

November 28, 2024

Financial Services Regulatory
Authority of Ontario (FSRA)

Re: Consultation on Auto Reforms
ID: 2024-011

Greetings,

Regarding the Professional Services Guideline

I write to you on behalf of a skilled team of occupational therapists providing support to clients that have been involved in significant motor vehicle collisions. Professional experience in this field totals greater than 50 years across therapists. Although we greatly enjoy our work, we are reaching an impasse as to whether it is financially responsible to continue on working within the auto insurance sector due to financial disparities between payers (e.g., WSIB, Veterans Affairs Canada, Jordan's Principle, etc.).

Upon review of the options proposed in the SABS Consultation Paper, Option A seems to be the most tenable as it is the most logical response to inflation, issues with supply and demand of professionals, and the increases in complexity of the work. The insurers are familiar with indexation and how it is applied year to year as it is offered as an optional benefit. The concept would be much the same to increase the PSG to a more reasonable and competitive rate. Skilled therapists cannot continue to justify working for \$40 less an hour when compared to other sectors.

Option B, suggesting flat rate fees, is not feasible when considering the complexities of each individual client. There needs to be flexibility and the opportunity to explain why additional time or expenses are required in order to ensure we are providing the best, evidenced-based care. Option C is not reasonable as it would be subject to too much variability between providers, insurers, and independent adjusters. This would ultimately lead to increased confusion and increased funds being spent. Option D is not an option at all. We will begin to increase our rates, outside of what the PSG prescribes. We are not receiving a competitive wage, and the current PSG does not reflect the quality of our service.

PSG Consultation Questions

1. Mr. Gurevich, CEO of FunctionAbility Rehabilitation Services, has conducted exemplary research and provided a discussion surrounding the consumer price index. We are in agreement with his rationale and with his suggested rates to an extent. We disagree that other professionals of similar to same education (e.g., speech-language pathologists, social workers, etc.) should be paid at a greater rate. It would actually be most reasonable, and most

straight forward, for all providers to receive the same rate of pay as the level of education is nearly identical. Considering the hourly rates proposed by Mr. Gurevich, the hourly rates for all non-catastrophic service would be \$145 per hour and \$167 per hour for catastrophic clients. Of course there will be hesitancy on the part of the insurers to agree to this sizable increase, but it is what is owed based on our expertise of this complex sector, our education, and to meet the increases in the cost of living.

2. Option B is not a tenable option.
3. It is odd that there was a freeze on rate increases after 2014. When compared to other sectors, this does appear to be the anomaly. Ideally, the rates would increase immediately. However, realistically, it could occur incrementally with 50% increase immediately. The available Medical and Rehabilitation Benefits would need to be increased as well. We know that insurers continue to be extremely profitable. This awareness and the lack of recognition of the limiting PSG makes this sector conflict ridden and seemingly lacks mutual respect.
4. Biennially would likely be reasonable.
5. Option C is not a reasonable option.
6. As above, all providers of similar education should be paid equally. There is no difference in the value of the service and thus all should be paid the same.
7. Although we do not have evidence in hand, an attendance at a conference related to the SABS in September 2023 illustrated that 118 health service providers had their HCAI licences revoked in 2023. This is likely due to a variety of reasons, all of which we do not have access to, however, it is likely in part related to the poor remuneration. The auto insurance sector is complicated and requires a great deal of paperwork and advocacy. It is also wrought with conflict between providers, insurers, lawyers, etc. There needs to be incentive to do the work. HCAI registration would be valuable in determining the trend of providers/clinics in Ontario.
8. Providers are rapidly leaving the sector, leaving clients without appropriate care. Changes need to be made urgently. HCAI allows providers to input rates freely at present, it is unlikely that many changes would be required.
9. Bulletins are beneficial. Contact with FSRA-registered providers.
10. A specific PSG for social work (MSW) would be beneficial for clarity between providers. Additionally, it is also the opinion of this group that if clients are left to pay a deductible for clinician services, that will have a negative impact on the client-therapist relationship. Expecting and/or withholding any services due to lapse or delays in payment will deter clients from continuing to access services. Furthermore, the clients will likely be undergoing financial hardship from their inability to work. If they are fortunate to purchase the income replacement benefit (come 2026), then their income will likely be meager compared to their pre-collision income. If they did not purchase the income replacement benefit, they would not be able to afford services at all. Causing further financial stress is not recommended.

