

# **OTLA Submission to the Financial Services Regulatory Authority of Ontario (FSRA)**

## *Statutory Accident Benefits Schedule (SABS) Guidelines Review*

November 29, 2024

The Ontario Trial Lawyers Association (“OTLA”) is writing in response to the request from Financial Services Regulatory Authority of Canada (“FSRA”) for stakeholder feedback with respect to its September 2024 Consultation Paper titled “*Statutory Accident Benefits Schedule (SABS) Guidelines Review.*”

OTLA was formed in 1991 by lawyers acting for plaintiffs. Our purpose is to promote access to justice for all Ontarians, preserve and improve the civil justice system and advocate for the rights of those who have suffered injury and losses as the result of wrongdoing by others while, at the same time, advocating aggressively for safety initiatives.

OTLA frequently comments on legislative matters and has appeared on numerous occasions as an intervener before the Court of Appeal for Ontario and the Supreme Court of Canada.

## **INTRODUCTION**

OTLA members have seen firsthand how the current Guidelines regarding health care provider rates and attendant care rates, have failed to meet the needs of injured Ontarians. OTLA encourages FSRA to reach out directly to our CEO so that arrangements can be made for FSRA to meet with injured Ontarians who have been represented by our members and who can share their experiences in trying to obtain treatment and attendant care under the current rates. The best evidence of whether the current system and rates are working to protect consumers and provide adequate and appropriate care would come directly from those who use the system.

## **PROFESSIONAL SERVICES GUIDELINES RATES**

Having reviewed the consultation paper regarding PSG rates, it is clear that a balance is needed between increasing rates, so that service providers are paid fairly, and ensuring that non-CAT and CAT limits are not exhausted before the injured party has received sufficient care. FSRA’s main concern should not be with whether increasing PSG rates will increase premiums, but rather whether consumers are receiving appropriate care, their choice of care and whether they are receiving adequate care to recover from their injuries. Consumers have already paid premiums for set Non-CAT and CAT limits which will not be increased by this PSG rate change. Insurers have already collected premiums and assessed the risks associated with insuring the individual. Increasing PSG rates without increasing the overall limits for Non-CAT and CAT benefits should not result in increased premiums since there will be no change to the insurer’s maximum exposure. Injured Ontarians should not be disadvantaged in receiving care in the context of significant inflationary increases across all sectors.

OTLA encourages FSRA to address the problem of rising premiums through the proper regulation and enforcement of profit targets. Approval of profits well beyond regulated targets rate has continued through the pandemic to date.

OTLA members, on behalf of their clients, have reported increasing conflicts with insurers over PSG rates, particularly for psychological treatment. Psychological treatment providers including psychologists, social workers and psychotherapists are increasingly leaving the SABS system as rates have not kept pace with inflation. When insurers refuse to pay true market rates for social work or other psychological care, injured Ontarians are footing the bill or going without care. They

are often incurring debt to receive adequate care despite having paid premiums for their benefits. Psychological treatment is being used here to illustrate the problem but it exists across all aspects of care under the SABS.

As an example of the inadequacy of current rates, many psychologists now charge \$200 + per hour while the PSG only allows for \$149.61 (non-catastrophic rate) or \$179.29 (catastrophic rate). Similarly, massage therapists, who now charge \$100 + per hour are paid under the PSG at the rate of \$58.19 (non-catastrophic rate) and \$89.07 (catastrophic rate). These rates do not reflect the reality of what consumers must pay to access treatment.

OTLA is advocating for the review of the current limits for non-CAT and CAT medical, rehabilitation and attendant care benefits. To prevent service providers from leaving the SABS system and to ensure adequate care, PSG rates will need to be increased. FSRA rightly points out that this may cause some consumers to exhaust their limits more quickly than is currently the case, and leave them with fewer sessions and overall treatment. To address this issue, OTLA encourages the increase in the non-CAT and CAT limits.

