

The Coalition of Health Professional Associations in Ontario Automobile Insurance Services (the “Coalition”) is pleased to have the opportunity to provide a submission to the Ministry of Finance regarding the increase to \$2 million dollars in funding for those with a catastrophic injury.

The Coalition of Health Professional Associations in Ontario Automobile Insurance Services represents over 40,000 regulated, front line regulated health professionals from nine professions involved in the assessment and treatment of Ontarians. The health professions we represent are key stakeholders in the auto insurance system and advocate for timely access to assessment and care for claimants.

The Coalition’s responses to the consultation questions posed are provided below.

Implementation Details & Options

4. What potential benefits or implementation challenges should the government consider regarding the proposed approach?

Eligibility Dates

The Coalition supports this initiative to provide those with the most serious injuries access an aggregate amount of \$2 million in medical, rehabilitation and attendant care services, which the claimant can access depending on their individual needs. During the transition period from \$1million to \$2million coverage, there needs to be clarity provided for eligibility dates so that individuals who experience a catastrophic injury during the transition period are able to access their entitlements under their policies.

Current standard provides insufficient funds

As health care providers, we recognize that the 2016 definition for catastrophic injuries (CAT) created a higher threshold for those with brain injuries and mental disorders to meet the CAT designation. This means lesser overall cost to insurers but also results in many more seriously injured persons in the non-CAT category. In our collective experience, we have found that some of these patients exhaust their \$65,000 benefit level prior to either completing the rehabilitation they need to return to their pre-injury level of function or before a CAT determination can be completed (e.g. serious acquired brain injuries).

Many of the necessary rehabilitative services are not available through OHIP. Instead, an injured person would need to pay out-of-pocket to access the rehabilitation services they need. In addition, if the injured person later receives a Tort settlement, the time it takes to complete the settlement process would mean that the funds would not be available to pay for rehabilitation services at the time when it is most required and effective.

Thus, the Coalition questions whether the current standard required level of no-fault Medical, Rehabilitation and Attendant Care Benefit provision (i.e., \$65,000) for the approximate 19% of patients who are considered non-CAT and do not fall within the “minor injuries” guideline is sufficient to meet the health care needs of injured claimants. The Coalition supports a return to the 2010 required minimum benefit level of \$100,000 in Medical and Rehabilitation Benefit and the required minimum of \$72,000 of Attendant Care Benefit over the two year period.

Option to purchase a higher or lower benefit level

The government's stated objective to ensure drivers have choice in their auto insurance coverage can be attained by providing options that consumers can purchase that would provide a higher benefit limit to the \$2 million default amount. The Coalition observes that providing an option to consumers to reduce the benefit limit to \$1 million would open up the likelihood of unintended consequences. If there is a cost savings for consumers to opt for a lower benefit level of \$1 million it will incentivize people to opt for a lower level of coverage and increase the likelihood that in the event the consumer experiences a catastrophic injury, they won't have sufficient coverage under their policy to provide the medical, rehabilitation and attendant care services they will need.

5. What potential implementation costs should government consider regarding the proposed approach? Who will bear those costs? For example:

- a) Impacts to average premium for consumers
- b) Impacts to administrative costs for insurance industry stakeholders
- c) Other?

The government has suggested that the cost of this increase may be off-set long-term by a reduction in court costs related to disputes. The Coalition would add that it may be prudent to incentivize insurers to prioritize cost savings through administrative efficiencies, rather than risk cost-saving measures that depend on the reduction of claims approvals or other measures that put benefits at risk.

6. What measures could be considered that would avoid unnecessary disputes and/or litigation costs?

Definition of Catastrophic Injury

Ensure that the definition of catastrophic injury is clear and easy to apply. When assessing the complexity of conditions present after a motor vehicle accident, a clear definition would reduce the likelihood of a dispute or litigation, thereby reducing the associated costs. We suggest the government undertake a review of the definition of catastrophic injury, assess whether the threshold needs to be lowered to pre-2016 levels and ensure the definition is clear and easy to understand. It is our experience that certain injuries, such as traumatic brain injuries, are more likely to be disputed because the definition of catastrophic injury is unclear when applied to injuries that are non-visible.

