

Information¹



Effective Date: September 20, 2019

Identifier: No. AU0127INF* *(previously listed as No. 01-19)

Cost of Assessments and Examinations Guideline

Introduction

The Financial Services Regulatory Authority of Ontario (FSRA) is an independent principles-based, self-funded regulator, responsible for the regulation of non-securities financial services in Ontario. FSRA, through the promotion of transparency, choice and efficiency, contributes to enhanced public confidence in the sectors it regulates.

This Guideline is issued by FSRA pursuant to Section 268.3 (1) of the *Insurance Act* for the purposes of the Statutory Accident Benefits Schedule (SABS) – Effective September 1, 2010 (SABS) and provides guidance on the maximum amount payable for assessment or examination as set out in Section 25(5)(a) of the SABS. The Guideline replaces FSCO Superintendent's Guideline 08/10 from November 2010, and is effective immediately.

Section 25(5)(a) of the SABS prohibits an insurer from paying more than a total of \$2,000 plus the amount of any applicable harmonized sales tax payable under Part IX of the *Excise Tax Act (Canada)*, for accidents that occur on or after June 3, 2019 inclusive of all fees and expenses for any one assessment or examination.

This Guideline reflects the regulatory amendments regarding the treatment of Harmonized Sales Tax (HST) under the SABS. Parties seeking information about HST in SABS claims should refer to the SABS, as amended by O. Reg. 123/19, and guidance from the Canada Revenue Agency.

Definition of “assessment” and “examination”

“Assessment” and “examination” mean the same thing under the SABS. An assessment or examination is a clinical evaluation or appraisal of a claimant’s health status. Under Section 44 of the SABS, in certain circumstances, an assessment or examination may be limited to a file review and not require the attendance of the claimant.

Fees and Expenses Included Section 25(5)(a) of the SABS

“Fees and expenses” referred to in Section 25(5)(a) of the SABS (the “Cap”) include all costs, fees, expenses, charges, surcharges, overhead, administration costs, and other costs, including HST, incurred by or on behalf of the health care provider who conducted the assessment or examination. For example, a health care provider’s transportation expenses and any fees for travel time are included in the Cap of \$2,000 plus the amount of any applicable HST since these fees and expenses are incurred by or on behalf of the provider in order to conduct an assessment or examination.

The Professional Services Guideline – FSCO Superintendent’s Guideline No. 03/14 establishes the maximum amounts that are payable by insurers under the SABS for the services of specified health care providers, and includes assessments or examinations.

Expenses not covered under section 25(5)(a) of the SABS

Reasonable transportation expenses that are incurred by or on behalf of a claimant, or for a claimant's aide or attendant, for travel to and from an assessment or examination are not part of the cap as these expenses fall under Section 25(4) of the SABS. Please refer to Transportation Expense Guideline – FSCO Superintendent's Guideline No. 04/16 for guidance specific to this expense.

The cost of interpreters is not intended to be covered under the SABS. However, the SABS does not prevent insurers from reimbursing claimants for all or part of the costs incurred by them for interpreter services, or from arranging for interpreter services directly, as an adjusting expense. Individual claim adjusting decisions are made by the insurer with its insured. Health care providers and other persons acting on their behalf should not arrange for interpreters without the prior approval of both the insured person and the insurer.

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¹ Effective June 8, 2019, FSRA assumed regulatory responsibilities under the Insurance Act (Ontario) and related statutes. FSRA is re-issuing Financial Services Commission of Ontario (FSCO) Costs of Assessments Guideline dated November 2010 to reflect the June 3, 2019 changes to Ontario Regulation 34/10 Statutory Accident Benefits Schedule (SABS). FSRA is in the process of reviewing all FSCO guidance and processes and creating a new FSRA guidance framework. As this process is still underway, in order to provide regulatory continuity, FSRA has re-issued this guidance in FSCO format, other than to reflect the June 3, 2019 regulation change.