On April 11, 2019, the government announced a return to the benefit limit of \$2 million for medical, rehabilitation and attendant care benefits for victims who have been catastrophically impaired. More than five years later, this promised reinstatement of catastrophic benefits has not been implemented. Catastrophically impaired individuals are the most seriously injured and the harsh benefit reductions enacted by the previous government were devastating to the victims with the highest needs. In many cases, even the \$2 million limit does not provide a sufficient level of care to the accident victim for the duration of their life when they require extensive treatment, home care and assistive devices. This is particularly true for children and youth who have been rendered catastrophically impaired. OTLA strongly urges the government to move forward with its promise to restore the catastrophic limits to \$2 million and recommends that this benefit be classified as a combined medical rehabilitation and attendant care benefit, consistent with the combination of benefits for non-CAT claims. Ensuring this is a combined medical rehabilitation and attendant care benefit allows the benefits to be applied where they are most needed, based on the particular needs of each individual.

Further, there has been no increase to the \$65,000 non-catastrophic limit that was implemented in 2016. Taking into consideration that the \$65,000 was a reduction from the previous \$50,000 for medical and rehabilitation benefits + \$36,000 for attendant care, and that the limit prior to that time was \$100,000 + \$72,000 for attendant care, we have seen a continuous erosion of benefits that must now be remedied. OTLA encourages the government to implement an increase to the limits under all categories, along with annual inflationary increases to keep pace with market rates. Benefit limits have been steadily decreasing, rather than keeping pace with inflation and the true cost of treatment. This trend needs to be reversed.

It is our members' experience that some claimants need a higher level of benefits than the current non-CAT limit of \$65,000, although they do not qualify as catastrophically impaired. Once these claimants exhaust the \$65,000 limit, they are left without any treatment, or they are forced to seek whatever treatment and assistance they can obtain through OHIP, the LHIN, ODSP and other

social services. Often, there is no funding for treatment available under these systems. There is a significant gap in coverage for these individuals. Resorting the non-CAT limit to \$100,000 (pre-2010 level) would provide more adequate care for those with very serious injuries that fall short of the catastrophic definition in the SABS. Further, increasing the benefit timeframe back to at least 10 years would also provide greater coverage for this same group of claimants.

OTLA further notes that the \$65,000 limit was set in 2016 and has not been increased since that time. Considering the Canadian Price Index from 2016 to 2022, and a 4.2% inflation rate for 2023, had this benefit been increased yearly and kept pace with inflation, the limit would now be approximately \$80,000.

In addition to the submissions above, OTLA is pleased to specifically address the questions raised in the consultation as follows:

**1. If PSG rates are indexed (Option A), what should they be indexed to and why?**

OTLA supports the increase of hourly rates for service providers so that rates are in line with market rates, in order to ensure access to care. Rates should then be regularly increased to keep pace with inflationary increases.

Option D (maintaining the status quo) is not a viable option. Consumers are footing the bill and incurring debt to obtain services when they have already paid premiums for medical and rehabilitative benefits.

**2. If PSG are moved to flat rates (Option B), how should those flat rates be determined and why?**

OTLA does not support a flat rate system. This is likely to discourage service providers from working within the SABS system and further restrict care.

**3. Should rate increases (Option A or Option B) be staggered incrementally over a few years, or should it take place at once?**

OTLA supports the immediate increase in rates to remedy the longstanding failure to keep pace with market rates. This will “right the ship” and ensure access to care and prevent the further indebtedness of consumers for care they require and for which they have already paid premiums.

**4. Should FSRA review fees regularly, and if so, at what frequency (i.e. annually, biennially etc.)?**

OTLA supports an annual review of fees and the PSG rates to ensure that rates keep pace with increases to market rates.

**5. For Option C how often should insurers/HSPs meet to review/set maximum rates?**

OTLA does not support option C. Negotiation of rates between the service provider and the insurer is likely to result in larger service provider companies negotiating contracts with insurers

and out-bidding smaller providers, thus limiting choice for consumers and impacting quality of care. This will also create a conflict for providers in how they assess the need for care vs. the desire to keep insurers happy in order to maintain contracts.

