

Insurance Act

ONTARIO REGULATION 776/93

STATUTORY ACCIDENT BENEFITS SCHEDULE — ACCIDENTS AFTER DECEMBER 31, 1993 AND BEFORE NOVEMBER 1, 1996

Consolidation Period: From March 1, 2006 to the [e-Laws currency date](#).

Last amendment: O. Reg. 26/06.

This is the English version of a bilingual regulation.

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PART I
INTERPRETATION

DEFINITIONS

1. In this Regulation,

“accident” means an incident in which, directly or indirectly, the use or operation of an automobile causes an impairment or causes damage to any prescription eyewear, denture, hearing aid, prosthesis or other medical or dental device; (“accident”)

“chiropractor” means a person authorized by law to practise chiropractic; (“chiropraticien”)

“dentist” means a person authorized by law to practise dentistry; (“dentiste”)

“health practitioner”, in respect of a particular impairment, means a physician or,

(a) a chiropractor, if the impairment is one that a chiropractor is authorized by law to treat,

(b) a dentist, if the impairment is one that a dentist is authorized by law to treat,

(c) an optometrist, if the impairment is one that an optometrist is authorized by law to treat,

(d) a psychologist, if the impairment is one that a psychologist is authorized by law to treat, or

(e) a physiotherapist, if the impairment is one that a physiotherapist is authorized by law to treat; (“praticien de la santé”)

“impairment” means a loss or abnormality of psychological, physiological or anatomical structure or function; (“déficience”)

“insured automobile”, in respect of a particular motor vehicle liability policy, means any automobile covered by the policy; (“automobile assurée”)

“insured person”, in respect of a particular motor vehicle liability policy, means,

(a) the named insured, any person specified in the policy as a driver of the insured automobile, the spouse of the named insured, and any dependant of the named insured or spouse, if the named insured, specified driver, spouse or dependant,

(i) is involved in an accident in or outside of Ontario that involves the insured automobile or another automobile, or

(ii) is not involved in an accident but suffers psychological or mental injury as a result of an accident in or outside of Ontario that results in a physical injury to his or her spouse, child, grandchild, parent, grandparent, brother, sister, dependant or spouse’s dependant,

(b) in respect of accidents in Ontario, a person who is involved in an accident involving the insured automobile, or

(c) in respect of accidents outside Ontario, a person who is an occupant of the insured automobile and who is a resident of Ontario or was a resident of Ontario at some point during the sixty days before the accident; (“personne assurée”)

“member of a health profession” means a member of a College as defined in the *Regulated Health Professions Act, 1991*; (“membre d’une profession de la santé”)

“optometrist” means a person who is authorized by law to practise optometry; (“optométriste”)

“personal and vocational characteristics” include,

(a) employment history,

(b) education and training,

(c) vocational interests and aptitudes,

(d) vocational skills,

(e) physical abilities,

(f) cognitive abilities, and

(g) language abilities; (“caractéristiques personnelles et professionnelles”)

“physician” means a person authorized by law to practise medicine; (“médecin”)

“physiotherapist” means a person authorized by law to practise physiotherapy; (“physiothérapeute”)

“psychologist” means a person authorized by law to practise psychology; (“psychologue”)

“spouse” means either of two persons who,

- (a) are married to each other,
- (b) have together entered into a marriage that is voidable or void, in good faith on the part of the person asserting a right under this Regulation, or
- (c) have lived together in a conjugal relationship outside marriage at some point during the previous year and have lived together in a conjugal relationship outside marriage,
 - (i) continuously for a period of at least one year, or
 - (ii) in a relationship of some permanence, if they are the natural or adoptive parents of a child or have demonstrated a settled intention to treat a child as a child of their family; (“conjoint”)

“temporary disability benefits” means,

- (a) benefits paid under Part II, III or IV of this Regulation,
- (b) benefits paid under Part V of this Regulation, unless the benefits are paid more than 104 weeks after the onset of the disability,
- (c) benefits paid under section 32 of this Regulation,
- (d) benefits paid under Part IV of Regulation 672 of the Revised Regulations of Ontario, 1990, unless the benefits have been paid for more than 156 weeks,
- (e) benefits paid under Part II of Subsection 2 of Schedule C to the *Insurance Act* as it existed before June 22, 1990, unless the benefits have been paid for more than 104 weeks,
- (f) benefits paid under section 37, subsection 43 (9) or subsection 147 (2) of the *Workers’ Compensation Act*, or
- (g) any other periodic temporary benefit paid under an income continuation plan or law, other than,
 - (i) unemployment insurance benefits,
 - (ii) benefits paid under Part V of this Regulation more than 104 weeks after the onset of the disability,
 - (iii) benefits paid under Part IV of Regulation 672 of the Revised Regulations of Ontario, 1990 for more than 156 weeks, or
 - (iv) benefits paid under Part II of subsection 2 of Schedule C to the *Insurance Act* as it existed before June 22, 1990 that have been paid for more than 104 weeks. (“indemnités d’invalidité temporaires”) O. Reg. 776/93, s. 1; O. Reg. 781/94, s. 1; O. Reg. 26/06, s. 1.

PARTIAL INABILITY TO CARRY ON NORMAL LIFE

2. For the purpose of this Regulation, a person suffers a partial inability to carry on a normal life as a result of an accident if, and only if, as a result of the accident, the person suffers an impairment that results in a substantial inability to engage in,

- (a) personal care activities in which the person ordinarily engaged before the accident;
- (b) mobility activities in which the person ordinarily engaged before the accident;
- (c) household activities in which the person ordinarily engaged before the accident;
- (d) activities in which the person ordinarily engaged before the accident that require the exercise of cognitive powers;
- (e) activities in which the person ordinarily engaged before the accident that require the ability to control emotions or behaviour; or
- (f) activities in which the person ordinarily engaged before the accident that require communication abilities. O. Reg. 776/93, s. 2.

COMPLETE INABILITY TO CARRY ON NORMAL LIFE

3. For the purpose of this Regulation, a person suffers a complete inability to carry on a normal life as a result of an accident if, and only if, as a result of the accident, the person suffers an impairment that continuously prevents the person from engaging in substantially all of the activities in which the person ordinarily engaged before the accident. O. Reg. 776/93, s. 3.

DEPENDANTS

4. For the purpose of this Regulation, a person is a dependant of another person if the person is principally dependent for financial support or care on the other person or the other person’s spouse. O. Reg. 776/93, s. 4.

EMPLOYMENT

5. For the purpose of this Regulation, a person is employed if, for salary, wages, other remuneration or profit, the person is engaged in employment, including self-employment, or is the holder of an office, and “employment” has a corresponding meaning. O. Reg. 776/93, s. 5.

PAYMENTS FOR LOSS OF INCOME

6. For the purpose of this Regulation, payments of severance pay or termination pay are not payments for loss of income. O. Reg. 776/93, s. 6.

PART II INCOME REPLACEMENT BENEFITS

ENTITLEMENT TO BENEFITS

7. (1) An insured person who sustains an impairment as a result of an accident is entitled to a weekly income replacement benefit if the insured person meets any of the following qualifications:

1. The insured person was employed at the time of the accident and, as a result of and within two years of the accident, suffers a substantial inability to perform the essential tasks of that employment.
2. The insured person,
 - i. was not employed at the time of the accident,
 - ii. was employed at some point during the 156 weeks before the accident,
 - iii. was sixteen years of age or more or was excused from attendance at school under the *Education Act* at the time of the accident, and
 - iv. as a result of and within two years of the accident, suffers a substantial inability to perform the essential tasks of the employment in which the insured person spent the most time during the time period designated under subsection (2).
3. The insured person,
 - i. was entitled at the time of the accident to start work within one year under a legitimate contract of employment that was made before the accident and that is evidenced in writing, and
 - ii. as a result of and within two years of the accident, suffers a substantial inability to perform the essential tasks of the employment he or she was entitled to start under the contract.
4. The insured person,
 - i. was on strike from or was locked out from an employment at the time of the accident or was, at the time of the accident, on a layoff from an employment to which he or she was entitled to be recalled pursuant to a collective agreement, and
 - ii. as a result of and within two years of the accident, suffers a substantial inability to perform the essential tasks of the employment.
5. The insured person,
 - i. received weekly caregiver benefits under Part IV as a result of the accident but is no longer receiving them because there is no person who meets the qualifications set out in subsection 18 (5), or would have qualified for weekly caregiver benefits as a result of the accident but for,
 - A. the death as a result of the accident of the person in respect of whom the insured person was the primary caregiver, or
 - B. the operation of subsection 18 (3),
 - ii. was employed at some point during the period that began 156 weeks before the person first became a primary caregiver and ended on the day of the accident, and
 - iii. as a result of and within two years of the accident, suffers a substantial inability to perform the essential tasks of the employment in which the insured person spent the most time during the time period designated under subsection (4).
6. The insured person,
 - i. was on pregnancy leave, parental leave or unpaid leave from an employment at the time of the accident, and
 - ii. as a result of and within two years of the accident, suffers a substantial inability to perform the essential tasks of the employment. O. Reg. 776/93, s. 7 (1); O. Reg. 781/94, s. 2.

(2) Subject to subsection (3), a person who applies for benefits under paragraph 1 or 2 of subsection (1) shall designate one of the following time periods:

1. The four weeks before the accident.
2. The fifty-two weeks before the accident.
3. The 156 weeks before the accident. O. Reg. 776/93, s. 7 (2).

(3) A person who was self-employed at any time during the four weeks before the accident shall not designate the four-week period under paragraph 1 of subsection (2). O. Reg. 776/93, s. 7 (3).

(4) A person who applies for benefits under paragraph 5 of subsection (1) shall designate a period of fifty-two consecutive weeks in the period that began 156 weeks before the person first became a primary caregiver and ended on the day of the accident. O. Reg. 776/93, s. 7 (4).

PERIOD OF BENEFIT

8. (1) Subject to subsections (2) to (4), a weekly income replacement benefit under section 7 is payable during the period that the insured person suffers a substantial inability to perform the essential tasks of the employment in respect of which he or she qualifies for the benefit under section 7. O. Reg. 776/93, s. 8 (1).

(2) The insurer is not required to pay a weekly income replacement benefit,

- (a) under paragraph 3 of subsection 7 (1), until the day the person would have been entitled under the contract to begin employment;
- (b) under paragraph 4 of subsection 7 (1), until the day the person would have been entitled to return to employment;
- (c) under paragraph 5 of subsection 7 (1), until the day on which there is no person who meets the qualifications set out in subsection 18 (5); and
- (d) under paragraph 6 of subsection 7 (1), until the day the person would have returned to employment. O. Reg. 776/93, s. 8 (2).

(3) No weekly income replacement benefit is payable under this Part for the first week of the disability. O. Reg. 776/93, s. 8 (3).

(4) Subsection (3) does not apply to a weekly income replacement benefit payable under paragraph 5 of subsection 7 (1) if the person entitled to the benefit received weekly caregiver benefits under Part IV as a result of the accident. O. Reg. 776/93, s. 8 (4).

GROSS ANNUAL INCOME

9. (1) For the purpose of determining the amount of a person's weekly income replacement benefit under paragraph 1 or 2 of subsection 7 (1), the person's gross annual income from employment shall be deemed to be the following amount:

1. In the case of a person who designated the four weeks before the accident under paragraph 1 of subsection 7 (2), the person's gross income from employment for the four weeks before the accident, multiplied by thirteen.
2. In the case of a person who designated the fifty-two weeks before the accident under paragraph 2 of subsection 7 (2), the person's gross income from employment for the fifty-two weeks before the accident.
3. In the case of a person who designated the 156 weeks before the accident under paragraph 3 of subsection 7 (2), the person's gross income from employment for the 156 weeks before the accident, divided by three. O. Reg. 776/93, s. 9 (1).

(2) For the purpose of subsection (1), a person who,

- (a) is entitled to weekly income replacement benefits under paragraph 1 of subsection 7 (1);
- (b) designated the four weeks before the accident under paragraph 1 of subsection 7 (2); and
- (c) started the employment in which he or she was engaged at the time of the accident during the four weeks before the accident,

may elect that the person's gross income from employment for the four weeks before the accident be deemed to be the amount determined by taking the person's gross income from employment for the part of the four-week period for which the person earned income from the employment in which he or she was engaged at the time of the accident and extrapolating it over the rest of the four-week period. O. Reg. 776/93, s. 9 (2).

