

Putting Drivers First: \$2 Million Catastrophic Impairment Default Benefit Limit

Consultation Paper

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1. INTRODUCTION

1.1. Government Commitment

Ontario's Government for the People is taking action to fix the broken auto insurance system. In the 2019 Ontario Budget, the province announced the Putting Drivers First blueprint, the government's plan to put drivers first and put money back in people's pockets by lowering costs, increasing consumer choice and making the auto insurance market more competitive.

The blueprint committed to ensuring that people hurt in auto collisions receive faster access to treatment and care. That's why the government is introducing a return to the default benefit limit of \$2 million for those who are catastrophically injured in an accident, after it was reduced to \$1 million by the previous government in 2016.

1.2. Why We Are Consulting

The Ontario Government is inviting drivers, consumers, and all interested stakeholders to share their views on how to make sure that the return to the default benefit limit of \$2 million is implemented in a way that puts drivers first by focusing on care for people injured in collisions, making sure they can access treatment faster, and avoiding the introduction of unnecessary costs to the system.

This is the first step in our discussion process. Your feedback is important and will support the development of draft regulations.

We look forward to hearing from you by September 17, 2019.

2. CATASTROPHIC IMPAIRMENT BENEFIT LIMIT: BACKGROUND AND CONTEXT

2.1. History and Current Context

Ontario is unique as the only province with a private auto insurance market that provides catastrophic impairment benefit coverage.

The catastrophic impairment definition and corresponding \$2 million benefit limit were created in 1996. Originally, the \$2 million was split into sub-limits: up to \$1 million was available for medical and rehabilitation benefits and up to \$1 million was available for attendant care benefits.

In 2016, the medical, rehabilitation and attendant care benefits were combined into a single benefit, and the total default benefit coverage was reduced under the previous government to \$1 million. An optional benefit was offered to consumers who wished to purchase additional coverage.

The Statutory Accident Benefits Schedule (SABS), a regulation under the *Insurance Act*, sets out:

- The definition for being catastrophically injured (e.g. loss of a limb, paraplegia);
- The amount of medical, rehabilitation and attendant care costs that would be available under a standard auto insurance policy for catastrophic injuries; and
- Additional optional coverage with higher monetary limits for medical, rehabilitation and attendant care if catastrophically injured.

This consultation is strictly focused on the catastrophic impairment benefit limit amount.

2.2. Current Challenges

Auto insurance is complex. It can be difficult for drivers to be fully aware of all the coverages and benefit options available to them. It can also be difficult for drivers to know how much coverage they need to adequately protect themselves and their families in the event of a future accident.

Gaps in consumer awareness and understanding, or changes in personal circumstances, can result in drivers selecting insufficient coverage, particularly with respect to catastrophic impairment benefit limits.

While there are a small number of catastrophic injury claims, the impact of these injuries on individuals and families are significant. And while those who are catastrophically injured due to the negligence of someone else can sue to recover losses above and beyond what is covered by accident benefits coverages, lawsuits can take time to resolve and delay access to treatment.

Also, while sellers of insurance help consumers make decisions, more can be done to improve consumer knowledge and protection.

3. PROPOSAL: \$2 MILLION DEFAULT BENEFIT LIMIT

3.1. What is the proposed \$2 million default benefit limit?

The government is proposing to amend a regulation that would, by default, provide every policyholder (and other insured persons under the policy) with a \$2 million benefit

limit for medical, rehabilitation and attendant care benefits, if catastrophically injured in an auto accident. To ensure drivers have choice, consumers would be permitted to reduce their catastrophic coverage below the default limit to a minimum of \$1 million. Drivers may have different reasons to obtain less coverage; for example, some may have benefits available through other insurance policies (e.g., extended health-care insurance through their workplace). Any other catastrophic impairment benefit limit options offered would be up to individual insurers to determine.

There are no proposed changes to the combined medical, rehabilitation and attendant care benefits currently available today (i.e., the proposal does not split the benefit into sub-limits) to provide accident victims the flexibility to access the type of care they need, and in the way that they need it. Furthermore, there are no proposed changes to the Statutory Accident Benefits Schedule's priority of payment rules.

Expected Outcomes

Implementing the \$2 million catastrophic impairment default benefit limit is expected to:

- Provide more Ontarians more coverage, so accident victims can get the treatment and care they need more quickly;
- Continue to give drivers the ability to make choices about their coverage; and
- Maintain flexibility for claimants to apply the catastrophic impairment benefit limits to medical, rehabilitation and attendant care to best suit their individual needs.