Regarding Attendant Care Hourly Rate Guideline

Option A is the most reasonable option considering our earlier arguments related to the indexation of the PSG. Attendant care providers need to be paid a living wage. Clients are going without attendant care as they are unable to afford the difference between what the insurers will pay (if they are referencing *Malitskiy v. Unica 2021*), and what the actual rates are. As providers, we know that clients cannot exit their homes in the event of an emergency due to their collision-related impairments, but that we cannot remedy that situation as they cannot afford attendant care. Option A is the most reasonable as it enables consumers to have improved access to the service.

Option B is unreasonable from a logistical standpoint in that the suggestion is that there would be one attendant care provider that works at one wage, and then they would need to hire an additional provider to work at a lesser rate. The general summary of Option B is also not accurate. Insurers are not consistent in how they fund/reimburse attendant care. Not all insurers have adopted the *Malitskiy v. Unica 2021* decision – which further illustrates that there is something unjust about it. The requirements of insurers are all different in that only a portion request documentation from attendant care providers. Others will just pay a provided invoice. The assumption that Level 2 is provided by family is also strange. Is the insinuation that a family member should leave their job to provide Level 2? They would need to demonstrate an economic loss from their own position to be paid less than minimum wage. It seems unrealistic. Attendant care should be provided by the same provider during each visit. Splitting the tasks on the Form 1 is further not tenable as most PSW companies require a minimum length of visit. A PSW will not go to a client's home to complete one task. Option C is simply not a viable option.

ACHRG Consultation Questions

1. Option B is not a reasonable option.
2. Option B is not a reasonable option.
3. Biennially would be reasonable.
4. There should be improved regulation as to how the insurers fund/reimburse attendant care. It is too variable between providers. When we, as therapists, explain the process to our clients, it is becoming more often a surprise how the insurer will respond to a submitted Form 1. The insurer may not raise their need for documentation until after the services have been incurred. Furthermore, they may only indicate that they are referencing the *Malitskiy v. Unica 2021* decision after the service has been incurred, leaving the client with the remainder of the invoice. This process should be standardized across insurers.
5. Only first-hand client experience. In one situation, a teenaged orphan with a spinal cord injury – unable to exit her home in the event of an emergency. No income, no extended family able to care for her, unable to afford attendant care. We had to accept that she could not prepare meals or bathe herself independently because she could not afford the assistance. In another circumstance, a gentleman, also living with a spinal cord injury, was unable to prepare meals or bathe independently. He would have been considered low income prior to the subject collision and thus could not afford attendant care. He was larger than his family members and thus they could not support transfers, mobility, or personal care as needed. The reduced availability of providers willing to work for less than minimum wage is also having an impact

on the legal side of things because it is creating desperation. Claimants are settling their claims sooner than desired as they need to have an income to pay for the support they need. This can ultimately affect their long-term outcomes and can lead to difficulties coordinating private care.

6. The timing should be urgent. Within our scope as therapists, we do not commonly have first-hand knowledge of the billing/payment systems of attendant care.
7. Bulletins are beneficial. Contact with FSRA-registered providers.
8. The completion of the Form 1 should be left solely to occupational therapists and to nurses with training specific to the form completion and function overall. Occupational therapists are best-suited in the completion of the Form 1 as we are trained to consider the psychosocial, cognitive, spiritual, and cultural factors that affect function. These in conjunction with physical assessment skills and consideration of the client's typical environments. The Form 1 is invaluable in determining a person's need for support following injury; however, the document itself would benefit from clarification and update in time (e.g., the need to indicate gender, cultural/spiritual considerations, etc.).

As indicated above, we enjoy our work, and we are skilled therapists. We have embraced the complexities of the auto insurance sector and consistently strive to provide the best, evidenced-based support to our clients. Since the June 2016 changes, we have recognized a significant increase insurer denials and partial approvals that ultimately affect our ability to effectively deliver our support. It is challenging to continue to work in a field when you are consistently questioned about your value while simultaneously being aggressively underpaid compared to colleagues in other sectors. Creating less disparity in the PSG and ACHRG will reduce the "us v. them" dynamic, thus creating a more successful and efficient working relationship that will ultimately benefit our clients.

Thank you for your consideration.

Respectfully,

The Registered Occupational Therapists of
Abilities Rehabilitation and Counselling Services