(3) For the purpose of subsection (1), a person who,

- (a) is entitled to weekly income replacement benefits under paragraph 1 of subsection 7 (1);
- (b) designated the fifty-two weeks before the accident under paragraph 2 of subsection 7 (2);
- (c) was self-employed at the time of the accident; and

- (d) started the self-employment in which he or she was engaged at the time of the accident during the fifty-two weeks before the accident,

may elect that the person's gross income from employment for the fifty-two weeks before the accident be deemed to be the amount determined by taking the person's income from the self-employment in which he or she was engaged at the time of the accident for the part of the fifty-two-week period for which the person earned income from that employment and extrapolating it over the rest of the fifty-two-week period. O. Reg. 776/93, s. 9 (3).

(4) For the purpose of determining the amount of a person's weekly income replacement benefit under paragraph 5 of subsection 7 (1), the person's gross annual income from employment shall be deemed to be the person's gross income from employment for the time period designated under subsection 7 (4). O. Reg. 776/93, s. 9 (4).

(5) For the purpose of determining the amount of a person's weekly income replacement benefit under paragraph 3, 4 or 6 of subsection 7 (1), the person's gross annual income from employment shall be deemed to be the greatest of the following amounts:

1. If the person is qualified under paragraph 3 of subsection 7 (1), the gross income payable under the contract of employment, extrapolated to reflect an annual income.
2. If the person is qualified under paragraph 4 of subsection 7 (1), the gross income payable in the employment he or she was on strike from, was locked out from or was on a layoff from, extrapolated to reflect an annual income.
3. If the person is qualified under paragraph 6 of subsection 7 (1), the gross income payable in the employment he or she was on leave from, extrapolated to reflect an annual income.
4. If the person is also qualified under paragraph 1 or 2 of subsection 7 (1), his or her gross annual income as determined under subsections (1) and (2). O. Reg. 776/93, s. 9 (5).

(6) A determination under subsection (1) or (4) of the person's gross income from employment for a period of time shall include temporary disability benefits received in respect of that period and benefits received under the *Unemployment Insurance Act* (Canada) in respect of that period. O. Reg. 776/93, s. 9 (6).

(7) If a person is entitled to weekly income replacement benefits under paragraph 1 of subsection 7 (1) and is not entitled to a benefit under paragraph 4 or 6 of subsection 7 (1), a determination under subsection (1) of the person's gross income from employment for a period of time shall be made by taking the person's gross income from employment for the part of that period for which the person earned income from employment and extrapolating it over any part of the period for which the person,

(a) did not receive temporary disability benefits or benefits under the *Unemployment Insurance Act* (Canada); and

(b) did not earn any income from employment for one of the following reasons:

1. The person was not employed.
2. The person was on a leave of absence without pay.
3. The person was on a layoff from employment.
4. The person was on strike from employment or was locked out from employment. O. Reg. 776/93, s. 9 (7).

AMOUNT OF BENEFIT

10. (1) The amount of a weekly income replacement benefit shall be 90 per cent of the insured person's net weekly income from employment determined in accordance with section 81 or 82. O. Reg. 776/93, s. 10 (1).

(2) Subject to subsection (3) and section 75, the amount of a weekly income replacement benefit shall not be less than \$185 if, during the week in respect of which the benefit is payable,

- (a) the insured person is suffering a partial or complete inability to carry on a normal life as a result of the accident, if 104 weeks or less have elapsed since the person first qualified for weekly income replacement benefits or weekly caregiver benefits; or
- (b) the insured person is suffering a complete inability to carry on a normal life as a result of the accident, if more than 104 weeks have elapsed since the person first qualified for weekly income replacement benefits or weekly caregiver benefits. O. Reg. 776/93, s. 10 (2).

(3) The insurer may deduct from the amount of the weekly income replacement benefits payable to an insured person a percentage of the net income received by the insured person in respect of any employment subsequent to the accident. O. Reg. 776/93, s. 10 (3).

(4) The percentage mentioned in subsection (3) shall be,

- (a) 75 per cent, if the insured person started the employment more than twenty-six weeks after the onset of the disability in respect of which the weekly income replacement benefits are paid and has been engaged in the employment for less than twenty-six weeks; and

(b) 90 per cent, in any other case. O. Reg. 776/93, s. 10 (4).

(5) Subject to section 82, for the purpose of subsection (3), the net income received by a person in respect of an employment subsequent to the accident shall be determined by subtracting the following amounts from the gross income received by the person in respect of the employment subsequent to the accident:

1. The premium payable by the person under the *Unemployment Insurance Act* (Canada) on the gross income.
2. The contribution payable by the person under the *Canada Pension Plan* on the gross income.
3. The income tax payable by the person under the *Income Tax Act* (Canada) and the *Income Tax Act* (Ontario) on the gross income. O. Reg. 776/93, s. 10 (5).

(6) For the purpose of subsection (3), net income from self-employment for a person who was self-employed at the time of the accident shall be determined without making any deductions for,

- (a) expenses that were not reasonable or necessary to prevent a loss of revenue;
- (b) salary expenses that were paid to replace the person's active participation in the business, except to the extent that those expenses were reasonable for that purpose; and
- (c) non-salary expenses that were different in nature or greater than the non-salary expenses incurred before the accident, except to the extent that those expenses were necessary to prevent or reduce any losses resulting from the accident. O. Reg. 776/93, s. 10 (6).

(7) If the insured person was self-employed at the time of the accident and the person incurs losses from self-employment as a result of the accident, the insurer shall add to the amount of the weekly income replacement benefits payable to the person 90 per cent of the losses from self-employment incurred as a result of the accident. O. Reg. 776/93, s. 10 (7).

(8) For the purpose of subsection (7), losses from self-employment shall be determined in the same manner as losses from the business in which the person was self-employed would be determined under subsection 9 (2) of the *Income Tax Act* (Canada) and the *Income Tax Act* (Ontario), without making any deductions for,

- (a) expenses that were not reasonable or necessary to prevent a loss of revenue;
- (b) salary expenses that were paid to replace the person's active participation in the business, except to the extent that those expenses were reasonable for that purpose;
- (c) non-salary expenses that were different in nature or greater than the non-salary expenses incurred before the accident, except to the extent that those expenses were necessary to prevent or reduce any losses resulting from the accident;
- (d) expenses that are eligible for capital cost allowance or an allowance on eligible capital property; or
- (e) losses deductible under section 111 of the *Income Tax Act* (Canada). O. Reg. 776/93, s. 10 (8).

(9) The weekly amount paid to a person under this Part shall not exceed \$1,000 after making any deductions permitted by subsection 75 (1). O. Reg. 776/93, s. 10 (9).

WITHDRAWAL FROM THE WORKFORCE

11. (1) If an insured person who is receiving weekly income replacement benefits under this Part had permanently withdrawn from the workforce at the time of the accident, the insurer may, subject to subsections (2) to (9), stop payment of the benefits. O. Reg. 776/93, s. 11 (1).

(2) An insurer that believes it is entitled to stop payment of benefits under subsection (1) shall notify the insured person of its intention to stop payment and the notice shall provide the information contained in subsections (3) and (4). O. Reg. 776/93, s. 11 (2).

(3) If the insured person does not dispute the stoppage in payment in accordance with sections 279 to 283 of the *Insurance Act* within thirty days after the notice was given, the insurer may stop paying the benefits. O. Reg. 776/93, s. 11 (3).

(4) If the insured person disputes the stoppage in payment in accordance with sections 279 to 283 of the *Insurance Act* within thirty days after the notice was given, the insurer shall continue to pay the benefit until the dispute is resolved. O. Reg. 776/93, s. 11 (4).

(5) Subsection (4) does not apply if the insured person notifies the insurer in writing that the person does not wish to receive payments of the benefit pending resolution of the dispute. O. Reg. 776/93, s. 11 (5).

(6) If the dispute is the subject of a court proceeding or arbitration proceeding, the insurer has the burden of proving on clear and convincing evidence that the insured person had permanently withdrawn from the workforce at the time of the accident. O. Reg. 776/93, s. 11 (6).

(7) When a dispute is resolved and it is determined that the insurer is not entitled to stop payment of the benefit, the insurer shall pay with interest any payments that were withheld under subsection (5). O. Reg. 776/93, s. 11 (7).

(8) The interest payable under subsection (7) shall be calculated from the date each payment would have been made in the absence of subsection (5) at the bank rate in effect on the date the first payment was withheld under subsection (5). O. Reg. 776/93, s. 11 (8).

(9) In subsection (8),

“bank rate” means the bank rate established by the Bank of Canada as the minimum rate at which the Bank of Canada makes short term advances to the banks listed in Schedule I to the *Bank Act* (Canada). O. Reg. 776/93, s. 11 (9).

(10) When a dispute is resolved and it is determined that the insurer is entitled to stop payment of the benefit, the insured person shall repay to the insurer the amount of the benefits received under this Part after the notice was given under subsection (2). O. Reg. 776/93, s. 11 (10).

BENEFITS AFTER AGE SIXTY-FIVE

12. (1) Subject to subsection (2), no weekly income replacement benefits are payable to a person under this Part after the person attains sixty-five years of age. O. Reg. 776/93, s. 12 (1).

(2) If a person who is entitled to weekly income replacement benefits under paragraph 1, 3 or 4 of subsection 7 (1) attained sixty-five years of age before the accident, the amount determined under subsection 10 (1) during each of the first 208 weeks of the disability in respect of which the benefit is payable shall be deemed to be the amount that would be determined in the absence of this section multiplied by the factor set out in Column 2 of the Table to this subsection opposite the range that includes the number of weeks that the person has suffered from the disability in respect of which the benefit is payable.

TABLE

Number of Weeks of Disability	Factor
Less than 52	1.0
52 or more but less than 104	0.8
104 or more but less than 156	0.6
156 or more but less than 208	0.3

O. Reg. 776/93, s. 12 (2).

(3) No further income replacement benefits are payable under this Part to a person to whom subsection (2) applies if more than 208 weeks have passed since the onset of the disability in respect of which the benefit is paid. O. Reg. 776/93, s. 12 (3).

(4) Subsection 10 (2) applies to weekly income replacement benefits paid to a person to whom subsection (2) applies. O. Reg. 776/93, s. 12 (4).

(5) Subsections 10 (3) to (8) do not apply to weekly income replacement benefits paid to a person to whom subsection (2) applies. O. Reg. 776/93, s. 12 (5).

(6) Subsections (1) and (3) do not prevent a person from qualifying for weekly disability benefits under Part V. O. Reg. 776/93, s. 12 (6).

RESPONSIBILITY TO SEEK EMPLOYMENT

13. (1) An insured person who is entitled to weekly income replacement benefits under this Part shall make reasonable efforts to,

- (a) return to the employment in which he or she engaged at the time of the accident; or
- (b) obtain employment that satisfies the criteria set out in subsection 30 (2). O. Reg. 776/93, s. 13 (1).

(2) Subsection (1) does not apply if,

- (a) employment would be detrimental to the person’s treatment or recovery; or
- (b) the insured person is participating in a vocational rehabilitation program. O. Reg. 776/93, s. 13 (2).

(3) If an insured person does not comply with subsection (1), the insurer may notify the person that the insurer intends to reduce the amount of the weekly benefit in accordance with subsection (4) and the notice shall provide the information contained in subsections (4) and (5). O. Reg. 776/93, s. 13 (3).

(4) If at least thirty days have elapsed after the insured person received the notice and the person is still not complying with subsection (1), the insurer may, despite subsection 10 (2) but subject to subsection (5), deduct from the net weekly income used to determine the amount of the benefit under subsection 10 (1) 90 per cent of the net weekly income determined in accordance with section 81 or 82 that the person could earn in an employment that satisfies the criteria set out in subsection 30 (2). O. Reg. 776/93, s. 13 (4).

(5) If within thirty days after receiving the notice, the insured person disputes the reduction in accordance with sections 279 to 283 of the *Insurance Act* and furnishes the insurer with a certificate from a health practitioner stating that employment

would be detrimental to the person's treatment or recovery or that the insured person is participating in a vocational rehabilitation program, the insurer shall continue to pay the benefit without any reduction until the dispute is resolved. O. Reg. 776/93, s. 13 (5).

