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An Update on Ontario Auto regulatory Changes

The Ontario Government has made some minor changes to Ontario Auto to support the 10% reduction for private passenger auto premiums. These policy changes will be effective on April 15, 2004. Some insurers may apply new rates to new business effective March 1, 2004 and April 15, 2004 for renewals.

The major change deals with the handling of whiplash claims. Whiplash claims have been categorized as to whiplash-associated disorder Grade I, (to be known as WAD I), and to Grade 2 (WAD II). For a person who sustains an impairment determined to be a WAD I the income replacement benefit will be limited to 12 weeks. Similarly for a WAD II impairment the income replacement benefit will be limited to 16 weeks.

In addition, Attendant Care Benefits will NOT be paid to insured persons who sustain WAD I or WAD II impairments.

There will be a change to the Limit on Transportation Expense. Currently, insurers are not liable to pay for transportation to and from treatment, counseling or training sessions, and examination or assessments for the first 50 kilometers. This limitation has not changed except the limitation will NOT apply to insured persons who have sustained catastrophic injuries. It is interesting to note that this revision has removed the requirement of "transportation in the insured person's automobile" (SABS 15 – s12).

Income that is not reported for income tax purposes will no longer be used to calculate income replacement benefits. If the income is later reported, an adjustment will be allowed. Income replacement benefits are currently paid for (1) an employed person; (2) a person has been employed 26 weeks of the recent 52 weeks; (3) and where a person has a contract of prospective employment to commence within 1 year. This last entitlement for income based on future employment has been eliminated. This is in concurrence of NOT paying for unreported income.

The SABS has been changed to clarify that Delivery of Written Notices can be delivered by registered or certified mail, in addition to courier or personal service.

Collision coverage will be subject to a standard deductible of \$500.00. Renewals will be issued with the standard \$500.00 deductible for insureds who have a lower deductible. The regulation will continue the standard deductible of \$300.00 for comprehensive and DCPD. Insurers are permitted to offer alternative deductibles.

A surprise amendment is the introduction of a limit of \$300.00 for tow truck and storage fees and cleanup costs.. This limitation will not apply to claims in Northern Ontario which is defined as the districts of Algoma, Cochrane, Kenora, Manitoulin, Nipissing, Parry Sound, Rainy River, Sudbury, Timiskaming and Thunder Bay and the District Municipality of Muskoka. The limitation will also

NOT apply for vehicles with a gross weight in excess of 4,500 kilograms, or to cleanup services rendered by or on behalf of a government authority.

This latter restriction has introduced the OPCF 48 Endorsement – Waiver of Towing, Storage and Cleanup Exclusion. This endorsement will permit the removal of the limitation or an amendment to the amount of the limitation. At the time of writing, insurers have not established pricing for this endorsement but in my opinion it should be minimal!.

In summation, and from my observations, the purpose of these changes are to be able to reduce rates by at least the 10% factor. Of all the changes the most significant change that will assist this reduction is the introduction is of income replacement limitations for whiplash associated disorders. A similar limitation has been introduced in the Maritimes and with the expected results in reducing claim amounts. I cannot believe that limitation on towing, storage or eliminating income for unreported income or future income can have a significant overall effect on future premiums.

The OAP 1 will be revised to reflect these changes and should be available shortly. From what was originally suggested by the previous government in 2003, I believe that we can expect further changes in the near future.

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