

ONTARIO REGULATION 533/06

made under the

INSURANCE ACT

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Amending O. Reg. 403/96

(Statutory Accident Benefits Schedule — Accidents on or after November 1, 1996)

Note: Ontario Regulation 403/96 has previously been amended. Those amendments are listed in the Table of Regulations – Legislative History Overview which can be found at www.e-laws.gov.on.ca.

1. Subsection 2 (1) of Ontario Regulation 403/96 is amended by adding the following definition:

“personal information” means information that is personal information for the purposes of the *Personal Information Protection and Electronic Documents Act* (Canada) and personal health information for the purposes of the *Personal Health Information Protection Act, 2004*; (“renseignements personnels”)

2. Subsection 16 (3) of the Regulation is amended by striking out “clause 14 (2) (g), 15 (5) (k) or 24 (1) (c)” and substituting “clause 14 (2) (g) or 15 (5) (k) or subsection 24 (1.6)”.

3. Section 32 of the Regulation is amended by adding the following subsections:

(2.1) If an insurer that is subject to a Guideline referred to in subsection 68 (3.2) determines, acting reasonably that there is a likelihood that the person may, in connection with the accident, deliver one or more documents referred to in subsection 68 (3.2), the insurer shall provide the following information to the central processing agency referred to in that subsection:

1. The name, address, gender and date of birth of the person.
2. The date of the accident.
3. Particulars of the automobile insurance policy under which the person alleges he or she is entitled to a benefit or benefits, including,
 - i. the name of the insurer,

- ii. the policy number, and
- iii. the name of the person to whom the policy was issued.

4. The claim number assigned by the insurer.

5. Any other information reasonably required by the central processing agency to enable it to carry out its obligations to the insurer under this Regulation.

(2.2) An insurer's obligation to provide the information referred to in subsection (2.1) may be discharged by,

- (a) providing the information to the central processing agency; or
- (b) confirming, correcting or supplementing the information previously provided to the central processing agency.

4. (1) Subsection 32 (3) of the Regulation is amended by striking out “submit an application” and substituting “submit a signed application”.

(2) Subsection 32 (3.1) of the Regulation is amended by striking out “the information that is missing” and substituting “what is missing”.

(3) Subsection 32 (3.2) of the Regulation is revoked and the following substituted:

(3.2) Subsection (3.1) applies only if,

- (a) the insurer, after a reasonable review of the incomplete application, is unable to determine without the missing information if a benefit is payable; or
- (b) the application has not been signed by the person.

(4) Subsection 32 (5) of the Regulation is amended by adding at the end “or signs the application, as the case may be”.

5. The French version of subparagraphs 3 ii and iii of subsection 37.1 (2) of the Regulation are amended by striking out “qui a recommandé” wherever it appears and substituting in each case “qui a renvoyé”.

6. The Regulation is amended by adding the following section immediately before the heading “Medical and Rehabilitation Benefits”:

37.3 (1) This section applies to a claim for medical or rehabilitation benefits under section 37.1 or 37.2 in respect of an impairment that is asserted by the insurer to come within a *Pre-approved Framework Guideline* if the insurer gives the insured person a notice informing the insured person that the insurer will pay for the goods and services described in the *Pre-approved Framework*

Guideline without the submission of a treatment confirmation form under either of those sections.

(2) If an insurer gives notice under subsection (1), the notice shall satisfy the following criteria:

1. The notice must specify which *Pre-approved Framework Guideline* the insurer asserts to be applicable to the claimant's impairment and confirm that the insurer will pay for goods and services under section 37.1 in accordance with the *Pre-approved Framework Guideline* without the submission of a treatment confirmation form under that section.

2. The notice must describe the expenses for ancillary goods or services, if any, as referred to in section 37.2, that the insurer will pay without the submission of a treatment confirmation form and shall specify,

i. the types of expenses,

ii. any restrictions on the amount of the expenses,

and

iii. any restrictions on when the expenses may be incurred.

3. The notice must disclose any conflict of interest that the insurer has relating to any person who will provide goods or services to whom the insured person is referred by the insurer.

(3) If an insurer gives notice under subsection (1),

(a) the insurer shall, if the insured person has submitted an application under section 32 to the insurer, pay the expenses described in the notice within 30 days after receiving an invoice for them; and

(b) if there is a dispute about whether, for the purpose of subsection 14 (2) or 15 (5), an expense described in the notice is reasonable or necessary, the insurer shall pay the expense pending resolution of the dispute in accordance with sections 279 to 283 of the Act.

(4) An insured person who receives a notice under subsection (1) may, despite the notice, submit a treatment confirmation form in accordance with section 37.1 or a treatment plan in accordance with section 38, in which case this section shall not apply.