(6) Subsections (3) and (4) do not apply if the insurer is making a reduction under subsection 73 (4). O. Reg. 776/93, s. 13 (6).

TEMPORARY RETURN TO EMPLOYMENT

14. (1) A person receiving weekly income replacement benefits under this Part may return to or start an employment at any time during the 104 weeks following the onset of the disability in respect of which the benefits are paid without affecting his or her entitlement to resume receiving benefits under this Part if, as a result of the accident, he or she is unable to continue in the employment. O. Reg. 776/93, s. 14 (1).

(2) After the 104-week period referred to in subsection (1), a person receiving weekly income replacement benefits under this Part may return to or start an employment for periods of up to ninety days without affecting his or her entitlement to resume receiving benefits under this Part if, as a result of the accident, he or she is unable to continue in the employment. O. Reg. 776/93, s. 14 (2).

PART III EDUCATION DISABILITY BENEFITS

WEEKLY BENEFITS

15. (1) An insured person who sustains an impairment as a result of an accident is entitled to a weekly education disability benefit if the insured person meets the following qualifications:

1. The insured person,
 - i. was less than sixteen years of age at the time of the accident,
 - ii. was enrolled on a full-time basis in elementary, secondary or post-secondary education at time of the accident, or
 - iii. completed his or her education less than one year before the accident and was not employed, after completing his or her education and before the accident, in an employment that reflected his or her education and training.
2. The insured person, as a result of and within two years of the accident,
 - i. suffers a substantial inability to continue his or her education, in the case of an insured person who qualifies under subparagraph i or ii of paragraph 1,
 - ii. suffers a substantial inability to engage in employment that reflects his or her education and training, in the case of an insured person who qualifies under subparagraph iii of paragraph 1, or
 - iii. suffers a partial or complete inability to carry on a normal life, in the case of an insured person who qualifies under subparagraph i, ii or iii of paragraph 1. O. Reg. 776/93, s. 15 (1).

(2) Subject to subsections (3) and (4), the weekly education disability benefit is payable during the period that the insured person suffers,

- (a) a substantial inability to continue his or her education, in the case of an insured person who qualifies under subparagraph i of paragraph 2 of subsection (1);
- (b) a substantial inability to engage in employment that reflects his or her education and training, in the case of an insured person who qualifies under subparagraph ii of paragraph 2 of subsection (1); or
- (c) a partial or complete inability to carry on a normal life, in the case of an insured person who qualifies under subparagraph iii of paragraph 2 of subsection (1). O. Reg. 776/93, s. 15 (2).

(3) No weekly education disability benefit is payable under this section,

- (a) for any period before the insured person attains sixteen years of age; or
- (b) for the first week of the disability. O. Reg. 776/93, s. 15 (3).

(4) If an insured person qualifies for weekly education disability benefits under subparagraph iii of paragraph 2 of subsection (1) and does not qualify under subparagraph i or ii of paragraph 2 of subsection (1), no weekly education disability benefit is payable under this section more than 104 weeks after the insured person first qualified for weekly education disability benefits unless the insured person is suffering a complete inability to carry on a normal life as a result of the accident. O. Reg. 776/93, s. 15 (4).

(5) The amount of a weekly education disability benefit shall be equal to half of the net weekly income determined in accordance with section 81 or 82 using a gross annual income from employment equal to 52 multiplied by the Average Weekly Earnings for Ontario, Industrial Aggregate, for the month of June in the year immediately preceding the year in which the benefit is first payable, as published by Statistics Canada under the authority of the *Statistics Act* (Canada). O. Reg. 776/93, s. 15 (5).

(6) The insurer may deduct from the amount of the weekly education disability benefits payable to an insured person under this section a percentage of the net income received by the insured person in respect of any employment subsequent to the accident. O. Reg. 781/94, s. 3.

(7) The percentage mentioned in subsection (6) shall be,

- (a) 75 per cent, if the insured person started the employment more than 26 weeks after the onset of the disability in respect of which the weekly education disability benefits are paid and has been engaged in the employment for less than 26 weeks; and
- (b) 90 per cent, in any other case. O. Reg. 781/94, s. 3.

(8) Subject to section 82, for the purpose of subsection (6), the net income received by a person in respect of an employment subsequent to the accident shall be determined by subtracting the following amounts from the gross income received by the person in respect of the employment subsequent to the accident:

- 1. The premium payable by the person under the *Unemployment Insurance Act* (Canada) on the gross income.
- 2. The contribution payable by the person under the *Canada Pension Plan* on the gross income.
- 3. The income tax payable by the person under the *Income Tax Act* (Canada) and the *Income Tax Act* (Ontario) on the gross income. O. Reg. 781/94, s. 3.

(9) No weekly education disability benefits are payable to a person under this section,

- (a) after the person attains 65 years of age, if the person had not attained that age at the time of the accident; or
- (b) for more than 104 weeks, if the person had attained 65 years of age at the time of the accident. O. Reg. 781/94, s. 3.

(10) Subsection (9) does not prevent a person from qualifying for weekly disability benefits under Part V. O. Reg. 781/94, s. 3.

LUMP SUM BENEFITS

16. (1) Subject to subsections (2) and (3), an insured person who sustains an impairment as a result of an accident is entitled to a lump sum education disability benefit of,

- (a) \$2,000 for each year of elementary education that the person is unable to attend or successfully complete as a result of the accident;
- (b) \$4,000 for each year or, if the person is enrolled in a secondary school organized on a semester basis, \$2,000 for each semester, to a maximum of \$4,000 in any year, of secondary education that the person is unable to attend or successfully complete as a result of the accident; and
- (c) \$8,000 for each year or, if the person is enrolled in a post-secondary educational institution organized on a semester basis, \$4,000 for each semester, to a maximum of \$8,000 in any year, of post-secondary education that the person is unable to attend or successfully complete as a result of the accident. O. Reg. 776/93, s. 16 (1).

(2) A person who was sixteen years of age or more at the time of the accident is entitled to lump sum education disability benefits under this section in respect of not more than,

- (a) one year of elementary education;
- (b) one year or, if the person is enrolled in a secondary school organized on a semester basis, two semesters of secondary education; or
- (c) one year or, if the person is enrolled in a post-secondary educational institution organized on a semester basis, two semesters of post-secondary education. O. Reg. 776/93, s. 16 (2).

(3) If the accident occurred before the person attained sixteen years of age, only one lump sum education disability benefit is payable under this section after the person attains sixteen years of age. O. Reg. 776/93, s. 16 (3).

(4) A lump sum education disability benefit under this section shall be paid at the end of the year or semester in respect of which it is payable. O. Reg. 776/93, s. 16 (4).

(5) If a person is unable to attend or successfully complete a year or semester of education as a result of an accident, a determination for the purpose of this section of whether the education was elementary, secondary or post-secondary education shall be made on the assumption that, if the accident had not occurred, the person would have successfully attended and completed all previous years and semesters of education that he or she was unable to attend or successfully complete as a result of the accident. O. Reg. 776/93, s. 16 (5).

TEMPORARY RETURN TO EDUCATION

17. (1) A person receiving education disability benefits under this Part may return to elementary, secondary or post-secondary education at any time during the 104 weeks following the onset of the disability in respect of which the benefits are paid without affecting his or her entitlement to resume receiving benefits under this Part if, as a result of the accident, he or she is unable to continue in elementary, secondary or post-secondary education. O. Reg. 776/93, s. 17 (1).

(2) After the 104-week period referred to in subsection (1), a person receiving education disability benefits under this Part may return to elementary, secondary or post-secondary education for periods of up to ninety days without affecting his or her entitlement to resume receiving benefits under this Part if, as a result of the accident, he or she is unable to continue in elementary, secondary or post-secondary education. O. Reg. 776/93, s. 17 (2).

PART IV CAREGIVER BENEFITS

18. (1) An insured person who sustains an impairment as a result of an accident is entitled to a weekly caregiver benefit if the insured person meets the following qualifications:

1. At the time of the accident, the insured person was residing with a person in respect of whom the insured person was the primary caregiver and the person receiving the care was less than sixteen years of age or required the care because of physical or mental incapacity.
2. The insured person was not employed on a full-time basis and was not self-employed at the time of the accident.
3. As a result of and within two years of the accident, the insured person,
 - i. suffers a substantial inability to engage in the caregiving activities in which he or she engaged at the time of the accident, or
 - ii. suffers a partial or complete inability to carry on a normal life. O. Reg. 776/93, s. 18 (1).

(2) Subject to subsections (3) and (4), the weekly caregiver benefit under this section is payable during the period that the insured person suffers,

- (a) a substantial inability to engage in the caregiving activities in which he or she engaged at the time of the accident; or
- (b) a partial or complete inability to carry on a normal life. O. Reg. 776/93, s. 18 (2).

(3) No weekly caregiver benefit is payable under this section for the first week of the disability. O. Reg. 776/93, s. 18 (3).

(4) If an insured person qualifies for weekly caregiver benefits under subparagraph ii of paragraph 3 of subsection (1) and does not qualify under subparagraph i of paragraph 3 of subsection (1), no weekly caregiver benefit is payable under this section more than 104 weeks after the insured person first qualified for weekly caregiver benefits unless the insured person is suffering a complete inability to carry on a normal life as a result of the accident. O. Reg. 776/93, s. 18 (4).

(5) The amount of a weekly caregiver benefit shall be \$250 for the first person who meets the following qualifications, plus \$50 for each additional person who meets the following qualifications:

1. The person resided with the insured person at the time of the accident.
2. The insured person was the primary caregiver in respect of the person at the time of the accident.
3. At the time the benefit is paid, the person,
 - i. is less than sixteen years of age, or
 - ii. requires care because of physical or mental incapacity. O. Reg. 776/93, s. 18 (5).

(6) The insurer may deduct from the amount of the weekly caregiver benefits payable to an insured person under this section a percentage of the net income received by the insured person in respect of any employment subsequent to the accident. O. Reg. 781/94, s. 4.

(7) The percentage mentioned in subsection (6) shall be,

- (a) 75 per cent, if the insured person started the employment more than 26 weeks after the onset of the disability in respect of which the weekly caregiver benefits are paid and has been engaged in the employment for less than 26 weeks; and
- (b) 90 per cent, in any other case. O. Reg. 781/94, s. 4.

(8) Subject to section 82, for the purpose of subsection (6), the net income received by a person in respect of an employment subsequent to the accident shall be determined by subtracting the following amounts from the gross income received by the person in respect of the employment subsequent to the accident:

1. The premium payable by the person under the *Unemployment Insurance Act* (Canada) on the gross income.
2. The contribution payable by the person under the *Canada Pension Plan* on the gross income.
3. The income tax payable by the person under the *Income Tax Act* (Canada) and the *Income Tax Act* (Ontario) on the gross income. O. Reg. 781/94, s. 4.

**PART V
OTHER DISABILITY BENEFITS**

19. (1) An insured person who sustains an impairment as a result of an accident is entitled to a weekly disability benefit if the insured person, as a result of and within two years of the accident, suffers a partial or complete inability to carry on a normal life and,

- (a) the insured person never met the qualifications for a benefit under subsection 7 (1), 15 (1) or 18 (1), or under Part VI, in respect of the accident;
 - (b) the insured person received weekly income replacement benefits under Part II or weekly education disability benefits under section 15 as a result of the accident and payment of the benefits ceased under section 11 or 12 or subsection 15 (9); or
 - (c) the insured person received weekly caregiver benefits under Part IV as a result of the accident and there is no longer any person who meets the qualifications set out in subsection 18 (5). O. Reg. 776/93, s. 19 (1); O. Reg. 781/94, s. 5.
- (2) Subject to subsection (3), the amount of the weekly disability benefit under this section shall be \$185. O. Reg. 776/93, s. 19 (2).
- (3) The insurer may deduct from the amount of the weekly disability benefits payable to an insured person under this section a percentage of the net income received by the insured person in respect of any employment subsequent to the accident. O. Reg. 776/93, s. 19 (3).
- (4) The percentage mentioned in subsection (3) shall be,
- (a) 75 per cent, if the insured person started the employment more than twenty-six weeks after the onset of the disability in respect of which the weekly disability benefits are paid and has been engaged in the employment for less than twenty-six weeks; and
 - (b) 90 per cent, in any other case. O. Reg. 776/93, s. 19 (4).
- (5) Subject to section 82, for the purpose of subsection (3), the net income received by a person in respect of an employment subsequent to the accident shall be determined by subtracting the following amounts from the gross income received by the person in respect of the employment subsequent to the accident:
1. The premium payable by the person under the *Unemployment Insurance Act* (Canada) on the gross income.
 2. The contribution payable by the person under the *Canada Pension Plan* on the gross income.
 3. The income tax payable by the person under the *Income Tax Act* (Canada) and the *Income Tax Act* (Ontario) on the gross income. O. Reg. 776/93, s. 19 (5).
- (6) Subject to subsection (7), the weekly disability benefit is payable during the period that the insured person suffers a partial or complete inability to carry on a normal life. O. Reg. 776/93, s. 19 (6).
- (7) No weekly disability benefit is payable under this section,
- (a) for any period before the insured person attains sixteen years of age;
 - (b) for the first week of the disability; or
 - (c) more than 104 weeks after the insured person first qualified for weekly disability benefits, weekly income replacement benefits or weekly caregiver benefits, unless the insured person is suffering a complete inability to carry on a normal life as a result of the accident. O. Reg. 776/93, s. 19 (7).

