

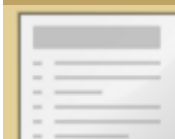


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Understanding the operation of OPCF 47 - Optional Accident Benefits

FSRA is actively reviewing all FSCO regulatory direction, including but not limited to forms, guidelines and FAQs.

Until FSRA issues new regulatory direction, all existing regulatory direction remains in force.



Bulletin

No. A-10/97
- Auto
Property & Casualty

[bulletinToTheAttentionOf]

To the attention of all insurance companies licensed to transact automobile insurance in Ontario

On December 9, 1996, the Ontario Insurance Commission (OIC) issued [OIC Bulletin No. A-17/96, Property & Casualty - Auto](#) that introduced the OPCF 47 endorsement. This Bulletin is intended to supplement the earlier Bulletin in clarifying how the endorsement is intended to operate.

Since the OPCF 47 came into effect, the OIC has received many questions about how the endorsement should be interpreted in certain situations. The issues that have given rise to those questions continue to be reviewed by a working group of industry and government representatives, who meet regularly to deal with automobile insurance matters, including the operation of the OPCF 47.

The Endorsement

The OPCF 47 was approved by the Commissioner of Insurance under section 227 of the *Insurance Act* (Act) on December 3, 1996. The *Statutory Accident Benefits Schedule - Accidents on or After November 1, 1996* (SABS) was amended by *Ontario Regulation 551/96* to require insurers to issue an OPCF 47 endorsement in all cases where an insured purchases optional accident benefits.

The endorsement has been mandated in order to ensure optional accident benefits are "portable", and an insured person is able to access optional benefits regardless of how the priority of payment rules set out in subsections 268(2),(4),(5), (5.1) and (5.2) of the *Act* are interpreted. The insurance industry was of the view that the endorsement was required to achieve this objective because certain interpretations of the priority of payment rules would frustrate the objective to make the benefits "portable".

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Effect of the Endorsement

The OPCF 47 provides that if optional accident benefits are purchased and are "**applicable**" to a person under the policy, the insurer will permit the insured person to claim **both mandatory accident benefits and optional accident benefits under that policy**. The insurer will not deny benefits on the basis that the priority of payment rules set out in section 268 of the *Act* provide that another insurer is liable to pay the mandatory accident benefits.

The endorsement also provides that where an insured person claims both mandatory accident benefits and optional accident benefits from an insurer, the insured person agrees not to apply for SABS under another policy. This is to prevent double compensation.

When optional benefits are "applicable"

One provision of the endorsement that requires clarification is the phrase:

"[I]f optional statutory accident benefits are purchased and are applicable to a person under this policy...."

An optional accident benefit would be "**applicable**" if the insured person was involved in an accident and met the eligibility criteria for the benefit as set out in the SABS.

For example, an insured person had purchased the additional income replacement benefit and has now suffered an impairment as a result of an accident and is unable to work. If this person qualifies to receive the income replacement benefit, then the optional accident benefits would be " applicable " and the OPCF 47 would become operational. The insured person should apply to the insurer from whom the optional benefits coverage was purchased. This insurer would be responsible for paying **both** the mandatory and the optional benefits.

On the other hand, if the insured person had only purchased the optional death and funeral benefit and suffered an impairment but did not die as a result of the accident, the death and funeral benefit would not be " applicable ". In this case, the OPCF 47 would not become operational. The insured person should apply to the insurer who is responsible for paying the basic accident benefits under the priority of payment rules set out in section 268 of the *Act*.

The same principle applies where there are multiple vehicles in the household and different optional benefits have been purchased under various policies insuring the vehicles. An insured person will only be able to access optional accident benefits if they are eligible and the optional benefits are " applicable ". Accordingly, the OPCF 47 endorsement will become operational.

For example, an individual has two vehicles, each insured under separate policies: one policy has the optional death and funeral benefit and the other policy has the optional medical, rehabilitation and care benefit. The insured is involved in an accident while occupying the vehicle that was covered by the optional death and funeral benefit, but suffers an impairment that could be eligible to access the optional medical, rehabilitation and attendant care benefit. With OPCF 47, the insured can apply for benefits under the policy which has the optional rehabilitation coverages. If the OPCF 47 was not in place, the insured

would be required to apply to the insurer with the optional funeral and death benefits, and thus be denied access to optional medical, rehabilitation and care benefits.

It is important to note that the insured makes one SABS application only. In this case, the insured can choose which insurance policy to go with. The insured would choose the policy with supplementary medical, rehabilitation and attendant care coverage. This insurer would be responsible for paying both the optional and mandatory coverages.

Contacts

If you have any questions about the operation of the OPCF 47 endorsement, please call your rate analyst in the Rates, Classifications and Actuarial Services Branch at the OIC.

Dina Palozzi
Commissioner
November 19, 1997

Attachment: **OPCF 47** (*Agreement Not to Rely on SABS Priority of Payment Rules*)