7. The French version of clauses 38 (3) (b) and (c) of the Regulation are amended by striking out “qui a recommandé” wherever it appears and substituting in each case “qui a renvoyé”.

8. (1) The French version of subsection 38.1 (3) of the Regulation is amended by striking out “il la recommande” and substituting “il la renvoie”.

(2) The French version of subsection 38.1 (4) of the Regulation is amended by striking out “qui recommande” and substituting “qui renvoie” .

9. The French version of clause 38.2 (2) (b) of the Regulation is amended by striking out “qui lui a recommandé” and substituting “qui lui a renvoyé”.

10. (1) Subsection 38.3 (1) of the Regulation is amended by striking out “sections 37.1, 38, 38.1 and 38.2” in the portion before clause (a) and substituting “sections 37.1, 37.3, 38, 38.1 and 38.2”

(2) Clause 38.3 (1) (b) of the Regulation is revoked and the following substituted:

- (b) an insurer has a conflict of interest relating to the provision of goods or services to an insured person if,
 - (i) the insurer may receive a financial benefit, directly or indirectly, as a result of the provisions of the goods or services, or
 - (ii) the goods or services will be provided by a person pursuant to a subsisting arrangement with the insurer under which goods or services referred to in this Regulation are or will be provided at the insurer’s expense.

11. Subsection 44 (2) of the Regulation is amended by striking out “or” at the end of clause (a), by adding “or” at the end of clause (b) and by adding the following clause:

- (c) where the person entitled to the benefit has so directed in writing, an insurer shall pay the benefit directly to the person who submitted an invoice in respect of the benefit to a central processing agency in accordance with subsection 44.1 (1).

12. The Regulation is amended by adding the following section immediately before the heading “Explanation of Benefit Amounts”:

44.1 (1) Despite any other provision of this Regulation, if a benefit that would otherwise be payable by an insurer is payable in respect of an expense for goods or services specified in a Guideline issued for the purposes of this section, an insurer to whom the Guideline applies shall not pay the benefit unless an invoice for the expense, in the form approved by the Superintendent and including all of the information required by the form,

- (a) is delivered to the insurer, if neither of paragraph 2 or 3 of subsection 68 (3.2) applies; or

(b) is deemed to be received by the insurer under subsection 68 (3.3) or (3.4), if paragraph 2 or 3 of subsection 68 (3.2) applies.

(2) An insurer shall not waive the submission of an invoice for goods or services to which subsection (1) applies.

(3) If a Guideline issued for the purposes of subsection 68 (3.2) specifies that invoices are to be delivered to a central processing agency on behalf of insurers to whom the Guideline applies, every such insurer that receives an invoice that complies with subsection (1) shall report the following to the central processing agency in the manner and within the time required by the Guideline:

1. The date or dates on which the goods or services referred to in the invoice were delivered or rendered.
2. The names, addresses and professional college registration numbers, if applicable, of each provider of goods or services referred to in the invoice.
3. Particulars of the goods or services referred to in the invoice.
4. Particulars of the injury or injuries in respect of which the goods or services were delivered or rendered.
5. The amount, if any, paid in respect of the goods or services referred to in the invoice by any person other than the insurer.
6. The amount paid by the insurer in respect of the invoice.
7. The amount paid by the insurer in respect of each separately described component of the invoice.
8. The date on which a decision was made on payment or other disposition of the invoice.
9. Any other disposition of the invoice.
10. The information referred to in subsection 32 (2.1).
11. Such additional information as may be specified in the Guideline, if the invoice is in respect of expenses described in a notice given by the insurer under subsection 37.3 (1) or 38.1 (1).

13. (1) Subsection 68 (2) of the Regulation is amended by striking out “or” at the end of clause (c), by adding “or” at the end of clause (d) and by adding the following clause:

(e) by electronic means, if the intended recipient of the document consents to delivery by electronic means.

(2) Section 68 of the Regulation is amended by adding the following subsection:

(3.1) The functional equivalency rules set out in sections 4 to 13 of the *Electronic Commerce Act, 2000* apply in the case of the delivery of a document by electronic means under clause (2) (e).