**PART VI
LOSS OF EARNING CAPACITY BENEFITS**

ENTITLEMENT TO BENEFITS

20. (1) An insurer shall pay an insured person weekly loss of earning capacity benefits instead of weekly income replacement benefits under Part II, weekly education disability benefits under section 15, weekly caregiver benefits under Part IV or weekly disability benefits under Part V if the payment of loss of earning capacity benefits is authorized by this Part. O. Reg. 776/93, s. 20 (1).

(2) A weekly loss of earning capacity benefit under this Part is payable during the lifetime of the insured person and is subject to such adjustments in the amount of the benefit as are provided in this Regulation. O. Reg. 776/93, s. 20 (2).

APPLICATION OF SECTIONS 21 TO 25

20.1 Sections 21 to 25 apply only if, before March 1, 2006,

- (a) the insurer has refused to pay weekly income replacement benefits under Part II, weekly education disability benefits under section 15, weekly caregiver benefits under Part IV or weekly disability benefits under Part V;

- (b) the insurer has not made an offer with respect to the payment of weekly loss of earning capacity benefits under section 21 and there is no agreement under section 24 or 25; and
- (c) an arbitration proceeding under section 282 of the Act or under the *Arbitration Act, 1991* or a court proceeding has been commenced in accordance with subsection 279 (1) of the Act in respect of the insured person's entitlement to a benefit referred to in clause (a). O. Reg. 26/06, s. 2.

INSURER'S OFFER

21. (1) Subject to subsections (7) to (9), an insurer shall promptly deliver a written offer to an insured person with respect to the payment of weekly loss of earning capacity benefits if one or more of the following circumstances occurs:

1. The insured person qualified for weekly income replacement benefits under Part II and continues to qualify for those benefits 104 weeks after the onset of the disability in respect of which he or she first qualified for those benefits.
2. The insured person qualified for weekly income replacement benefits under Part II, did not qualify for those benefits 104 weeks after the onset of the disability in respect of which he or she first qualified for those benefits, but subsequently becomes entitled to resume receiving weekly income replacement benefits under section 14.
3. The insured person qualified for weekly caregiver benefits under Part IV, subsequently elected under section 61 to receive weekly income replacement benefits under Part II, and 104 weeks after the onset of the disability in respect of which he or she first qualified for weekly caregiver benefits continues to qualify for weekly income replacement benefits.
4. The insured person qualified for weekly education disability benefits under section 15 and, 104 weeks after the onset of the disability in respect of which he or she first qualified for those benefits or on the date the person attains sixteen years of age, whichever occurs later, continues to qualify for weekly education disability benefits.
5. The insured person qualified for weekly education disability benefits under section 15, does not qualify for those benefits 104 weeks after the onset of the disability in respect of which he or she first qualified for those benefits or on the date the person attains sixteen years of age, whichever occurs later, but subsequently becomes entitled to resume receiving weekly education disability benefits under section 17.
6. The insured person qualified for weekly caregiver benefits under Part IV, is unable as a result of the accident to earn what he or she could reasonably have earned at the time of the accident, elects at any time 104 weeks or more after the onset of the disability in respect of which he or she first qualified for weekly caregiver benefits to be governed by this Part instead of Part IV or V and,
 - i. continues to qualify for weekly caregiver benefits, or
 - ii. ceases to qualify for weekly caregiver benefits because there is no longer any person who meets the qualifications set out in subsection 18 (5).
7. The insured person qualified for weekly disability benefits under Part V, continues to qualify for those benefits 104 weeks after the onset of the disability in respect of which he or she first qualified for those benefits, and,
 - i. is unable as a result of the accident to earn what he or she could reasonably have earned at the time of the accident,
 - ii. would have joined or returned to the workforce at some time after the accident, and
 - iii. elects to be governed by this Part instead of Part V. O. Reg. 776/93, s. 21 (1).

(2) If a person qualifies for weekly caregiver benefits under Part IV 104 weeks after the onset of the disability in respect of which he or she first qualified for those benefits, the insurer shall promptly provide the person with notice that he or she may be entitled to make the election referred to in paragraph 6 of subsection (1). O. Reg. 776/93, s. 21 (2).

(3) If a person qualifies for weekly disability benefits under Part V 104 weeks after the onset of the disability in respect of which he or she first qualified for those benefits, the insurer shall promptly provide the person with notice that he or she may be entitled to make the election referred to in paragraph 7 of subsection (1). O. Reg. 776/93, s. 21 (3).

(4) An election under paragraph 6 or 7 of subsection (1) may not be changed. O. Reg. 776/93, s. 21 (4).

(5) An offer under subsection (1) shall specify,

- (a) the insured person's pre-accident earning capacity determined in accordance with section 29;
- (b) the type of employment that best satisfies the criteria set out in subsection 30 (2);
- (c) the insured person's residual earning capacity determined in accordance with section 30; and
- (d) the amount of the weekly loss of earning capacity benefit, if any, determined in accordance with section 28. O. Reg. 776/93, s. 21 (5).

(6) The offer shall include a notice that, if the offer is not accepted within forty-five days after its receipt or such longer period to which the insurer and the insured person may agree, the insured person shall be deemed to have rejected the offer in

respect of both residual earning capacity and pre-accident earning capacity and the insured person will be required to be examined under section 65. O. Reg. 776/93, s. 21 (6); O. Reg. 26/06, s. 3.

(7) Subsection (1) does not apply if the insured person is sixty-five years of age or older. O. Reg. 776/93, s. 21 (7).

(8) The time for delivering an offer under subsection (1) may be extended by agreement between the insurer and the insured person. O. Reg. 776/93, s. 21 (8).

(9) If an insured person suffers an impairment as a result of an accident that occurs after the accident in respect of which an offer would, in the absence of this subsection, be given under subsection (1), and the latter accident results in a disability in respect of which weekly benefits are payable under Part II, section 15, Part IV or Part V, the operation of subsection (1) is delayed until 104 weeks after the latter accident. O. Reg. 776/93, s. 21 (9).

INSURED PERSON'S RESPONSE TO OFFER

22. (1) An insured person who receives the insurer's offer under section 21 may give the insurer a written response,

(a) agreeing to the insurer's offer; or

(b) rejecting the insurer's offer in respect of the person's pre-accident earning capacity or the person's residual earning capacity, or both. O. Reg. 776/93, s. 22 (1).

(2) The rejection of an offer under clause (1) (b) does not prevent the insurer and insured person from entering into negotiations in an effort to enter into an agreement regarding the payment of loss of earning capacity benefits. O. Reg. 776/93, s. 22 (2).

(3) Any agreement to pay weekly loss of earning capacity benefits under this Part shall be in writing and shall specify the particulars set out in subsection 21 (5). O. Reg. 776/93, s. 22 (3).

(4) If the insured person and insurer enter into an agreement under this Part and the payment of loss of earning capacity benefits is authorized under the agreement, the insurer shall begin to pay weekly loss of earning capacity benefits in accordance with the agreement. O. Reg. 776/93, s. 22 (4).

PROCEDURE IF NO AGREEMENT

23. (1) An insured person who does not accept the insurer's offer within forty-five days after receiving it shall be deemed to have rejected the insurer's offer in respect of both residual earning capacity and pre-accident earning capacity. O. Reg. 776/93, s. 23 (1).

(2) If an insured person rejects the insurer's offer in respect of residual earning capacity, the insurer shall give notice that it requires the insured person to be examined under section 65. O. Reg. 26/06, s. 4 (1).

(2.1) Within 14 days after receiving the report of the examination under section 65, the insurer shall give to the insured person a document setting out its determination with respect to the payment of loss of earning capacity benefits and the information specified in clauses 21 (5) (a) to (d). O. Reg. 26/06, s. 4 (1).

(3) If an insured person rejects the insurer's offer in respect of pre-accident earning capacity, the dispute may be resolved in accordance with sections 279 to 283 of the *Insurance Act*, based on section 29 of this Regulation. O. Reg. 776/93, s. 23 (3).

(4) REVOKED: O. Reg. 26/06, s. 4 (2).

(5) Subject to subsection (8), if an insured person rejects the insurer's offer in respect of residual earning capacity or both residual earning capacity and pre-accident earning capacity, the insurer may commence paying weekly loss of earning capacity benefits to the insured person 14 days after receiving the report of the examination conducted under section 65. O. Reg. 781/94, s. 6 (1); O. Reg. 26/06, s. 4 (3).

(5.1) REVOKED: O. Reg. 26/06, s. 4 (4).

(5.2) Subject to subsection (8), if an insured person rejects the insurer's offer in respect of pre-accident earning capacity but not residual earning capacity, the insurer may, upon receiving the rejection, commence paying weekly loss of earning capacity benefits to the insured person based on the insurer's offer made under section 21. O. Reg. 781/94, s. 6 (1).

(6) REVOKED: O. Reg. 26/06, s. 4 (4).

(7) By agreement between the insurer and the insured person,

(a) the forty-five-day period referred to in subsection (1) may be extended;

(b) the examination referred to in subsection (2) may be delayed.

(c), (d) REVOKED: O. Reg. 781/94, s. 6 (3).

O. Reg. 776/93, s. 23 (7); O. Reg. 781/94, s. 6 (3); O. Reg. 26/06, s. 4 (5).

(8) Subject to subsection 65 (5.1) and to subsection 281 (4) of the *Insurance Act*, the insurer shall continue to pay benefits under Part IV or V pending the resolution of a dispute under this section, if the person continues to qualify for those benefits. O. Reg. 26/06, s. 4 (6).

AGREEMENT BEFORE OFFER

24. A person who has not received an offer under section 21 and who is entitled to receive weekly income replacement benefits under Part II, weekly education disability benefits under section 15, weekly caregiver benefits under Part IV or weekly disability benefits under Part V may agree in writing with the insurer that the insurer will pay the person weekly loss of earning capacity benefits instead of the weekly benefits the person would otherwise be entitled to. O. Reg. 776/93, s. 24.

EXAMINATION BEFORE OFFER

25. A person who has not received an offer under section 21 and who is entitled to receive weekly income replacement benefits under Part II, weekly education disability benefits under section 15, weekly caregiver benefits under Part IV or weekly disability benefits under Part V may agree in writing with the insurer that the person shall be examined under section 65. O. Reg. 26/06, s. 5.

DESIGNATED ASSESSMENT CENTRES (RESIDUAL EARNING CAPACITY)

26. (1) The Superintendent may, for the purpose of this Part,

(a) REVOKED: O. Reg. 26/06, s. 6 (1).

(b) specify the types of impairments that each designated assessment centre is authorized to assess. O. Reg. 776/93, s. 26 (1); O. Reg. 304/98, s. 1; O. Reg. 26/06, s. 6 (1).

(2) The accident benefits advisory committee appointed under section 7 of the *Insurance Act* may, for the purpose of this Part, establish procedures, standards and guidelines that shall be used by designated assessment centres in conducting assessments. O. Reg. 776/93, s. 26 (2).