**6. Are there other options/considerations related to rates/fees that should be considered for the PSG?**

OTLA encourages FSRA to fully consult with treatment and service providers to ensure the issues are fully explored and understood.

**7. Do you have any evidence that consumers are having difficulty obtaining the HSP care they need due to the existing PSG rates?**

OTLA encourage FSRA to speak to consumers directly to collect the evidence about their experiences within the system. We invite FSRA to contact our CEO to so that we can work to arranging meetings for FSRA with our members' clients. **We also encourage FSRA to read our submissions regarding the Health Service Provider (HSP) Framework Review consultation.<sup>1</sup> Within that document we have provided examples of specific treatment providers who have left the SABS system. OTLA is aware that providers are leaving the system, not only due to administrative burdens, but also because of the PSG rates.<sup>2</sup>**

**8. What are the key implementation considerations that must be taken into account for each option (i.e. timing, updates to billing systems, etc.)?**

OTLA recommends that FSRA fully consult with service providers regarding implementation of new rates.

**9. How can FSRA help to ensure that any changes to the PSGs are communicated to HSPs, insurers, consumers and other stakeholders?**

OTLA encourages FSRA to educate stakeholders, insurers, HSPs and consumers through webinars and online material.

**10. Are there other considerations which have been missed that should be taken into account as part of the PSG review?**

Please see above.

## **THE ATTENDANT CARE HOURLY GUIDELINE RATES**

OTLA has serious concerns that Ontarians who have been injured in automobile collisions are left without attendant care when they need it most, and that it is a direct result of the current attendant care rates. Many consumers have been forced to incur significant debt to fund their

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<sup>1</sup> OTLA Submission to FSRA, *Health Service Provider (HSP) Framework Review* - November 29, 2024, <https://www.otla.com/docDownload/2520619>

<sup>2</sup> Carol Bierbrier & Associates (CBA), *CBA's experience as an OT in the Auto Insurance Sector*, <https://www.otla.com/docDownload/2520631>

attendant care, given guideline rates and the way insurers have been allowed to implement those rates in paying overall attendant care. Many other consumers are simply going without care because of the rate issue.

At present, the attendant care hourly rate guideline sets out an hourly rate of only **\$14.90** for “level 1” care, which includes dressing, undressing, prosthetic assistance, orthotics assistance, grooming, feeding, mobility, and extra laundering. It sets out a rate of only **\$14.00** per hour for “level 2” care, which includes hygiene for bathroom, bedroom, and clothing use, as well as basic supervisory care, and co-ordination of attendant care. “Level 3” care, which is the most complex type of care and requires specific skills, includes care for genitourinary tracts, bowel care, tracheostomy care, ventilator care, exercise assistance, skin care, medication assistance, bathing assistance, maintenance of supplies and equipment, and lastly skilled supervisory care. The hourly rate for “level 3” care is currently only **\$21.11** per hour.

The attendant care hourly rate guidelines must be increased. They have not been adjusted in years and languish far below market rates. ***They are not even commensurate with minimum wage*** in Ontario, which as of October 1, 2024, is \$17.20 per hour. Personal support workers (“PSWs”) typically charge more than minimum wage and rates can vary across Ontario. OTLA encourages FSRA to review market rates and adjust attendant care rates accordingly.

OTLA applauds FSRA for recognizing the need for change, however changing the guideline rates alone, will not be enough to address the current problem. The current FSRA consultation has not addressed how insurers are using the guideline rates to pay monthly amounts. Despite FSRA’s own guideline on this issue, insurers have continued to use the Form 1 to determine the monthly amount owed, even where they have approved the maximum non-catastrophic or catastrophic rates. This narrow view of the Form 1 has left consumers with inadequate care or required them to incur debt to access care. OTLA’s members report that despite approvals for the maximum \$3,000 or \$6,000 a month, insurers are not paying these amounts for attendant care; instead, some insurers use a ratio method to calculate services or just rely on hourly rates set out in the guidelines to determine the amount owed. This is an unfair narrow interpretation of the Form 1, in direct contravention of the obligations of a first party insurer to act in the best interest of the insured and it is contrary to FSRA’s guideline. FSRA must put a stop to this practice.