Institute "no-dispute" periods that allow a phase of initial care when a claim is accepted

Disputes could be prevented by allowing all injured individuals, with accepted claims, to access initial care without requiring insurer prior approval, dispute, or Insurer Examination (IE). This would avoid up front disputes regarding the Minor Injury Guideline (MIG) vs non MIG benefit entitlement status and initial care. The government's priority of ensuring policy-holders have the ability to access care as soon as possible would be supported by allowing access during "no-dispute" periods.

A phase of care that had “presumed approval” would allow care to commence as soon as possible. The time frame and dollar amount would need to be determined. Requiring that the costs and duration of the initial care be limited to a specified amount and time frame would provide cost control. Additional controls are provided by limiting these services to those provided by health professionals licensed by FSRA. Requiring compliance with fee schedules and any relevant Guidelines would provide additional cost control.

Health Professional Roles

The health professional involved with treating an injured person has insight in to the intricacies of their condition and care, and should be consulted prior to denial of a claim by the insurer.

Additionally, it is our experience that insurers would benefit from an improved understanding of the roles of health professionals in providing care to people who have experienced an injury due to a motor vehicle accident. Deciding whether treatment delivered by a particular health professional will be delivered requires an understanding of each health professionals’ scope of practice and the *Regulated Health Professions Act*.

7. Should MVACF claims be subject to the \$2 million default benefit limit?

Those without insurance, whether they be pedestrians, cyclists or uninsured drivers, filing claims under the MVACF should be subject to the \$2 million default benefit limit.

8. What additional changes could the government consider to achieve and/or support the stated policy objectives? What are the risks, opportunities, and costs associated with these other approaches?

The Coalition advocates for an improved definition of catastrophic injury as well as instituting a “no-dispute” period where injured policy-holders can access care as soon as possible (as outlined in response to question 6). Details of these proposals would need to be further discussed to get an understanding of the risks, opportunities and cost. The Coalition would work with stakeholders to ensure changes met the government objectives.

Supporting Implementation: Consumer Choice and Awareness

9. What current practices, materials, and tools are used to help consumers understand auto insurance, including the catastrophic impairment benefit? Which approaches or tools are the most effective and why?

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10. What should the insurance industry (i.e. insurers, agents, brokers) do, that they aren’t currently doing, to support consumer awareness and informed decision making? What other opportunities exist to enhance consumer awareness / education?

Questions 9 & 10 related to how information is communicated to consumers at the time of purchasing an insurance policy. Price is a primary factor for most consumers; therefore it is essential that the

reasons for any differences in price between policies and coverage options are clear and easy to understand. Using plain language is important, as is providing information in both written and visual format (e.g. info graphics). Providing statistical information in a visual format to consumers to inform them about likely scenarios in the event they experience a motor vehicle accident would help to provide additional clarity and support informed decision-making.

The Coalition notes that there may not be tools that currently exist to help consumers understand what a catastrophic injury is and the statistics around claims related to these injuries. These tools should also include explanations of what rehabilitation services are and are not covered through OHIP.

If the government decides that insurers will be able to provide consumers with the option to “buy-down” to a \$1 million benefit level, they should be required to provide consumers with statistical information on the level of risk and the likelihood of injury to ensure that consumers are making an informed decision.

11. How do (and/or should) sellers of insurance determine what amount of catastrophic impairment benefit limit to recommend to clients?

The Coalition recommends that insurers focus on ensuring consumers are aware of the default benefit amount, and provide information that helps consumers assess whether the default \$2 Million benefit limit is enough or whether they may wish to consider purchasing an option to increase their benefit limit beyond \$2 Million.

12. Please share any additional comments or suggestions you may have to inform the proposed \$2 million catastrophic impairment default benefit limit.

The Coalition supports the need for continuous improvement of the system to ensure it is financially viable and provides the services required to injured clients to reach the pre-accident level of function. We look forward to further dialogue with the government as it considers any reforms to the system.

We thank the government for the opportunity to comment on the proposed return to \$2 million for catastrophic injuries, and look forward to working with the government to ensure claimants receive the appropriate funding for their care.

Sincerely,

Dr. Moez Rajwani and Dorianne Sauvé, Coalition Co-Chairs