(3) In this Part,

“designated assessment centre” means an assessment centre designated before March 1, 2006 by the Superintendent under clause (1) (a), as it read before March 1, 2006. O. Reg. 26/06, s. 6 (2).

27. REVOKED: O. Reg. 26/06, s. 7.

TRANSITIONAL

27.1 (1) Sections 21 to 27, as they read on February 28, 2006, continue to apply in respect of loss of earning capacity benefits if, before March 1, 2006, an insurer has delivered a written offer with respect to the payment of weekly loss of earning capacity benefits to the insured person under subsection 21 (1), as it read on February 28, 2006, or if the insurer and the insured person have agreed in writing under section 25, as it read on February 28, 2006, that the insured person should be assessed under section 27. O. Reg. 26/06, s. 8.

(2) Despite subsection (1), if an assessment of an insured person by a designated assessment centre cannot be conducted or completed on or after March 1, 2006 because there is no designated assessment centre that satisfies the requirements of this Part, the insurer may give the insured person a notice in writing requiring the insured person to be examined under section 65 in respect of loss of earning capacity benefits, instead of being assessed by a designated assessment centre, and the provisions of this Regulation, as they read after February 28, 2006, apply in respect of loss of earning capacity benefits after the notice is given. O. Reg. 26/06, s. 8.

AMOUNT OF BENEFIT

28. (1) The amount of a weekly loss of earning capacity benefit for an insured person shall be determined in accordance with the following formula:

$$A = 0.90 \times (B - C)$$

where,

A = the amount of the weekly loss of earning capacity benefit,

B = the person’s pre-accident earning capacity, determined in accordance with section 29,

C = the person’s residual earning capacity, determined in accordance with section 30.

O. Reg. 776/93, s. 28 (1).

(2) Despite subsection (1), the amount of a weekly loss of earning capacity benefit for an insured person who has received weekly education disability benefits under section 15 shall be the amount determined in accordance with the following formula:

$$A = B - (0.90 \times C)$$

where,

A = the amount of the weekly loss of earning capacity benefit,

B = the person's pre-accident earning capacity, determined in accordance with section 29,

C = the person's residual earning capacity, determined in accordance with section 30.

O. Reg. 776/93, s. 28 (2).

(3) Subject to section 75, the amount of a weekly loss of earning capacity benefit shall not be less than \$185 if, during the week in respect of which the benefit is payable, the insured person is suffering a complete inability to carry on a normal life as a result of the accident. O. Reg. 776/93, s. 28 (3).

(4) The weekly amount paid to a person under this Part shall not exceed \$1,000 after making any deductions permitted by subsection 75 (1). O. Reg. 776/93, s. 28 (4).

DETERMINING PRE-ACCIDENT EARNING CAPACITY

29. (1) For the purpose of determining the amount of a weekly loss of earning capacity benefit under this Part, the pre-accident earning capacity of a person who is entitled to receive weekly income replacement benefits under paragraph 1, 3, 4 or 6 of subsection 7 (1) shall be deemed to be the person's net weekly income from employment used in section 10 in determining the amount of weekly income replacement benefits immediately before payment of the weekly loss of earning capacity benefits begins, converted to a full-time net weekly income in accordance with section 86, if section 86 applies. O. Reg. 776/93, s. 29 (1).

(2) Despite subsection (1), the pre-accident earning capacity of a person who is entitled to receive weekly income replacement benefits under paragraph 1 of subsection 7 (1) and who was self-employed at the time of the accident shall be the net weekly income determined in accordance with section 81 or 82 using the gross annual income from employment that the person could reasonably have earned at the time of the accident, having regard to the person's personal and vocational characteristics at that time. O. Reg. 776/93, s. 29 (2).

(3) For the purpose of determining the amount of a weekly loss of earning capacity benefit under this Part, the pre-accident earning capacity of a person who is entitled to receive weekly income replacement benefits under paragraph 2 or 5 of subsection 7 (1), weekly caregiver benefits under Part IV or weekly disability benefits under Part V shall be deemed to be the person's net weekly income determined in accordance with section 81 or 82 using the gross annual income from employment that the person could reasonably have earned at the time of the accident, having regard to the person's personal and vocational characteristics at that time. O. Reg. 776/93, s. 29 (3).

(4) The amount of a person's pre-accident earning capacity determined under subsections (1), (2) and (3) shall not be less than,

- (a) the net weekly income determined in accordance with section 81 or 82 using a gross annual income from employment equal to the person's gross income from employment, including any temporary disability benefits and any benefits received under the *Unemployment Insurance Act* (Canada), for a period specified by the person of fifty-two consecutive weeks in the 156-week period before the accident, in the case of a person entitled to receive weekly income replacement benefits under paragraphs 1, 2, 3, 4 or 6 of subsection 7 (1), or a person who was self-employed at the time of the accident; or
- (b) the net weekly income determined in accordance with section 81 or 82 using a gross annual income from employment equal to the person's gross income from employment, including any temporary disability benefits and any benefits received under the *Unemployment Insurance Act* (Canada), for a period specified by the person of fifty-two consecutive weeks in the period that began 156 weeks before the person first became a primary caregiver and ended on the day of the accident, in the case of a person who is entitled to receive weekly income benefits under paragraph 5 of subsection 7 (1) or weekly caregiver benefits under Part IV. O. Reg. 776/93, s. 29 (4).

(5) For the purpose of determining the amount of a weekly loss of earning capacity benefit under this Part, the pre-accident earning capacity of a person who is entitled to weekly education disability benefits under section 15 shall be determined in accordance with the following formula:

$$B = D \times E$$

where,

B = the pre-accident earning capacity,

D = the factor in the Table to this subsection set out opposite the range that includes the age the person has attained at the time the weekly loss of earning capacity benefit is to be paid,

E = the net weekly income determined in accordance with section 81 or 82 using a gross annual income from employment equal to 52 multiplied by the Average Weekly Earnings for Ontario, Industrial Aggregate, for the month of June in the year immediately preceding the year in which the determination of pre-accident earning capacity is first made under this section, as published by Statistics Canada under the authority of the *Statistics Act* (Canada).

TABLE

Age Range (Years)	Factor
16 or over but under 18	0.55
18 or over but under 20	0.60
20 or over but under 22	0.65
22 or over but under 24	0.70
24 or over but under 26	0.75
26 or over but under 28	0.80
28 or over but under 30	0.85
30 or over	0.90

O. Reg. 776/93, s. 29 (5).

(6) For the purpose of subsections (2) and (3), a temporary disability that the person had at the time of the accident shall not be considered in determining the gross annual income from employment that the person could reasonably have earned at that time. O. Reg. 776/93, s. 29 (6).

DETERMINING RESIDUAL EARNING CAPACITY

30. (1) For the purpose of this Part, the residual earning capacity of a person shall be deemed to be the net weekly income determined in accordance with section 81 or 82 using the gross annual income that the person could earn from the type of employment that best satisfies the criteria set out in subsection (2). O. Reg. 776/93, s. 30 (1).

(2) The criteria referred to in subsection (1) are:

1. The person,

- i. is able and qualified to perform the essential tasks of the employment, or
- ii. would be able and qualified to perform the essential tasks of the employment if the person had not refused to obtain treatment or participate in rehabilitation that was reasonable, available and necessary to permit the person to engage in the employment.

2. The employment exists in the area in which the person lives and is accessible to the person.

3. It would be reasonable to expect the person to engage in the employment having regard to the possibility of deterioration in the person's impairment and to the person's personal and vocational characteristics. O. Reg. 776/93, s. 30 (2).

(3) For the purpose of subsection (2), a person is able and qualified to perform the essential tasks of an employment if,

- (a) the person does not have any impairment that permanently prevents the person from performing those tasks; and
- (b) the person has the job skills and any licence or other credentials required to perform those tasks, or could obtain those skills and the licence or credentials without significant effort. O. Reg. 776/93, s. 30 (3).

TERMINATION OF OTHER BENEFITS

31. No weekly income replacement benefits are payable to a person under Part II, no weekly education disability benefits are payable to a person under section 15, no weekly caregiver benefits are payable to a person under Part IV and no weekly disability benefits are payable to a person under Part V,

(a) after loss of earning capacity benefits begin to be paid to the person under this Part; or

(b) if the amount of the weekly loss of earning capacity benefits payable to the person has been determined in accordance with this Part to be zero. O. Reg. 776/93, s. 31.

TEMPORARY SUPPLEMENT TO BENEFITS

32. (1) If a person who is entitled to receive weekly loss of earning capacity benefits as a result of an accident and who is engaged in an employment becomes unable for a temporary period, as a result of the accident, to engage in employment in which the person could earn the gross annual income that was used to determine the person's residual earning capacity for the purpose of determining the amount of the person's weekly loss of earning capacity benefit, the insurer shall, during that period, pay the person a weekly supplement to the loss of earning capacity benefits. O. Reg. 776/93, s. 32 (1).

(2) Subsection (1) applies only if the person provides the insurer with a certificate from a health practitioner stating that the person has become unable for a temporary period, as a result of the accident, to engage in employment in which the person could earn the gross annual income that was used to determine the person's residual earning capacity for the purpose of determining the amount of the person's weekly loss of earning capacity benefit. O. Reg. 776/93, s. 32 (2).

(3) Subsection (2) does not prevent the insurer from disputing a claim for a weekly supplement under this section in accordance with sections 279 to 283 of the *Insurance Act*, but the insurer shall pay the weekly supplement pending resolution of the dispute. O. Reg. 776/93, s. 32 (3).

(4) Subject to subsections (5) and (6), the amount of the weekly supplement shall be equal to the lesser of the following amounts:

1. 90 per cent of the person's residual earning capacity that was used for the purpose of determining the amount of the person's weekly loss of earning capacity benefit before the temporary period.
2. 90 per cent of the net weekly income determined in accordance with section 81 or 82 from the type of employment in which the person is unable to engage during the temporary period. O. Reg. 776/93, s. 32 (4).

(5) The sum of the weekly loss of earning capacity benefits and the weekly supplement shall not exceed \$1,000 after making any deductions permitted by section 75. O. Reg. 776/93, s. 32 (5).

(6) No supplement shall be paid under this section for a period of more than one year or after the person attains sixty-five years of age. O. Reg. 776/93, s. 32 (6).

(7) Subsection (1) applies whether or not the person is engaged in the type of employment that satisfies the criteria set out in subsection 30 (2) at the time the determination occurs. O. Reg. 776/93, s. 32 (7).

MANDATORY REVIEW OF AMOUNT OF BENEFIT

33. (1) The insurer shall review the amount of the weekly loss of earning capacity benefit,

- (a) three years after loss of earning capacity benefits are first paid to a person; and
 - (b) eight years after loss of earning capacity benefits are first paid to the person. O. Reg. 776/93, s. 33 (1).
- (2) Subsection (1) does not apply after the person attains sixty-five years of age. O. Reg. 776/93, s. 33 (2).

(3) The insurer may, for the purposes of the review, give notice that it requires the person to be examined under section 65. O. Reg. 26/06, s. 9.

(4) After the review, the insurer shall give the person a notice of determination with respect to the review. O. Reg. 26/06, s. 9.

(5) If the insurer required an examination under section 65, the insurer shall give the notice of determination required under subsection (4) within 14 days after receiving the report of the examination. O. Reg. 26/06, s. 9.

(6) The notice of determination shall state,

- (a) that the insurer shall continue to pay a weekly loss of earning capacity benefit in the same amount as the person's current benefit, if the insurer determines there has been no material change in the ability of the person to earn the amount that is being used for the purpose of determining the person's residual earning capacity; or
- (b) that the insurer will pay the person a weekly loss of earning capacity benefit, as determined in accordance with section 28, based on the insurer's determination of the person's current residual earning capacity, as determined in accordance with section 30, if clause (a) does not apply. O. Reg. 26/06, s. 9.

(7) A notice of determination described in clause (6) (b) shall include,

- (a) the type of employment that the insurer has determined will best satisfy the criteria set out in subsection 30 (2);
- (b) the person's residual earning capacity, as determined by the insurer in accordance with section 30;
- (c) the reasons for the insurer's determinations described in clauses (a) and (b); and
- (d) the amount of weekly loss of earning capacity benefit, if any, payable to the person, as determined by the insurer in accordance with section 28. O. Reg. 26/06, s. 9.