We encourage FSRA to reach out to our CEO to arrange for consultation directly with consumers who have experienced difficulty in obtaining attendant care. OTLA would be pleased to assist FSRA in connecting with our members’ clients who have not been able to obtain attendant care under the current system.

FSRA has asked stakeholders to comment on 3 options: option A) index the maximum hourly rates for all levels, option B) index maximum hourly rates for levels 1 and 3, and option C) maintain current maximum hourly rates.

OTLA urges FSRA to set rates in accordance with market rates for attendant care for all 3 levels of care. If an individual is so severely injured that they require attendant care, the reality is that they are not likely able to continue working. In our experience, the majority of Ontarians do not

have sufficient funds to continue paying their day-to-day expenses and also pay for attendant care after they have been injured and can no longer work. By capping the attendant care rates below market rates, it requires injured people to pay the shortfall between what a PSW charges and what the insurer will fund. This becomes even more problematic in cases where the insurer is taking a narrow approach to the application of rates, as noted above. In many instances, this forces people to go without needed care which in turn leads to worse medical outcomes. This is not only bad for the injured individuals, but also for the health care system overall because injuries that worsen or do not heal can require more OHIP-funded care.

OTLA's responses to the specific questions posed by FSRA in the Consultation Paper are as follows:

### **1. How should Level 1 and 3 (Option B) attendant care rates be indexed?**

Option B completely disregards level 2 care. FSRA states that level 2 care is typically provided by family members. That is true in some cases but not all. Some Ontarians have no family or friends to provide care. Some friends and family are incapable of providing care, for any number of reasons. In other cases, friends and family members would have to take a leave from work in order to provide care. Many cannot simply leave their jobs to provide care and this is particularly true for many families who are already experiencing a loss of family income as a result of the injured person's lost income.

The SABS require that attendant care be "incurred", meaning that family members may only recover monies for providing attendant care if they sustain an actual economic loss, i.e. lose income to provide that care. When a family member is not incurring an economic loss while providing attendant care to an injured loved one, they are not paid anything by the insurer. This means there are family members working a job and then coming home in the evenings to provide care for the injured family member, along with other responsibilities such as child care. This often results in the healthy adult in the family carrying a bigger burden leading to their own mental health issues.

Therefore, for those Ontarians who have no one at home to provide level 2 care, or for those who cannot provide the care and maintain employment, who must hire someone to provide care, it is crucial that the hourly attendant care rate be commensurate with market rates.

In short, the hourly rate guidelines for all 3 levels of care need to be increased to meet market rates. Leaving the hourly attendant care rate well under minimum wage renders it virtually impossible to find a PSW to provide care.

### **2. Should Level 1 and 3 rate increases (Option B) be staggered incrementally over a few years, or should it take place at once?**

Level 1, 2, and 3 rates should be increased at once. Presumably the idea of a staggered increase is intended to reduce the impact on insurers; however, the failure to increase rates in the past has created a situation of crisis while insurers have benefited and profited from those lower rates. Without an immediate increase, Ontarians injured in motor vehicle collisions will continue to be

left without the attendant care they require. Waiting will mean that Ontarians who have already paid for insurance and who cannot afford to pay the balance of an hourly rate out of pocket are left without care or in debt. A failure to act now will continue to have the greatest impact on the most vulnerable injured individuals – the most seriously injured who have the highest care needs and those without the financial means to supplement the inadequate system.

**3. Should FSRA review the rates of all three Levels regularly, and if so, at what frequency (i.e. annually, biennially etc.)?**

Rates should be increased to market rates and should be reviewed annually to ensure the set rates keep up with inflation and rising treatment costs.

**4. Are there other options/considerations related to rates/fees that should be considered for the ACHRG?**

FSRA should consult with care providers to determine current market rates when setting Guideline rate for attendant care.

