

Disclaimer:

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CONSULTATION DRAFT**ONTARIO REGULATION**

to be made under the

INSURANCE ACT

Amending O. Reg. 776/93

(STATUTORY ACCIDENT BENEFITS SCHEDULE - ACCIDENTS AFTER DECEMBER 31, 1993 AND BEFORE NOVEMBER 1, 1996)

0.1 Section 1 of Ontario Regulation 776/93 is amended by adding the following definition:

“Form for Assessment of Attendant Care Needs - Accidents After December 31, 1993 and Before November 1, 1996” means the document of that name, dated February 2016 and available on the website of the Commission; (“Formulaire d’évaluation des besoins en soins auxiliaires - accidents survenus après le 31 décembre 1993 mais avant le 1^{er} novembre 1996”)

1. (1) Subsections 11 (3) and (4) of the Regulation are revoked and the following substituted:

(3) If the insured person does not commence proceedings in accordance with the Act to dispute the stoppage in payment within thirty days after the notice was given, the insurer may stop paying the benefits.

(4) If the insured person commences proceedings in accordance with the Act to dispute the stoppage in payment within thirty days after the notice was given, the insurer shall continue to pay the benefit until the dispute is resolved.

(3) Subsection 11 (6) of the Regulation is amended by striking out “court proceeding or arbitration proceeding” and substituting “proceeding”.

1.1 Subsection 13 (5) of the Regulation is amended by striking out “sections 279 to 283 of the *Insurance Act*” and substituting “the Act”.

2. Clause 20.1 (c) of the Regulation is revoked and the following substituted:

(c) an arbitration proceeding under section 282 of the Act, as it read immediately before the day on which section 14 of Schedule 3 to the *Fighting Fraud and Reducing Automobile Insurance Rates Act, 2014* comes into force, or under the *Arbitration Act, 1991* or a court proceeding has been commenced in accordance with subsection 279 (1) of the Act, as it read immediately before the day on which section 14 of Schedule 3 to the *Fighting Fraud and Reducing Automobile Insurance Rates Act, 2014* comes into force, in respect of the insured person’s entitlement to a benefit referred to in clause (a).

2.0.1 (1) Subsection 23 (3) of the Regulation is amended by striking out “sections 279 to 283 of the *Insurance Act*” and substituting “the Act”.

(2) Subsection 23 (8) of the Regulation is amended by striking out “and to subsection 281 (4) of the *Insurance Act*”.

2.1 Subsection 32 (3) of the Regulation is revoked and the following substituted:

(3) Subsection (2) does not prevent the insurer from disputing a claim for a weekly supplement in accordance with subsection 280 (2) of the Act, but the insurer shall pay the weekly supplement pending resolution of the dispute.

2.2 (1) Subsections 36 (4) and (5) of the Regulation are revoked and the following substituted:

(4) Subject to subsections (5) and 39 (6), the insurer shall pay an expense under subsection (1) pending resolution of a dispute described in subsection 280 (1) of the Act relating to the expense.

(5) The insurer is not liable to pay more than \$3,000 in respect of an expense under clause (1) (d), (e) or (f) pending the determination of a dispute described in subsection 280 (1) of the Act relating to the expense.

3. Subsection 39 (6) of the Regulation is revoked and the following substituted:

(6) Subject to the determination of a dispute described in subsection 280 (1) of the Act relating to the expense, the insurer is not required to pay an expense if the insurer has received the report of the examination under section 65 and gives notice under subsection 39.1 (6) that it refuses to pay the expense.

3.1 (1) Subsections 40 (7) and (8) of the Regulation are revoked and the following substituted:

(7) Subject to subsections (8) and 45 (4), the insurer shall pay an expense under subsection (5) pending resolution of a dispute described in subsection 280 (1) of the Act relating to the expense.

(8) The insurer is not liable to pay an expense under clause (5) (c) pending resolution of a dispute described in subsection 280 (1) of the Act relating to the expense unless the insurer agreed to the appointment of the case manager before the expense was incurred.

3.2 Subsection 45 (4) of the Regulation is revoked and the following substituted:

(4) Subject to the determination of a dispute described in subsection 280 (1) of the Act relating to the expense, the insurer is not required to pay an expense if the insurer has received the report of the examination under section 65 and gives notice under subsection 45.1 (6) that it refuses to pay the expense.

3.2.1 Subsection 47 (9) of the Regulation is amended by striking out “Form 1” and substituting “the Form for Assessment of Attendant Care Needs - Accidents After December 31, 1993 and Before November 1, 1996”.

3.2.2 Subsection 50 (6) of the Regulation is amended by striking out “Form 1” and substituting “the Form for Assessment of Attendant Care Needs - Accidents After December 31, 1993 and Before November 1, 1996” wherever it appears.

3.2.3 Subsection 65 (3.1) of the Regulation is amended by striking out “Form 1” and substituting “the Form for Assessment of Attendant Care Needs - Accidents After December 31, 1993 and Before November 1, 1996”.

3.3 Section 71 of the Regulation is amended by striking out “disputes relating to benefits under sections 279 to 283 of the *Insurance Act*” at the end and substituting “disputes that are described in subsection 280 (1) of the Act”.

4. Sections 71.1 and 72 of the Regulation are revoked and the following substituted:

Restriction on proceedings

71.1 (1) Subject to subsection (2), an insured person shall not apply to the Licence Appeal Tribunal under subsection 280 (2) of the Act if any of the following circumstances exist:

1. The insured person has not complied with section 59.
2. The insured person was required to submit to an assessment, and provide the information required for it, under section 23, 25, 39, 45 or 50, but has not done so.

(2) The Licence Appeal Tribunal may permit an insured person to apply despite paragraph 2 of subsection (1).

(3) The Licence Appeal Tribunal may impose terms and conditions on a permission granted under subsection (2).

Time Limit for proceedings

72. An application under subsection 280 (2) of the Act in respect of a benefit shall be commenced within two years after the insurer’s refusal to pay the amount claimed or, if the person has engaged in an employment as permitted by section 14 or has returned to elementary, secondary or post-secondary education as permitted by section 17, within two years after the insurer’s refusal to pay further benefits.

4.0.1 Subsection 73 (5) of the Regulation is amended by striking out “sections 279 to 283 of the *Insurance Act*” and substituting “subsection 280 (2) of the Act”.

4.2 Form 1 to the Regulation is revoked.

Commencement

5. [Commencement]