(8) Sections 28 to 30 apply, with necessary modifications, for the purposes of adjusting the amount of the weekly loss of earning capacity benefits payable to a person. O. Reg. 26/06, s. 9.

(9) An insurer shall not reduce the amount of the weekly loss of earning capacity benefits payable to a person unless,

- (a) the insurer required the person to attend an examination under section 65 and has received the report of the examination; or
- (b) the insurer is entitled to withhold payment of the benefits under subsection 65 (5.1). O. Reg. 26/06, s. 9.

(10) Sections 21 to 27 and subsections (1) to (5), as they read on February 28, 2006, continue to apply in respect of a review by an insurer of the amount of weekly loss of earnings capacity benefits if, before March 1, 2006, the insurer made an offer under subsection (3), as it read before March 1, 2006, in respect of the amount of the benefits. O. Reg. 26/06, s. 9.

(11) Despite subsection (10), if an assessment of a person by a designated assessment centre cannot be conducted or completed on or after March 1, 2006 for the purposes of a review under this section because there is no designated assessment centre that satisfies the requirements of this Part, the insurer may give the person a notice in writing requiring the person to be examined under section 65 in respect of the review, instead of being assessed by a designated assessment centre, and the provisions of this Regulation, as they read after February 28, 2006, apply in respect of the review after the notice is given. O. Reg. 26/06, s. 9.

DETERIORATION IN IMPAIRMENT

34. (1) A person receiving weekly loss of earning capacity benefits may require the insurer to review the amount of the benefit if the person provides the insurer with a certificate from a health practitioner stating that the person has suffered a permanent deterioration in his or her impairment as a result of the accident that makes the person unable to engage in employment in which the person could earn the gross annual income that was used to determine the person's residual earning capacity for the purpose of determining the amount of the person's weekly loss of earning capacity benefit. O. Reg. 776/93, s. 34 (1).

(2) Subsection (1) does not apply after the person attains sixty-five years of age. O. Reg. 776/93, s. 34 (2).

(3) Subsection (1) applies whether or not the person is engaged in the type of employment that satisfies the criteria set out in subsection 30 (2) at the time the deterioration occurs. O. Reg. 776/93, s. 34 (3).

(4) Subsection (1) applies only if,

(a) more than one year has elapsed since loss of earning capacity benefits were first paid to the person in respect of the accident and a review is not yet required by clause 33 (1) (a);

(b) more than one year has elapsed since the review required by clause 33 (1) (a) and a review is not yet required by clause 33 (1) (b); or

(c) more than one year has elapsed since the review required by clause 33 (1) (b). O. Reg. 776/93, s. 34 (4).

(5) No review may be required under subsection (1) within one year after a previous review was made under this section. O. Reg. 776/93, s. 34 (5).

(6) Subsections 33 (3) to (11) apply, with necessary modifications, to a review required by this section. O. Reg. 776/93, s. 34 (6); O. Reg. 26/06, s. 10.

ADJUSTMENT AT AGE SIXTY-FIVE

35. (1) When a person who is receiving weekly loss of earning capacity benefits under this Part attains sixty-five years of age, the amount of the weekly loss of earning capacity benefits shall be adjusted to the amount determined in accordance with the following formula:

$$A = B \times 0.02 \times C$$

where,

A = the amount to which the amount of the weekly loss of earning capacity benefits shall be adjusted,

B = the amount of the weekly loss of earning capacity benefit that the person was entitled to receive immediately before attaining sixty-five years of age, without making any deductions permitted by section 75,

C = the lesser of,

i. 35, and

ii. the number of years during which the person qualified for weekly income replacement benefits under Part II, weekly education disability benefits under section 15, weekly caregiver benefits under Part IV, weekly disability benefits under Part V or weekly loss of earning capacity benefits under this Part before attaining sixty-five years of age.

O. Reg. 776/93, s. 35 (1).

(2) The amount of a weekly loss of earning capacity benefit that has been adjusted under subsection (1) shall not be less than \$185 if, during the week in respect of which the benefit is payable, the insured person is suffering a complete inability to carry on a normal life as a result of the accident. O. Reg. 776/93, s. 35 (2).

PART VII SUPPLEMENTARY MEDICAL BENEFITS

ENTITLEMENT TO BENEFITS

36. (1) If an insured person sustains an impairment as a result of an accident, the insurer shall pay for all reasonable expenses incurred by or on behalf of the insured person as a result of the accident for,

(a) medical, surgical, dental, optometric, hospital, nursing, ambulance, audiometric and speech-language pathology services;

(b) chiropractic, psychological, occupational therapy and physiotherapy services;

(c) medication;

(d) prescription eyewear;

(e) dentures and other dental devices;

- (f) hearing aids, wheelchairs or other mobility devices, prostheses, orthotics and other medical devices;
 - (g) transportation for the insured person to and from treatment sessions, including transportation for an aide or attendant;
 - (h) other goods and services of a medical nature that the insured person requires. O. Reg. 776/93, s. 36 (1).
- (2) The insurer is not liable to pay any expense under subsection (1) for goods or services that are experimental in nature. O. Reg. 776/93, s. 36 (2).
- (3) Transportation expenses under clause (1) (g) in respect of an insured person's automobile are limited to expenses for fuel, oil, maintenance, tires and parking. O. Reg. 776/93, s. 36 (3).
- (4) Subject to subsections (5) and 39 (6), the insurer shall pay an expense under subsection (1) pending resolution of a dispute relating to the expense in accordance with sections 279 to 283 of the *Insurance Act*. O. Reg. 776/93, s. 36 (4); O. Reg. 26/06, s. 11.
- (5) The insurer is not liable to pay more than \$3,000 in respect of an expense under clause (1) (d), (e) or (f) pending the determination of a dispute relating to the expense in accordance with sections 279 to 283 of the *Insurance Act*. O. Reg. 776/93, s. 36 (5).

CERTIFICATE

- 37.** (1) The insurer may require a person claiming payment of an expense under section 36 to furnish a certificate from the person's health practitioner stating that the expense is reasonable and is necessary for the person's treatment. O. Reg. 776/93, s. 37 (1).
- (2) In the case of an expense that is of a continuing nature, the insurer may require a certificate to be furnished under subsection (1) as often as reasonably necessary. O. Reg. 776/93, s. 37 (2).

DESIGNATED ASSESSMENT CENTRES (MEDICAL AND REHABILITATION)

- 38.** (1) The Superintendent may, for the purpose of this Part,
- (a) REVOKED: O. Reg. 26/06, s. 12 (1).
 - (b) specify the types of impairments that each designated assessment centre is authorized to assess. O. Reg. 776/93, s. 38 (1); O. Reg. 304/98, s. 2; O. Reg. 26/06, s. 12 (1).
- (2) The accident benefits advisory committee appointed under section 7 of the *Insurance Act* may, for the purpose of this Part, establish procedures, standards and guidelines that shall be used by designated assessment centres in conducting assessments. O. Reg. 776/93, s. 38 (2).
- (3) In this Part,
- “designated assessment centre” means an assessment centre designated before March 1, 2006 by the Superintendent under clause (1) (a), as it read before March 1, 2006. O. Reg. 26/06, s. 12 (2).

EXAMINATION

- 39.** (1) If the insurer receives a certificate under section 37 in respect of an expense, the insurer may give the insured person a notice requiring the person to be examined under section 65. O. Reg. 26/06, s. 13 (1).
- (2) Subsection (1) does not apply to an expense under clause 36 (1) (b) or (c) unless,
- (a) the expense was incurred more than eight weeks after the accident; or
 - (b) the insurer has already paid more than \$2,000 for expenses under clauses 36 (1) (b) and (c) in respect of the insured person as a result of the accident. O. Reg. 776/93, s. 39 (2).
- (3) Subsection (1) does not apply to an expense under clause 36 (1) (d), (e) or (g). O. Reg. 776/93, s. 39 (3).
- (4) Subsection (1) does not apply to an expense under clause 36 (1) (f) if the Ministry of Health pays part of the cost of the item for which the expense was incurred. O. Reg. 776/93, s. 39 (4).
- (5) If the insurer requires the insured person to be examined under section 65, the insurer shall provide the insured person with 14 days notice of the examination and 14 days notice of the examination shall be considered to be reasonable notice of the examination for the purposes of subsection 65 (2). O. Reg. 26/06, s. 13 (2).
- (6) Subject to the determination of a dispute relating to the expense in accordance with sections 279 to 283 of the Act, the insurer is not required to pay an expense if the insurer has received the report of the examination under section 65 and gives notice under subsection 39.1 (6) that it refuses to pay the expense. O. Reg. 26/06, s. 13 (2).
- (6.1)-(12) REVOKED: O. Reg. 26/06, s. 13 (2).

PAYMENT OF BENEFITS

- 39.1** (1) Subject to subsection 65 (5), an insurer shall mail or deliver a benefit that is payable under this Part to the person entitled within 14 days after the insurer receives an application for the benefit. O. Reg. 781/94, s. 9.

- (2) An amount payable under this Part is overdue if the insurer fails to comply with subsection (1). O. Reg. 781/94, s. 9.
- (3) If, before payment becomes overdue under subsection (2), the insurer requires that a certificate be furnished under subsection 37 (1) in respect of the benefit,
- (a) subsections (1) and (2) do not apply;
 - (b) the insurer shall mail or deliver the benefit to the person entitled within 14 days after the insurer receives the certificate; and
 - (c) the amount payable becomes overdue if the insurer fails to comply with clause (b). O. Reg. 781/94, s. 9.
- (4) If, before payment becomes overdue under clause (3) (b) in respect of an expense under clause 36 (1) (a), (b) or (c) for services or medication received outside Canada on an elective basis, or an expense under clause 36 (1) (f) for an item for which the Ministry of Health is not paying part of the cost, or an expense under clause 36 (1) (h), the insurer requires that an examination be conducted under section 65,
- (a) subsections (1), (2) and (3) do not apply;
 - (b) the insurer shall,
 - (i) mail or deliver the payment of the expense to the person entitled within 14 days after the insurer receives the report of the examination under section 65, or
 - (ii) give the person a notice in accordance with subsection (6) if the insurer refuses to pay the expense; and
 - (c) the amount payable becomes overdue if the insurer fails to comply with clause (b). O. Reg. 781/94, s. 9; O. Reg. 26/06, s. 14 (1, 2).
- (5) When a benefit is paid under this Part, the insurer shall provide the insured person with a written explanation of how the amount of the benefit was determined. O. Reg. 781/94, s. 9.
- (6) If the insurer refuses to pay a benefit under this Part, it shall give the insured person notice of the reasons for the refusal within 14 days after the insurer receives the report of the examination under section 65. O. Reg. 26/06, s. 14 (3).

TRANSITIONAL

- 39.2** (1) Subsection 36 (4) and sections 39 and 39.1, as they read on February 28, 2006, continue to apply in respect of a claim for payment of an expense under section 36 if, before March 1, 2006, an insurer has given a notice to the insured person under section 39, as it read on February 28, 2006, requiring the insured person to be assessed. O. Reg. 26/06, s. 15.
- (2) Despite subsection (1), if an assessment of an insured person by a designated assessment centre cannot be conducted or completed on or after March 1, 2006 because there is no designated assessment centre that satisfies the requirements of this Part, the insurer may give the insured person a notice in writing requiring the insured person to be examined under section 65 in respect of the claim, instead of being assessed by a designated assessment centre, and the provisions of this Regulation, as they read after February 28, 2006, apply in respect of the disposition of the claim after the notice is given. O. Reg. 26/06, s. 15.