**5. Do you have any evidence that consumers are having difficulty in obtaining the attendant care they need (Level 1-routine personal care and Level 3-complex health/care)?**

OTLA is aware of several cases of consumers having difficulty in obtaining the attendant care they need at the current Guideline rates and are going without needed services. This problem is compounded by the use by some insurers of the guideline rates to calculate what is payable on invoices, despite approving \$3,000 and \$6,000 a month on the Form 1. Insurers are demanding a breakdown on invoices for services that is not required under the SABS or guidelines, and are applying the guideline hourly rate instead of paying the monthly attendant care approved.

Joanna Sweet of Greg Monforton and Partners, in Windsor, went to the press in 2023 to advise that two of her clients were unable to obtain attendant care at the hourly attendant care rate guidelines. One of those clients sustained a head injury, broken facial bones, broken left shoulder and scapular fractures, spinal fractures, pelvic fractures, and left leg fractures and tears in his knee. He was discharged from the hospital to his home, where he lived alone, with no family to care for him. He was not able to obtain PSW care because he could not find someone to provide care at the hourly attendant care guideline rates, and he did not have extra money to fund the difference between the guideline rates and the amount PSWs actually charge.

The other client noted in that story also suffered a brain injury, a broken back, two broken legs, etc. and had a bed sore that would not heal. He was also left to fend for himself without attendant care. He faced numerous indignities, including but not limited to, difficulty using the bathroom,



showering or bathing. This news story was carried both in the Windsor Star<sup>3</sup> and through CBC News.<sup>4</sup>

The story of Alan Weymouth, who suffered a shattered femur in a hit and run collision was publicized through CTV news in February 2023, almost two years ago.<sup>5</sup> Alan Weymouth could not walk or do basic tasks for himself. He could not obtain a PSW as his insurer, Economical Insurance, insisted they would only pay \$14.00 an hour for a PSW pursuant to the guideline. FSRA was contacted for this news story and FSRA spokesman Russ Courtney provided a statement: “FSRA guidelines do not set an hourly wage”. He was clear that the guidelines are intended to be used to calculate the overall monthly amount payable.

Mary-Anne Strong of Beckett Injury Lawyers in London, Ontario advises that she has observed on files that some insurers are refusing to rely on approved monthly amounts and looking to the guideline rates to determine amounts payable, which are under minimum wage. In one matter where her client has been deemed catastrophically impaired and suffers from full body tremors, the insurer had approved the maximum amount of \$6,000 a month. A Form 1 calculation showed attendant care required of \$10,543.26. When invoices were submitted for care provided each month, the insurer failed to pay the full \$6,000 and instead applied a “ratio method” to calculate the amount owed on the invoice. This resulted in an hourly rate of less than minimum wage being applied for PSW assistance. The client became indebted to her PSW company and was responsible for supplementing her attendant care expenses, while she took her insurer to the LAT, at her own expense due to costs not being payable after a LAT hearing.

OTLA has previously written FSRA regarding the attendant care rates and how insurers are applying rates that are less than minimum wage to pay for attendant care.<sup>6</sup>

We again invite FSRA to contact us so that we can help arrange consultations with consumers who have been unable to obtain PSW care as a result of the current guideline rates.

The SABS is consumer protection legislation. The goal of the SABS is to put the injured person back to the condition they were in before the collision, insofar as possible. Failing to raise attendant care rates to market rates effectively denies care to those who do not have other financial means, which can increase the risk of future injury (falls, for example), increase the time it takes them to heal, and decrease their ability to get back to their pre-collision lives.

