

AUTOMOBILE INSURANCE REFORM Q&A

1. WHAT ARE THE AUTO INSURANCE REFORMS?

The government is providing consumers with more choice over the coverages and price you pay for insurance. These additional accident benefit choices will allow you to customize your policy to suit your needs.

The new automobile insurance regulations will reduce transaction costs and be simpler, ensuring more accident benefit dollars go to treating accident victims. They will also help stabilize insurance premiums in Ontario.

2. WHEN WILL THE REFORMS TAKE EFFECT? WHEN CAN DRIVERS EXPECT TO SEE CHANGES TO THEIR AUTOMOBILE INSURANCE POLICIES?

The reforms come into effect on September 1, 2010.

Renewal policies are generally mailed to drivers about two months before their existing policies come up for renewal. This means that some drivers will begin to receive renewal policies in July, showing the changes made to policies coming up for renewal on or after September 1, 2010.

A consumer education strategy has been developed to ensure that policyholders are aware of the changes well before that date.

3. HOW MUCH WILL THE OPTIONAL BENEFITS COST?

Each insurance company has been required to file its new rates for optional benefits for approval by Ontario's insurance regulator, the Financial Services Commission of Ontario (FSCO). Pricing will vary from insurer to insurer, as they have unique underwriting and rating rules. The pricing also will vary for individual drivers.

4. WHAT ARE THE DISCLOSURE REQUIREMENTS FOR INSURERS AND BROKERS SELLING AUTO INSURANCE?

FSCO has worked with key stakeholders to launch consumer education initiatives, including mandatory point-of-sale disclosure of the new choices consumers will have when purchasing automobile insurance coverage.

Through mandatory point-of-sale disclosure, drivers will be informed about new options available to them, and will be provided with an opportunity to purchase optional coverage, such as a higher level of medical and rehabilitation coverage.

5. WHAT HAPPENS TO SERIOUSLY INJURED PEOPLE WHO EXHAUST THEIR STANDARD MEDICAL AND REHABILITATION COVERAGE, HAVE NOT PURCHASED OPTIONAL MEDICAL AND REHABILITATION COVERAGE, AND ARE NOT DEEMED CATASTROPHICALLY INJURED?

Many of those who exhaust their accident benefits will be eligible to sue at-fault parties for excess medical and rehabilitation costs in court.

6. HOW DO ACCIDENT BENEFITS IN ONTARIO COMPARE WITH ACCIDENT BENEFITS AVAILABLE IN OTHER JURISDICTIONS?

Ontario's standard medical and rehabilitation benefits will remain the most generous in Canada, when compared to other provinces with similar automobile insurance marketplaces.

Ontario will continue to be the only province with privately delivered insurance that provides additional coverage for people who suffer more serious injuries.

7. WHAT HAPPENS WHEN CONSUMERS' POLICIES COME UP FOR RENEWAL? HOW WILL CONSUMERS BE NOTIFIED?

Because it is important to ensure that consumers are provided with an opportunity to make an informed decision when purchasing or renewing automobile insurance, drivers will be informed about new options available to them through mandatory point-of-sale disclosure.

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8. WHAT DEFINES A "MINOR INJURY"?

Minor injuries, with respect to an auto accident, are sprains, strains, dislocations, lacerations, contusions, abrasions and whiplash injuries without nerve damage or a fracture.

Sprain means an injury to one or more tendons or ligaments, or both, including a partial but not a complete tear.

Strain means an injury to one or more muscles, including a partial but not a complete tear.

9. WHY DID THE GOVERNMENT IMPOSE A CAP OF \$3,500 FOR MINOR INJURIES?

This cap on medical and rehabilitation expenses for treatment of minor injuries (whiplash, sprains, strains, contusions, dislocations, lacerations and abrasions) is an interim measure pending an expansion of the guidelines for treating minor injuries.

In Ontario, spending on medical expenses for auto accident victims is growing at an annual rate of nearly 16 per cent. However, the number of people injured in auto accidents has remained steady.

When compared to other provinces, medical expenses are quite high. Bringing the cost of treating similar injuries in line with other jurisdictions will alleviate cost pressures in Ontario.

10. HAS THE GOVERNMENT BANNED CREDIT SCORING FOR AUTO AND HOME INSURANCE? IF JUST AUTO, WHY?

As far as the government is concerned the use of credit scores and credit information is prohibited when determining if a driver is insurable or the premium a driver should pay.

The government has strengthened the prohibition of the use of credit scoring for determining a driver's insurability.

Currently there is no ban on credit scoring on property insurance but FSCO is monitoring the situation and has recently conducted a survey to get a better understanding of the marketplace.

11. WHAT PENALTIES, IF ANY, DO INSURANCE COMPANIES FACE IF THEY USE CREDIT SCORING AS A MEANS OF DETERMINING PREMIUMS?

FSCO can issue a Cease and Desist Order to an insurer as well as require the insurer to remedy the situation where the insurer uses credit scores or credit information as a means of determining premiums.

Failure to comply with the regulatory ban can also result in a charge under the Insurance Act, which upon conviction can lead to fines of up to \$100,000 for a first conviction and \$200,000 for subsequent convictions.

12. WHAT HAPPENS TO CLAIMANTS WHOSE ACCIDENTS WERE BEFORE SEPTEMBER 1? ARE THEIR BENEFITS REDUCED?

They will be entitled to the same benefits that were in their policy at the time of their accident. That means they will continue to be able to claim up to \$100,000 in medical and rehabilitation benefits, \$72,000 in attendant care benefits, housekeeping and home maintenance benefits, and caregiver benefits. They will not be subject to the minor injury cap and the new rules concerning incurred expenses will not apply.

13. HOW WOULD PEOPLE WITHOUT AUTO INSURANCE, SUCH AS INNOCENT BYSTANDERS OR THOSE ON BICYCLES, BE TREATED IF THEY ARE INJURED IN AN ACCIDENT WITH A MOTORIZED VEHICLE AFTER SEPTEMBER 1?

Those without auto insurance would have access to \$50,000 in medical and rehabilitation coverage and \$36,000 in attendant care coverage, and would be subject to the minor injury and assessment caps that all drivers are subject to.

As is the case now, innocent injured victims would be eligible to sue an at-fault party in court for additional financial compensation

14. WILL THE REFORMS TO ASSESSMENTS APPLY TO ACCIDENTS THAT OCCUR BEFORE SEPTEMBER 1?

Yes. Assessments are used to determine entitlement to benefits, and the rules governing assessments begin to apply on September 1 even if your accident was before then. This means the \$2,000 cap on claimant assessments and insurer exams applies beginning on September 1; there are no rebuttal exams available beginning on that date; and insurers will now have discretion on whether to conduct an insurer exam when making an entitlement decision.

15. WHAT OTHER CHANGES WILL APPLY TO OLDER CLAIMS ON AND AFTER SEPTEMBER 1?

Among the changes are the following: An Assessment of Attendant Care Needs form (Form 1) will have to be completed by an occupational therapist or registered nurse. An Application for Determination of a Catastrophic Impairment (OCF-19) must be prepared by a physician, or by a physician or neuropsychologist where the injury is a brain impairment. An election made after September 1 by a claimant who qualifies for more than one type of weekly benefit cannot be changed except in limited circumstances. Revised claim forms will be used for both old and new claims.

16. WILL INSURERS HAVE TO PROVIDE BENEFIT STATEMENTS TO CLAIMANTS WITH ACCIDENTS THAT OCCUR BEFORE SEPTEMBER 1?

No. The requirement to provide claimants with periodic benefit statements will only be provided to claimants who have accidents on and after September 1.