

## WHAT'S HAPPENING AT FSCO? THE LEGATE SABS UPDATE

Special Edition March 4, 2010

### Highlights of Changes to the SABS: in force September 1, 2010.

*The following are highlights of the changes to the SABS; watch for an announcement of an in-depth review of the changes and how they will affect insureds and their care providers.*

#### Optional Benefits

*In addition to buying optional benefits to permit catastrophic levels of benefit, due to the reductions outlined below, one may now buy an optional benefit to restore coverage in non-catastrophic cases to former levels (\$100,000 medrehab/\$72,000 attendant care, housekeeping and caregiver benefits).*

#### Definitions

- *Catastrophic Impairment*
  - *Loss of use of an arm or a leg qualifies*
  - *Statement to confirm whole body impairment where sole injury is a brain injury requires a neuropsychologist; where brain injury is an included injury, a physician*
  - *Denial now requires statement of reasons*
  - *Payments for expenses will be retroactive to the date of the determination*
- *“Incurred expense” makes technical changes to tighten availability and limit payments to family members*
- *Minor Injury – Pre-approved framework removed. Minor injury defined as a sprain, strain, whiplash associated disorder, contusion, abrasion, laceration or subluxation and any clinically associated sequelae*
  - *Sprain – injury to one or more tendons or ligaments or to one or more of each, including a partial but not a complete tear*
  - *Strain – injury to one or more muscles, including a partial but not a complete tear*
  - *Subluxation – partial but not a complete dislocation of a joint*
  - *Whiplash associated disorder – whiplash injury that*
    - *does not exhibit objective, demonstrable, definable and clinically relevant neurological signs, and*
    - *does not exhibit a fracture in or dislocation of the spine*
  - *Whiplash injury – injury that occurs to a person’s neck following a sudden acceleration-deceleration force*

#### Income Benefits

- *IRB calculated as 70% of gross*

- *Accounting reports up to \$2,500 to calculate IRB*
- *No care-giver benefits for non-catastrophic claims*
- *No re-election of benefits – once NEB or IRB elected, no re-election*
- *New calculations effectively eliminate pre-collision losses for income from self employment*
- *Termination or severance pay are no longer payments deducted from IRB*

#### Medical-rehabilitation benefits:

- *Non-catastrophic limits reduced to \$50,000*
- *Minor injuries : Benefits limited to \$3,500 unless compelling evidence that a pre-existing injury will prevent maximal recovery*
- *Minor injury guideline to be produced*
- *Pre-existing conditions may take injury out of the minor injuries characterization*
- *Other goods and services no longer includes housekeeping or caregiver benefits*
- *Costs of assessments will be taken out of the overall medical-rehabilitation limit, with the exception of accounting reports to calculate IRBs.*

#### Housekeeping and Home Maintenance

- *Eliminated for non-catastrophic impairments*

#### Attendant Care

- *Reduced to \$36,000 @ \$3,000 per month for non-catastrophic impairments*
- *None for minor injuries*
- *Form 1: amounts for each section to be added together (eliminating crediting done in the past)*

#### Assessments:

- *Treatment plans are out; treatment and assessment plans are in*
- *No in-home assessments for minor injuries*
- *No future care or life care plans*
- *Form 1 to be completed by an OT or an RN*
- *Disability certificates to be prepared by a health practitioner*
- *Fees for assessments limited to \$2,000 except for Form 1 and Disability; there will be a guideline for minor injuries*
- *Several other technical limitations on fees payable*

#### IMEs

- *No provision for pre-claim assessments*
- *IMEs to be delivered within 10 days of receipt by Insurer*
- *15 day post examination time limit eliminated*
- *Can be outside 50 km limit but subject to reasonableness*
- *No IMEs for minor injuries; quare, is there an IME for determination of minor impairment?*

### Procedures

- *Specific benefits not payable for period prior to submission of disability certificate*
  - *Insurer has ten days to pay benefit or request IME otherwise deemed payable*
  - *Can give 15 days notice of request for updated Form 1*
- Interest penalty cut in*

### **Accessing Arbitration Decisions**

If you would like to read the arbitration decisions for yourself, they can be found at <http://www.fSCO.ca/english/insurance/auto/drs/decisions/default.asp>.

Please contact FSCO at 1-800-517-2332 ext. 7202 to obtain a password to gain access to the site.

If you have questions or comments about this edition of the newsletter, contact one of the following lawyers at Legate & Associates.

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