OTLA’s members report that they have asked insurers to advise them of any local PSWs who are willing to provide services under the attendant care hourly guideline rates, and the insurers have

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<sup>3</sup> Windsor Star, *Local lawyer speaks out against insurance companies inadequate payout for personal support worker services*, <https://windsorstar.com/news/local-news/local-lawyer-speaks-out-against-insurance-companies-inadequate-payout-for-personal-support-worker-services>

<sup>4</sup> CBC News, *Windsor lawyer pushing to get insurance companies to boost caregiver pay*, <https://www.cbc.ca/news/canada/windsor/windsor-insurance-lawsuits-1.6945175>

<sup>5</sup> CTV News, *'It's at a crisis point': Dubious insurer practice of paying less than Ontario minimum wage appears to be spreading*, <https://toronto.ctvnews.ca/it-s-at-a-crisis-point-dubious-insurer-practice-of-paying-less-than-ontario-minimum-wage-appears-to-be-spreading-1.6275861>

<sup>6</sup> OTLA, *OTLA Letter to FSRA March 8, 2024*, <https://www.otla.com/docDownload/2517894>

been unable to do so. It is evident that PSW care is simply not available at the current attendant care hourly guideline rates.

**6. What are the key implementation considerations that should be taken into account for each option (i.e. timing, updates to billing systems etc.)?**

Options B and C provided by FSRA are simply not practical. Option B incorrectly assumes that only level 1 and level 3 care should be increased to reflect market rates since family members “usually” provide Level 2. As noted above, this assumption is problematic and frequently incorrect.

Option C does not take into account the significant savings insurance companies will realize with the election of benefits that will begin effective July 1, 2026. More specifically, the government has stated that the following benefits will become optional: Non-Earner Benefit, Income Replacement Benefit, Caregiver Benefit, Educational Expenses, Visitor Expenses, Housekeeping, Damaged Goods, Death Benefits, and Funeral Benefits. We anticipate that millions of Ontarians will not elect these benefits, saving insurance companies millions in return.

With this, premiums should decrease, as opposed to increase as suggested throughout the Consultation Paper.

Further, raising guideline rates should not increase premiums. The SABS have a cap on the monthly payable attendant care regardless of the guideline rates that are intended to be used to calculate the monthly amount. Premiums must be affordable but they cannot be the only or predominant measure of viability of proposed change. When rates do not keep pace with inflation, the result is an ineffective, failing product.

**7. How can FSRA help to ensure that any changes to the ACHRGs are communicated to HSPs, insurers, consumers and other stakeholders?**

Information should be readily accessible to Ontarians via both electronic means (website, news outlets such as online newspapers and TV channels/subscriptions), as well as by way of newspaper and other traditional media sources for those Ontarians who do not get news by way of the internet.

**8. Are there other considerations which have been missed that should be taken into account as part of the ACHRG review?**

As noted above, OTLA does not recommend options A, B or C to FSRA. Instead, we urge FSRA to set the attendant care hourly rate guidelines to reflect market rates.

Additionally, the Superintendent’s Guideline No. 01/18 should be incorporated into the SABS. Despite our members’ repeated pleas to insurers to pay attendant care in accordance with this Guideline, many do not. Their insistence on paying the Form 1 rates on an hourly basis effectively eradicates the attendant care benefits for Ontarians injured in motor vehicle collisions who cannot afford to pay the difference between what the insurer will pay and what a PSW actually charges.

## THE MINOR INJURY GUIDELINE (“MIG”)

There are concerns with the statement within the consultation paper that the most prevalent types of injury sustained in automobile collisions are suggested to be “minor” or by definition: “means one or more of a sprain, strain, whiplash associated disorder, contusion, abrasion, laceration or subluxation and includes any clinically associated sequelae to such an injury.”

It is the experience of OTLA members that the insurers classify almost all cases as falling within the MIG, when in fact many should not be classified as a MIG injury at all. It is our members’ experience that time, resources and funds for both insurers and consumers have been wasted on matters where insurers have improperly classified injuries as falling under the MIG. The MIG guideline has been used to avoid providing treatment and delaying treatment after \$3,500 has been incurred in treatment. This has, at times, resulted in the worsening of the injured person’s condition as they battle with their insurer over their classification.

OTLA’s position is that the MIG should be abolished in its entirety. If consumers truly only need a minimal amount of treatment, then that should be determined by their treatment providers. FSRA and the insurers should assume that treatment plans will only be put in where warranted and if the insurers wish to have their own opinion they are entitled to an insurer’s examination under the SABS. If the MIG limit is going to be kept, OTLA encourages FSRA to recommend to the government that the limit be increased. It has not been increased since it was introduced in 2010. The MIG limit should be increased with inflation and brought up to date from 2010. Further, as guideline rates are increased, a maximum limit of \$3,500 will not provide sufficient treatment.

