support System.

The above scenarios would increase pressure on the public health and social services systems, and as a result, those who do need to purchase the benefit would face higher premiums. Moreover, making the currently mandatory benefits optional shifts away from a "pooled risk" model of insurance. That is, if those citizens who are less likely to require a benefit decline its purchase, their removal (as lower-risk individuals) from the rate-setting pool for that benefit, in turn, increases the premium rate for those who choose to opt-in.

The Coalition believes that the Ontario government could reduce the risk of unintended consequences using an opt-out delivery model for these reforms. An opt-out model would enable more consumer choice. At the same time, it is more likely to ensure that Ontarians are fully informed and have considered the associated costs and risks to

determine which benefits they need or do not need. Additionally, an opt-out model would lower the administrative burdens for both consumers and the insurance industry compared to an opt-in model. For example, an opt-out model would reduce plan variation and complexity, thereby reducing burdens on insurers who must explain the benefit to consumers, and consumers trying to make fully informed decisions about which benefits they require.

We are also concerned that the proposed regulatory changes do not provide any direction and/or requirements regarding consumer education and other consumer protections to help ensure informed choice (e.g., express consent for opting-out, and a reasonable cooling-off period). The regulatory amendments must create uniformity regarding how optionality will be implemented across the auto insurance system including the date when optionality provisions will be implemented, and if they will be applied retroactively.

Finally, medical/rehabilitation and attendant care benefit limits under the SABS must be increased, and should also be subject to annual cost-of-living adjustments. All three benefit levels, the Minor Injury Cap, non-Catastrophic and Catastrophic limits, under the SABS have not changed since 2014. As a result, in today's dollars, Ontarians have substantially less coverage than they had a decade ago to fund necessary care to restore functioning to pre-accident levels. Therefore, all three benefit limits must be retroactively adjusted for cost-of-living, and adjusted annually thereafter to keep pace with inflation moving forward.

For those Ontarians who are critically impaired in an accident, the Coalition supports restoring access to \$2 million for medical, rehabilitation and attendant care as announced in the Ontario Government's Budget published in the fall of 2019. This will provide more predictability for those who have been catastrophically injured and enable them to plan for future care needs and meet the inflationary costs for critical care and services as per the decision outlined in the 2019 Budget.

Sincerely,

Dr. Moez Rajwani and Ms. Kim Doogan, Coalition Co-Chairs