3.2. Key Considerations

The return to the \$2 million catastrophic impairment default benefit limit will influence several aspects of the auto insurance system including:

- How information and recommendations are provided to consumers at the point-of-sale;
- The average benefit amount claimed by catastrophically injured individuals; and
- The potential increased cost of premiums for all drivers, even if they make no other changes to their policies, as a result of the higher default benefit limit on overall risk pooling and claims costs.

Premium increases may be offset in the long-run by savings from reduced costs in court cases, since catastrophically injured claimants will be able to obtain more of their medical, rehabilitation and attendant care needs through accident benefits coverage.

Another key consideration is how this change could affect catastrophically injured claimants that do not have insurance i.e., claims made through the Motor Vehicle

Accident Claims Fund (MVACF). The MVACF is the payer of last resort, which is currently funded by a portion of driver license fees. For example, if a pedestrian is involved in a hit-and-run accident, and does not have insurance of their own, the claim is paid by MVACF. Increased costs to MVACF could have implications for the sustainability of that system.

4. WE WANT TO HEAR FROM YOU

4.1. Your Privacy Matters

All feedback received are subject to the *Freedom of Information and Protection of Privacy Act* and will be considered public. The feedback will be considered by the Ministry of Finance as part of the government's plan to reform and modernize the auto insurance sector.

Some or all comments or materials, or summaries of them, may be disclosed to other interested parties during and after the consultation.

If you feel your feedback should not be shared with other parties or have any questions about this consultation, please contact the Ministry of Finance at AutoInsurance@ontario.ca

4.2. How to Respond

Your input is important. We welcome your answers to the consultation questions, as they apply to you, and any added input or suggestions you may wish to offer.

Please provide concrete examples or evidence to support your suggestions where possible.

You may respond by completing the online survey, by email to AutoInsurance@ontario.ca, or by mail to:

Auto Insurance Consultation Paper
Ministry of Finance
Financial Institutions Policy Branch
95 Grosvenor Street
Frost Building (North), 4th Floor
Toronto, ON M7A 1Z1

4.3. Your Information

When submitting your feedback, please provide your name, contact information (e.g., an email or mailing address) and tell us a bit about yourself by answering the question below.

Name/Organization: _____

Contact Information: _____

Which of the following **best** describes the way you are involved / interact with the auto insurance system?

- Consumer / driver
 - Auto insurance company
 - Sellers of auto insurance (e.g., broker, agent)
 - Health service provider (e.g., family physician, health practitioner)
 - Legal service provider (e.g., paralegal, lawyer)
 - Vehicle service provider (e.g., towing, auto body repair, car rental)
 - Academic
 - Industry / Professional Association – please indicate name of the association
 - Other (please specify)
-

4.4. Consultation Questions

Benefit Limits and Claims Data (This section is intended for insurers to respond)

1. Currently, what percentage of all insured drivers select:
 - a) \$1 million catastrophic impairment coverage?
 - b) \$2 million catastrophic impairment coverage?
 - c) Other amounts?

2. What catastrophic impairment benefit limit amounts (other than \$1 & \$2 million):
 - a) Do insurers currently offer?
 - b) Have insurers historically offered?
 - c) Should insurers offer?

3. In the 3-5 years before the 2016 auto insurance reforms:
 - a) What percentage of all claims were catastrophic claims?
 - b) For these claims, what was the average amount claimed for:
 - i. Medical and rehabilitation benefits?
 - ii. Attendant care benefits?
 - c) What percentage of all catastrophic claims reached the maximum benefit limit?
 - d) What percentage of all catastrophic claims reached the maximum benefit limit, with no recourse for a court (tort) claim beyond accident benefits coverage?

The following sections are open to all stakeholders:

Implementation Details & Options

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

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?

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

7. Should MVACF claims 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?

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?
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?
11. How do (and/or should) sellers of insurance determine what amount of catastrophic impairment benefit limit to recommend to clients?
12. What do (and/or should) sellers of insurance do when a consumer does not accept the recommended option?
13. What, if any, other insurance products (e.g. long-term disability insurance) could help address gaps in catastrophic impairment coverage?
 - a) Do sellers of insurance recommend and/or sell these other products to consumers?

Additional Comments

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

Thank you for participating in our consultation and providing your views on this paper.