

Disclaimer:

This consultation draft is intended to facilitate dialogue concerning its contents. Should the decision be made to proceed with the proposal, the comments received during consultation will be considered during the final preparation of the regulation. The content, structure, form and wording of the consultation draft are subject to change as a result of the consultation process and as a result of review, editing and correction by the Office of Legislative Counsel.

CONSULTATION DRAFT**ONTARIO REGULATION**

to be made under the

INSURANCE ACT

Amending O. Reg. 34/10

(STATUTORY ACCIDENT BENEFITS SCHEDULE - EFFECTIVE SEPTEMBER 1, 2010)

1. Subsection 3 (8) of Ontario Regulation 34/10 is revoked and the following substituted:

(8) If in a dispute described in subsection 280 (1) of the Act, the Licence Appeal Tribunal finds that an expense was not incurred because the insurer unreasonably withheld or delayed payment of a benefit in respect of the expense, the Licence Appeal Tribunal may, for the purpose of determining an insured person's entitlement to the benefit, deem the expense to have been incurred.

2. Subparagraph 3 iii of subsection 25 (1) of the Regulation is amended by striking out “in accordance with sections 279 to 283 of the Act” at the end and substituting “described in subsection 280 (1) of the Act”.

3. (1) Clause 39 (2) (d) of the Regulation is revoked and the following substituted:

- (d) the insurer shall, if there is a dispute described in subsection 280 (1) of the Act about whether for the purpose of subsection 15 (1) or 16 (3) an expense described in the notice is reasonable or necessary, pay the expense pending resolution of the dispute.

Commencement: with rest of Regulation

(2) Clause 39 (2) (d) of the Regulation, as remade by subsection (1), is revoked and the following substituted:

- (d) the insurer shall, if there is a dispute described in subsection 280 (1) of the Act about whether for the purposes of subsection 15 (1) or 16 (3) an expense described in the notice is reasonable or necessary, or whether for the purposes of clause 15 (1) (h) or 16 (3) (1) an expense described in the notice is essential, pay the expense pending resolution of the dispute.

Commencement: on the day that s. 14 of O Reg 251/15 comes into force

4. Subsection 40 (8) of the Regulation is amended striking out “If a court or arbitrator determines, in any dispute” and substituting “If it is determined, in any dispute described in subsection 280 (1) of the Act”.

5. Subsection 51 (4) of the Regulation is amended by striking out “on the date on which a mediation proceeding for the benefits in dispute is commenced under section 280 of the Act” and substituting “on the date on which an application to the Licence Appeal Tribunal is brought under subsection 280 (2) of the Act”.

6. Sections 55 and 56 of the Regulation are revoked and the following substituted:

Restriction on proceedings

55. (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 notified the insurer of the circumstances giving rise to a claim for a benefit or has not submitted an application for the benefit within the times prescribed by this Regulation.
2. The insurer has provided the insured person with notice in accordance with this Regulation that it requires an examination under section 44, but the insured person has not complied with that section.
3. The issue in dispute relates to the insurer's denial of liability to pay an amount under an invoice on the grounds that,
 - i. the insurer requested information from a provider under subsection 46.2 (1), and
 - ii. the insurer is unable, acting reasonably, to determine its liability for the amount payable under the invoice because the provider has not complied with the request in whole or in part.

(2) The Licence Appeal Tribunal may permit an insured person to apply despite paragraph 2 or 3 of subsection (1).

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

Time limit for proceedings

56. 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.

7. (1) Subsection 62 (1) of the Regulation is revoked and the following substituted:

Assignment of benefits

(1) Except as otherwise provided by subsection (2), the assignment of a benefit under this Regulation is void.

(2) Section 62 of the Regulation is amended by adding the following subsection:

(3) If the assignment of a benefit to a person is void,

- (a) subsection 280 (2) of the Act does not apply; and

- (b) subsection 280 (3) of the Act does apply to the person, but the exception in that subsection, which permits bringing a proceeding, does not apply to the person.

O. Reg. 251/15

7.1 Section 14 of Ontario Regulation 251/15, which would amend clause 39 (2) (d) of the Regulation, is revoked.

Commencement: with rest of Regulation

Commencement

8. [Commencement]