PART VIII REHABILITATION BENEFITS

ENTITLEMENT TO BENEFITS

- 40.** (1) If an insured person sustains an impairment as a result of an accident, the insurer shall pay for reasonable measures,
- (a) to reduce or eliminate the effects of any disability resulting from the impairment; and
 - (b) to facilitate the insured person's reintegration into his or her family, the labour market and the rest of society. O. Reg. 776/93, s. 40 (1).
- (2) The payments required by subsection (1) for the purpose of facilitating the insured person's reintegration into the labour market include payment for vocational rehabilitation measures that are reasonably necessary to enable the person to,
- (a) engage in an employment that is as similar as possible to employment in which he or she engaged before the accident; or
 - (b) lead as normal a work life as possible. O. Reg. 776/93, s. 40 (2).
- (3) In determining what payments are required under subsection (2), regard shall be had to the insured person's personal and vocational characteristics. O. Reg. 776/93, s. 40 (3).
- (4) The payments required by subsection (1) for the purpose of facilitating the insured person's reintegration into his or her family and the rest of society include payment for social rehabilitation measures that are reasonably necessary to,
- (a) return the insured person as much as possible to the family and social situations in which he or she lived before the accident;

- (b) assist the insured person to adjust to family and social situations as a result of the accident; and
 - (c) maintain the insured person's level of function within the home and family. O. Reg. 776/93, s. 40 (4).
- (5) The payments required under this section include payment of all reasonable expenses incurred by or on behalf of the insured person as a result of the accident for a purpose referred to in clause (1) (a) or (b) for,
- (a) social rehabilitation, including life skills training, family counselling, social rehabilitation counselling, financial counselling, home renovations and home devices to accommodate the needs of the insured person, vehicles, vehicle modifications to accommodate the needs of the insured person, and communications aids for the insured person's home;
 - (b) vocational rehabilitation, including employment counselling, vocational assessments, vocational training, academic training, workplace modifications and workplace devices to accommodate the needs of the insured person, and communications aids for the insured person's employment;
 - (c) services provided by a case manager related to the co-ordination of medical, rehabilitation and attendant care services for the insured person;
 - (d) transportation for the insured person to and from counselling sessions, training sessions and assessments, including transportation for an aide or attendant;
 - (e) other goods and services that the insured person requires. O. Reg. 776/93, s. 40 (5).
- (6) Transportation expenses under clause (5) (d) in respect of an insured person's automobile are limited to expenses for fuel, oil, maintenance, tires and parking. O. Reg. 776/93, s. 40 (6).
- (7) Subject to subsections (8) and 45 (4), the insurer shall pay an expense under subsection (5) pending resolution of a dispute relating to the expense in accordance with sections 279 to 283 of the *Insurance Act*. O. Reg. 776/93, s. 40 (7); O. Reg. 26/06, s. 16.
- (8) The insurer is not liable to pay an expense under clause (5) (c) pending resolution of a dispute relating to the expense in accordance with sections 279 to 283 of the *Insurance Act* unless the insurer agreed to the appointment of the case manager before the expense was incurred. O. Reg. 776/93, s. 40 (8).

HOME MODIFICATIONS

41. (1) If it is more reasonable to purchase a new home to accommodate the needs of an insured person than to renovate the insured person's existing home, the insurer shall contribute to the cost of a new home in an amount equal to the value of the renovations to the existing home that would have been required to accommodate the needs of the insured person. O. Reg. 776/93, s. 41 (1).
- (2) Expenses incurred only for the purpose of giving an insured person access to areas of his or her home that are not needed for ordinary living shall be deemed not to be reasonable expenses for the purposes of this Part. O. Reg. 776/93, s. 41 (2).

VEHICLE MODIFICATIONS

42. (1) If it is more reasonable to purchase a new vehicle to accommodate the needs of an insured person than to modify an existing vehicle, the insurer shall contribute to the cost of a new vehicle in an amount equal to the cost of the new vehicle, less the trade-in value of the existing vehicle. O. Reg. 776/93, s. 42 (1).
- (2) Expenses incurred to purchase or modify a vehicle to accommodate the needs of an insured person shall be deemed not to be reasonable expenses for the purposes of this Part if they are incurred within five years after the last expenses incurred for that purpose in respect of the same accident. O. Reg. 776/93, s. 42 (2).

CERTIFICATE

43. (1) The insurer may require a person claiming payment of an expense under section 40 to furnish one of the following certificates, as selected by the person claiming payment:
1. A certificate from the person's physician stating that the expense is reasonable and is necessary for the person's rehabilitation.
 2. A certificate from the person's chiropractor or psychologist stating that the expense is reasonable and is necessary for the person's rehabilitation, if the impairment is one that the chiropractor or psychologist is authorized by law to treat.
 3. A certificate from the person's physician or, if the impairment is one that a psychologist is authorized by law to treat, the person's psychologist, stating that,
 - i. a member of a health profession, other than a physician or psychologist, has expressed in writing the opinion that the expense is reasonable and is necessary for the person's rehabilitation, and
 - ii. the physician or psychologist does not disagree with the opinion. O. Reg. 776/93, s. 43 (1).

(2) Subsection (1) does not apply to an expense under clause 40 (5) (c) or an expense for a vocational rehabilitation program referred to in subsection 76 (4). O. Reg. 776/93, s. 43 (2).

(3) If a physician or psychologist signs a certificate under paragraph 3 of subsection (1), he or she shall attach to the certificate the written opinion of the member of the health profession. O. Reg. 776/93, s. 43 (3).

(4) In the case of an expense that is of a continuing nature, the insurer may require a certificate to be furnished under subsection (1) as often as reasonably necessary. O. Reg. 776/93, s. 43 (4).

DESIGNATED ASSESSMENT CENTRES (MEDICAL AND REHABILITATION)

44. The assessment centres designated before March 1, 2006 for the purpose of Part VII shall be deemed to have been designated for the purpose of this Part and,

- (a) the Superintendent may, for the purpose of this Part, specify the types of impairments that each designated assessment centre is authorized to assess; and
- (b) the accident benefits advisory committee appointed under section 7 of the *Insurance Act* may, for the purpose of this Part, establish procedures, standards and guidelines that shall be used by designated assessment centres in conducting assessments. O. Reg. 776/93, s. 44; O. Reg. 304/98, s. 3; O. Reg. 26/06, s. 17.

EXAMINATION

45. (1) If the insurer receives a certificate under section 43 in respect of an expense, the insurer may give the insured person a notice requiring the insured person to be examined under section 65. O. Reg. 26/06, s. 18 (1).

(2) Subsection (1) does not apply to an expense under clause 40 (5) (c) or (d) or an expense for a vocational rehabilitation program referred to in subsection 76 (4). O. Reg. 776/93, s. 45 (2).

(3) If the insurer requires the insured person to be examined under section 65, the insurer shall provide the insured person with 14 days notice of the examination and 14 days notice of the examination shall be considered to be reasonable notice of the examination for the purposes of subsection 65 (2). O. Reg. 26/06, s. 18 (2).

(4) Subject to the determination of a dispute relating to the expense in accordance with sections 279 to 283 of the Act, the insurer is not required to pay an expense if the insurer has received the report of the examination under section 65 and gives notice under subsection 45.1 (6) that it refuses to pay the expense. O. Reg. 26/06, s. 18 (2).

(5)-(12) REVOKED: O. Reg. 26/06, s. 18 (2).

PAYMENT OF BENEFITS

45.1 (1) Subject to subsection 65 (5), an insurer shall mail or deliver a benefit that is payable under this Part to the person entitled within 14 days after the insurer receives an application for the benefit. O. Reg. 781/94, s. 11.

(2) An amount payable under this Part is overdue if the insurer fails to comply with subsection (1). O. Reg. 781/94, s. 11.

(3) If, before payment becomes overdue under subsection (2), the insurer requires that a certificate be furnished under subsection 43 (1) in respect of the benefit,

- (a) subsections (1) and (2) do not apply;
- (b) the insurer shall mail or deliver the benefit to the person entitled within 14 days after the insurer receives the certificate; and
- (c) the amount payable becomes overdue if the insurer fails to comply with clause (b). O. Reg. 781/94, s. 11.

(4) If, before payment becomes overdue under clause (3) (b) in respect of an expense under section 40, the insurer requires an examination under section 65,

- (a) subsections (1), (2) and (3) do not apply;
- (b) the insurer shall,
 - (i) mail or deliver the payment of the expense to the person entitled within 14 days after the insurer receives the report of the examination under section 65, or
 - (ii) give the person a notice in accordance with subsection (6) if the insurer refuses to pay the expense; and
- (c) the amount payable becomes overdue if the insurer fails to comply with clause (b). O. Reg. 781/94, s. 11; O. Reg. 26/06, s. 19 (1, 2).

(5) When a benefit is paid under this Part, the insurer shall provide the insured person with a written explanation of how the amount of the benefit was determined. O. Reg. 781/94, s. 11.

(6) If the insurer refuses to pay a benefit under this Part, it shall give the insured person notice of the reasons for the refusal within 14 days after the insurer receives the report of the examination under section 65. O. Reg. 26/06, s. 19 (3).

TRANSITIONAL

45.2 (1) Subsection 40 (7) and sections 45 and 45.1, as they read on February 28, 2006, continue to apply in respect of a claim for payment of an expense under section 40 if, before March 1, 2006, an insurer has given a notice to the insured person under subsection 45 (1), as it read on February 28, 2006, requiring the insured person to be assessed. O. Reg. 26/06, s. 20.

(2) Despite subsection (1), if an assessment of an insured person by a designated assessment centre cannot be conducted or completed on or after March 1, 2006 because there is no designated assessment centre that satisfies the requirements of this Part, the insurer may give the insured person a notice in writing requiring the insured person to be examined under section 65 in respect of the claim, instead of being assessed by a designated assessment centre, and the provisions of this Regulation, as they read after February 28, 2006, apply in respect of the disposition of the claim after the notice is given. O. Reg. 26/06, s. 20.

PART IX

MAXIMUM LIMIT ON SUPPLEMENTARY MEDICAL BENEFITS AND REHABILITATION BENEFITS

46. (1) The total of all benefits paid under Parts VII and VIII in respect of an insured person shall not exceed \$1,000,000 in respect of any one accident. O. Reg. 776/93, s. 46 (1).

(2) The maximum limit applicable under subsection (1) shall be the maximum limit that was in effect on the date of the accident, even if the maximum limit has been revised under section 80. O. Reg. 776/93, s. 46 (2).

PART X

ATTENDANT CARE BENEFITS

ENTITLEMENT TO BENEFITS

47. (1) If an insured person sustains an impairment as a result of an accident, the insurer shall pay for all reasonable expenses incurred by or on behalf of the insured person as a result of the accident for,

(a) services provided by an aide or attendant; or

(b) services provided by a long-term care facility, including a nursing home, home for the aged or chronic care hospital. O. Reg. 776/93, s. 47 (1).

(2) For the purposes of clause (1) (a), an aide or attendant may be any person who is capable of providing the services, including a family member of the insured person, even if the aide or attendant does not possess any special qualifications. O. Reg. 776/93, s. 47 (2).

(3) Subsection (1) does not apply to expenses for which payment may be obtained under clause 36 (1) (g) or 40 (5) (d). O. Reg. 776/93, s. 47 (3).

(4) Subject to subsections (5) to (7), the maximum amount payable under this section in respect of an insured person is \$3,000 per month. O. Reg. 776/93, s. 47 (4).

(5) If, as a result of the accident, the insured person suffers cervical spinal cord injuries, severe brain injuries or an upper bilateral amputation or other injuries that cause the total loss of use of both hands or arms, the maximum amount payable under this section in respect of the insured person is \$6,000 per month. O. Reg. 776/93, s. 47 (5).

(6) If, as a result of the accident, the insured person suffers injuries mentioned in subsection (5) and another injury that by itself would have required services referred to in subsection (1), the maximum amount payable under this section in respect of the insured person is \$10,000 per month. O. Reg. 776/93, s. 47 (6).

(7) If, as a result of the accident, the insured person suffers severe brain injuries that cause violent behaviour that may result in physical harm to the insured person or other persons, the maximum amount payable under this section in respect of the insured person is \$10,000 per month. O. Reg. 776/93, s. 47 (7).

(8) For the purposes of this section, brain injuries are severe brain injuries only if, within a reasonable period after the accident, the person scored nine points or less on the Glasgow Coma Scale as published in *Management of Head Injuries*, Contemporary Neurology series, Volume 20, (F.A. Davis Company, 1981). O. Reg. 776/93, s. 47 (8); O. Reg. 781/94, s. 12 (1).

(9) The benefits payable to an insured person under this section shall be determined in accordance with Form 1 and subsection 50 (6). O. Reg. 781/94, s. 12 (2); O. Reg. 26/06, s. 21.

CERTIFICATE

48. (1) The insurer may require a person claiming payment of an expense under section 47 to furnish a certificate from a member of a health profession who is authorized by law to treat the person's impairment stating that the expense is reasonable and is necessary for the person's care. O. Reg. 776/93, s. 48 (1).