(3) Section 68 of the Regulation is amended by adding the following subsections:

(3.2) Despite subsection (2), but subject to subsection (3.10), the following rules apply in the circumstances specified in a Guideline issued for the purposes of this section to a document that is listed in section 69, is specified in the Guideline and is required under this Regulation to be delivered to an insurer to whom the Guideline applies:

1. Subject to paragraphs 2 and 3, the document and any attachments to it shall be delivered to the insurer only in a manner specified in the Guideline.
2. If the Guideline specifies that a document, exclusive of attachments to it, is to be delivered to a central processing agency on behalf of the insurer,
 - i. the document shall be delivered not to the insurer but only to the central processing agency specified in the Guideline and only in a manner specified in the Guideline, and
 - ii. attachments to the document shall be delivered not to the central processing agency but only to the insurer in a manner specified in the Guideline.
3. If the Guideline specifies that a document, together with attachments to it, is to be delivered to a central processing agency on behalf of the insurer, the document and the attachments shall be delivered not to the insurer but only to the central processing agency specified in the Guideline and only in a manner specified in the Guideline.
4. A document referred to in paragraph 1, 2 or 3 shall be deemed not to have been received by the insurer to whom it is addressed, if it is delivered to the insurer otherwise than as specified in the Guideline.

(3.3) A document referred to in paragraph 2 of subsection (3.2) is deemed to be received by the insurer to whom it is addressed on the later of,

- (a) the date on which the document, delivered in a manner specified in the Guideline to the central processing agency on behalf of an insurer to whom the Guideline applies, is determined by the central processing agency to be duly completed and to contain all information required by this Regulation to be included in it; and

(b) the date on which the last of any attachments is received by the insurer.

(3.4) A document referred to in paragraph 3 of subsection (3.2) is deemed to be received by the insurer to whom it is addressed when the document and any attachments to it are delivered in a manner specified in the Guideline to the central processing agency on behalf of an insurer to whom the Guideline applies and the document is determined by the central processing agency to be duly completed and to contain all information required by this Regulation to be included in it.

(3.5) For the purposes of subsections (3.3) and (3.4), the central processing agency shall be deemed to have determined, on the day the document was delivered to the central processing agency in a manner specified by the Guideline, that the document is duly completed and contains all information required by this Regulation to be included in it unless the central processing agency notifies the sender, in a manner specified in the Guideline and not later than the second business day after the document was delivered to the central processing agency, that the document is not duly completed or does not contain all information required by this Regulation to be included in it.

(3.6) A notice under subsection (3.5) shall include sufficient particulars to enable the sender to remedy the deficiency.

(3.7) The central processing agency shall, as soon as practicable, make the contents of the document available to the insurer to whom the document is addressed.

(3.8) An insurer that is deemed by subsection (3.3) or (3.4) to have received a document, other than an invoice to which subsection 44.1 (1) applies, shall in the manner and within the time required by the Guideline provide the central processing agency with the following information, which may include personal information:

1. Particulars of the goods or services referred to in the document for which the insurer agrees to pay and the amount the insurer agrees to pay in respect of such goods or services.
2. Particulars of the goods or services referred to in the document for which the insurer does not agree to pay.

(3.9) Following receipt of the last of any attachments to a document in accordance with paragraph 2 of subsection (3.2), an insurer shall notify the central processing agency for the purpose of the application of clause (3.3) (b), in the manner and within the time required by the Guideline.

(3.10) Subsections (3.2) to (3.9) do not apply to a document if the insurer has waived the requirement that the document be submitted to the insurer in circumstances permitted by this Regulation.

(3.11) Nothing in this Regulation prohibits any person from delivering a document to which subsection (3.2) applies to the central processing agency on behalf of a person otherwise required to deliver it.

(4) Subsection 68 (7) of the Regulation is amended by striking out “clause (2) (a), (b) or (c)” and substituting “clause (2) (a), (b), (c) or (e)”.

(5) Section 68 of the Regulation is amended by adding the following subsection:

(8.1) Subject to subsection (7), subsection 22 (3) of the *Electronic Commerce Act, 2000* applies to determine when a document delivered in accordance with clause (2) (e) is deemed to be delivered to the recipient.

(6) Section 68 of the Regulation is amended by adding the following subsection:

(8.2) Where subsection (3.3) or (3.4) applies, the recipient for the purposes of subsection (8.1) is the central processing agency.

14. Section 69 of the Regulation is amended by adding the following paragraph:

10.2 An invoice in respect of an expense for goods or services specified in a Guideline issued for the purposes of section 44.1.

15. The Regulation is amended by adding the following section immediately before the heading “Transition”:

69.1 (1) Any document that is required by section 69 to be in a form approved by the Superintendent and to which subsection 68 (3.2) applies and any other document specified in a Guideline issued for the purposes of this section is duly completed and includes all information required by this Regulation to be included in it if,

(a) every field not identified on the form as an optional field is completed in accordance with subsection (2); and

(b) if any field on the form that is identified as an optional field is completed, it is completed in accordance with subsection (2).

(2) If the form specifies the manner or the format in which a field is to be completed, completion of the field shall be in that manner and in that format.