

Auto Accident Benefits-More Changes Coming

As a result of heavy lobbying by the Insurance Industry and the failure of our Provincial politicians to protect the rights of the injured, as of Sept. 1st, 2010 the already inadequate accident benefits paid to persons injured in an automobile accident will be drastically reduced.

The Statutory Accident Benefits Schedule (“SABS”), the Legislation that sets out the rules for all insurers for payment of benefits to their insured, has been amended by the Ministry of Finance after the most recent five year review. The basic policy coverages have been slashed, but with the option for people to buy back some of these coverages for an additional cost.

There are two categories of injuries and benefits, non-catastrophic (less serious) and catastrophic, (more serious). I will deal with the non-catastrophic category today.

The most disturbing change is the inclusion of a new category of injuries called “minor injuries”. People whose injuries are considered predominantly minor can only receive a maximum of \$3,500 for all of their medical and rehabilitation treatments and assessments (down from the existing \$100,000 total).

Minor injury is defined in the legislation. Injuries like a partial rotator cuff or ACL tear (not a complete tear) would be considered minor. Anyone having those types of injuries will agree that they can be extremely painful and restrictive of their movement and debilitating to many types of action or employment. These will now be called minor injuries, and restricted to \$3,500 for all treatments and assessments. Many assessments alone can cost almost that much.

Also, for those whose injuries surpass the “minor” test, their maximum “non-catastrophic” medical and rehabilitation benefits have been reduced from \$100,000 to \$50,000.

Caregiver and Housekeeping benefits are totally eliminated in the basic policy. These benefits were paid if the injured person was unable to care for children or dependents, or do the normal household tasks, and had to hire someone to replace those services.

Attendant Care benefits are paid for someone to look after an injured person. They were allowed up to \$3,000 per month, now approximately \$1,500 per month to a total of \$36,000.

The Legislation also changes (restricts) the people who can be paid to do the caregiver, housekeeping or attendant care services. That person now must be either a paid professional or someone (possibly a family member) who suffers an economic loss in order to provide these services. Therefore, if a parent has to take time off work to care for an injured child, and loses income in order to provide these services, then he can be paid at the rates allowed by the SABS. On the other hand, if that parent is not working at the time, and takes the time to look after an injured child, because that parent has not suffered an economic loss he will not be eligible to collect for his services.

This provision is going to allow the insurers to reap the benefit of an enormous amount of unpaid help provided by caring family members to an injured family member. When you consider how badly the Legislation short changes injured parties, it would appear that the unstated assumption is that family will step in, unpaid, to fill the void.

If family members do not have the special skills to provide the care, then professionals will have to be hired. They charge much more than the amounts payable under the SABS. The result is that the SABS coverages will be used up much quicker.

The Legislation does allow you to purchase extra coverages. It will therefore be extremely important that when you are buying or renewing an auto insurance policy, you meet with your insurance agent/broker and take the time necessary to have him fully explain the existing coverages and the additional buy-up coverages available. If you are injured in an accident (even if it is not your fault) and have only the new basic SABS coverages, you are in big trouble.

The above is not legal advice. You should consult your own lawyer.