FSRA has presented three options in response to concerns regarding the predetermined amount of financial coverage that is available for medical and rehabilitation benefits under the Appendix B Fee Schedule. This fee schedule pre-determines the amount of compensation treatment providers may recover for services under the MIG. Option A) index the rates in the fee schedule, or Option B) maintain the status quo.

The status quo is simply not an option. As noted in the Consultation Paper, the Fee Schedule has not been increased since the MIG was introduced in 2010. Therefore, the current rates simply do not reflect treatment providers rates in order to provide adequate and required services for collision victims across Ontario.

If most collision victims are deemed to have sustained MIG injuries, they need most of their therapy in the acute period in an effort to return to their normal life. As outlined in the Consultation Paper, we should not be comparing the SABS to WSIB. Ontarians anticipate that their insurance, which they paid for, will cover and help them, especially when they have sustained injuries that may heal within a reasonable amount of time if treated properly within the acute period.

Stakeholders were asked to comment on the following:

**1. If MIG rates are indexed (Option A), what should they be indexed to and why?**

Market rates are the only appropriate option. Leaving the rates at extremely outdated amounts leaves collision victims without the immediate care they require and leaves them vulnerable to worsening of injuries.

**2. Should rate increases (Option A) be staggered incrementally over a few years, or should it take place at once?**

Given that there has never been an increase, this should take place at once.

**3. Is the existing block fee structure/amounts for pre-approved MIG treatment appropriate? Why or why not?**

Medical and rehabilitation needs under the MIG should be pre-approved to the maximum \$3,500 plus HST to ensure collision victims receive immediate services without the delay of approving treatment plans or waiting for expenses incurred to be reimbursed.

Additionally, this allows for collision victims to seek treatment as recommended by their physician or other health care provider.

**4. Should FSRA review MIG rates regularly, and if so, at what frequency (i.e. annually, biennially etc.)?**

Annually in an effort to ensure that same reflects market rates.

**5. Are there other options/considerations related to rates/fees that should be considered for the MIG?**

Please see OTLAs position on the MIG limit noted above.

**6. What are the key implementation considerations that must be taken into account for each option (i.e. timing, updates to billing systems, etc.)?**

The need to change the rates is immediate. Any further delay continues to contribute to the significant issues injured Ontarians face when they cannot afford treatment services for which they paid premiums.

**7. How can FSRA help to ensure that any changes to the PSGs are communicated to HSPs, insurers, consumers and other stakeholders?**

Information should be readily accessible to Ontarians communicated by way of both electronic means (website, news outlets including online newspapers and TV channels/subscriptions), as well as by way of newspaper and other media sources for those Ontarians who do not have access to electronic means.

**8. Are there other considerations which have been missed that should be taken into account as part of the MIG review?**

The July 1, 2026 optional benefit changes should be taken into account as this will inevitably result in significant savings to insurance companies when consumers do not elect optional benefits and thus do not have the ability to access same when they are injured.

With the July 1, 2026 changes will come a serious need to protect collision victims. Insurers will be saving and increasing profits while many injured people will not have access to income replacement benefits and adequate, appropriate, timely treatment. If further optionality is coming with various amounts of medical rehabilitation available, it should be noted that most consumers are not told about the MIG at time of purchase. Those purchasing optional medical and rehabilitation benefits are being told they will have higher limits available without any mention of the MIG category. This at a minimum, is misleading at the point of sale. Again, this category should be eliminated.

**CONCLUSION**

OTLA appreciates the opportunity to provide feedback on the consultation paper regarding the *Statutory Accident Benefits Schedule (SABS) Guidelines Review*. OTLA would be pleased to discuss these submissions if questions arise, if clarification is required or if OTLA can be of any further assistance.