(2) In the case of an expense that is of a continuing nature, the insurer may require a certificate to be furnished under subsection (1) as often as reasonably necessary. O. Reg. 776/93, s. 48 (2).

DESIGNATED ASSESSMENT CENTRES (ATTENDANT CARE)

- 49.** (1) The Superintendent may, for the purpose of this Part,
- (a) REVOKED: O. Reg. 26/06, s. 22 (1).
 - (b) specify the types of impairments that each designated assessment centre is authorized to assess. O. Reg. 776/93, s. 49 (1); O. Reg. 304/98, s. 4; O. Reg. 26/06, s. 22 (1).
- (2) The accident benefits advisory committee appointed under section 7 of the *Insurance Act* may, for the purpose of this Part, establish procedures, standards and guidelines that shall be used by designated assessment centres in conducting assessments. O. Reg. 776/93, s. 49 (2).
- (3) In this Part,
- “designated assessment centre” means an assessment centre designated before March 1, 2006 by the Superintendent under clause (1) (a), as it read before March 1, 2006. O. Reg. 26/06, s. 22 (2).

EXAMINATION

- 50.** (1) The insured person may, by written notice to the insurer, elect to be examined under section 65. O. Reg. 26/06, s. 23.
- (2) If an insurer receives a certificate under section 48 in respect of an expense, the insurer may give the insured person notice requiring the insured person to be examined under section 65. O. Reg. 26/06, s. 23.
- (3) Despite subsections (1) and (2), an insured person shall not be examined under section 65 within 12 months after the last assessment under this section, as it read before March 1, 2006, or the last examination under section 65 relating to services referred to in section 47. O. Reg. 26/06, s. 23.
- (4) If the insured person elects to be examined or the insurer requires the insured person to be examined, the insurer shall provide to the insured person 14 days notice of the examination and 14 days notice of the examination shall be considered to be reasonable notice of the examination for the purposes of subsection 65 (2). O. Reg. 26/06, s. 23.
- (5) Within 14 days of receipt of the report of examination, the insurer shall give the insured person notice of the amount to be paid by the insurer to the insured person for the future provision of services referred to in section 47. O. Reg. 26/06, s. 23.
- (6) The determination under subsection (5) shall be made in accordance with Form 1 and shall be based on the following hourly rates for services:
1. For care described in Part I of Form 1, \$11.08 per hour.
 2. For care described in Part II of Form 1, the minimum hourly wage for the period to which the payment relates, as prescribed under the *Employment Standards Act, 2000*.
 3. For care described in Part III of Form 1, \$17.72 per hour. O. Reg. 26/06, s. 23.

PAYMENT OF BENEFITS

- 50.1** (1) Subject to subsection 65 (5), an insurer shall mail or deliver a benefit that is payable under this Part to the person entitled within 14 days after the insurer receives an application for the benefit. O. Reg. 781/94, s. 14.
- (2) An amount payable under this Part is overdue if the insurer fails to comply with subsection (1). O. Reg. 781/94, s. 14.
- (3) If, before payment becomes overdue under subsection (2), the insurer requires that a certificate be furnished under subsection 48 (1) in respect of the benefit,
- (a) subsections (1) and (2) do not apply;
 - (b) the insurer shall mail or deliver the benefit to the person entitled within 14 days after the insurer receives the certificate; and
 - (c) the amount payable becomes overdue if the insurer fails to comply with clause (b). O. Reg. 781/94, s. 14.
- (4) When a benefit is paid under this Part, the insurer shall provide the insured person with a written explanation of how the amount of the benefit was determined. O. Reg. 781/94, s. 14.
- (5) If the insurer refuses to pay a benefit under this Part, it shall give the insured person notice of the reasons for the refusal within 14 days after the insurer receives the report of the examination under section 65. O. Reg. 26/06, s. 24.

TRANSITIONAL

- 50.2** (1) Sections 50 and 50.1, as they read on February 28, 2006, continue to apply in respect of a claim for payment of an expense under section 47 if, before March 1, 2006, an insured person has given a notice to the insurer under subsection 50 (1), as it read on February 28, 2006, or the insurer has given a notice to the insured person under subsection 50 (2), as it read on February 28, 2006, for the insured person to be assessed. O. Reg. 26/06, s. 25.

(2) Despite subsection (1), if an assessment of an insured person by a designated assessment centre cannot be conducted or completed on or after March 1, 2006 because there is no designated assessment centre that satisfies the requirements of this Part, the insurer may give the insured person a notice in writing requiring the insured person to be examined under section 65 in respect of the claim, instead of being assessed by a designated assessment centre, and the provisions of this Regulation, as they read after February 28, 2006, apply in respect of the disposition of the claim after the notice is given. O. Reg. 26/06, s. 25.

PART XI DEATH BENEFITS

51. (1) If an insured person dies as a result of an accident, the insured person is survived by a spouse who was his or her spouse at the time of the accident and,

- (a) the insured person met any of the qualifications set out in subsection 7 (1), the insurer shall pay the spouse an amount equal to the insured person's net weekly income from employment determined in accordance with section 81 or 82 multiplied by 187.2;
- (b) the insured person did not meet any of the qualifications set out in subsection 7 (1), the insurer shall pay the spouse \$50,000. O. Reg. 776/93, s. 51 (1).

(2) If an insured person dies as a result of an accident, the insured person is survived by one or more dependants who were dependants at the time of the accident and no benefit is payable to a spouse under subsection (1), the insurer shall pay the dependants an amount equal to the amount that would be payable to the spouse under subsection (1) if the insured person had a spouse who was entitled to payment under that subsection. O. Reg. 776/93, s. 51 (2).

(3) If the insured person met any of the qualifications set out in subsection 7 (1),

- (a) the insured person's gross annual income shall be deemed for the purpose of subsections (1) and (2) to be the gross annual income that would have been used to determine the amount of the insured person's weekly income replacement benefits under Part II had the insured person survived and been entitled to those benefits; and
- (b) the insured person shall be deemed for the purpose of subsections (1) and (2) to have made the designations and elections referred to in subsections 7 (2) and (4) and section 9 that would result in the highest possible benefit under subsection (1) or (2) for the insured person's spouse or dependants. O. Reg. 776/93, s. 51 (3).

(4) If an insured person dies as a result of an accident, the insurer shall pay, in addition to any benefit payable under subsection (1) or (2),

- (a) \$10,000 to each person who was a dependant of the insured person at the time of the accident; and
- (b) \$10,000 to each former spouse of the insured person to whom the insured person was obligated at the time of the accident to provide support under a domestic contract or court order. O. Reg. 776/93, s. 51 (4).

(5) If an insured person dies as a result of an accident and, at the time of the accident, the insured person was a dependant, the insurer shall pay \$10,000,

- (a) to the person upon whom the insured person was dependent or, if that person is dead or dies within thirty days of the insured person's death, to the surviving spouse of that person if the surviving spouse was the insured person's primary caregiver; or
- (b) to the surviving dependants of the person upon whom the insured person was dependent, if that person is dead and no payment is required by clause (a). O. Reg. 776/93, s. 51 (5).

(6) Benefits are payable under subsections (1) to (5) only if the insured person dies within,

- (a) 180 days from the day of the accident unless clause (b) applies; or
- (b) 156 weeks from the day of the accident if during that period there has been continuous disability as a result of the accident. O. Reg. 776/93, s. 51 (6).

(7) If at the time of the accident the insured person had more than one person entitled to claim as his or her spouse, the payment under subsection (1) shall be divided equally between or among such persons who survive the insured person and who at the time of the death were still spouses of the insured person. O. Reg. 776/93, s. 51 (7).

(8) The payment under subsection (1) or (2) shall not be less than \$50,000 and shall not be more than \$200,000. O. Reg. 776/93, s. 51 (8).

(9) Payments under subsection (2) or clause (5) (b) shall be paid in equal shares to the surviving dependants. O. Reg. 776/93, s. 51 (9).

(10) No amount is payable to a person under this section if the person dies within thirty days of the insured person's death. O. Reg. 776/93, s. 51 (10).

(11) The amount of a payment under this section shall be determined as of the date of the insured person's death, even if the amount has been revised under section 80. O. Reg. 776/93, s. 51 (11).

(12) A person who conducts an autopsy of the dead person shall provide a copy of his or her report to the insurer and to the person claiming a benefit under this Regulation. O. Reg. 776/93, s. 51 (12).

PART XII FUNERAL BENEFITS

52. (1) The insurer shall pay the funeral expenses incurred in respect of an insured person who dies as a result of an accident. O. Reg. 776/93, s. 52 (1).

(2) The maximum amount payable under this section in respect of an insured person is \$6,000. O. Reg. 776/93, s. 52 (2).

(3) The maximum amount applicable under subsection (2) shall be the maximum amount that was in effect on the date of the funeral, even if the maximum amount has been revised under section 80. O. Reg. 776/93, s. 52 (3).

PART XIII COMPENSATION FOR OTHER PECUNIARY LOSSES

EXPENSES OF VISITORS

53. (1) If an insured person sustains an impairment as a result of an accident, each of the individuals described in subsection (2) is entitled to an allowance that is reasonable having regard to all of the circumstances for expenses actually incurred in visiting the insured person during his or her treatment or recovery. O. Reg. 776/93, s. 53 (1).

(2) The individuals referred to in subsection (1) are,

(a) the spouse, children, grandchildren, parents, grandparents, brothers and sisters of the insured person;

(b) an individual who was living with the insured person at the time of the accident;

(c) an individual who has demonstrated a settled intention to treat the insured person as a child of the individual's family; and

(d) an individual whom the insured person has demonstrated a settled intention to treat as a child of the insured person's family. O. Reg. 776/93, s. 53 (2).

DEPENDANT CARE EXPENSES

54. (1) If an insured person sustains an impairment as a result of an accident, the insurer shall pay for additional expenses reasonably incurred by or on behalf of the insured person in caring for the insured person's dependants as a result of the accident. O. Reg. 776/93, s. 54 (1).

(2) Subsection (1) applies only in respect of an insured person who was employed at the time of the accident and who is not receiving weekly caregiver benefits under Part IV. O. Reg. 776/93, s. 54 (2).

(3) No benefit is payable under this section after the insured person dies. O. Reg. 776/93, s. 54 (3).

(4) Subject to subsection (5), the amount payable under subsection (1) shall not exceed \$75 per week for the first dependant and \$25 per week for each additional dependant. O. Reg. 776/93, s. 54 (4).

(5) The total amount payable under this section shall not exceed \$150 per week. O. Reg. 776/93, s. 54 (5).

HOUSEKEEPING AND HOME MAINTENANCE EXPENSES

55. If an insured person sustains an impairment as a result of an accident, the insurer shall pay for additional expenses reasonably incurred by or on behalf of the insured person as a result of the accident for housekeeping and home maintenance services. O. Reg. 776/93, s. 55.

DAMAGE TO CLOTHING, GLASSES, HEARING AIDS, ETC.

56. The insurer shall pay for all reasonable expenses incurred by or on behalf of an insured person in repairing or replacing,

(a) clothing worn by the insured person at the time of an accident; or

(b) prescription eyewear, dentures, hearing aids, prostheses, other medical or dental devices, and other personal items belonging to the insured person that are lost or damaged in an accident. O. Reg. 776/93, s. 56.

COST OF EXAMINATIONS

57. (1) The insurer shall pay for all reasonable expenses incurred by or on behalf of an insured person in obtaining and attending an examination or assessment for the purpose of this Regulation or in obtaining a certificate or report for the purpose of this Regulation, including,

(a) fees charged by a person who conducts an examination or assessment or provides a certificate or report; and

(b) transportation expenses incurred in attending an examination, including transportation expenses for an aide or attendant. O. Reg. 776/93, s. 57 (1).

(2) Transportation expenses under clause (1) (b) in respect of an insured person's automobile are limited to expenses for fuel, oil, maintenance, tires and parking. O. Reg. 776/93, s. 57 (2).

PART XIV EXCLUSIONS

58. (1) The insurer is not required to pay income replacement benefits under Part II, education disability benefits under Part III, disability benefits under Part V or loss of earning capacity benefits under Part VI in respect of a person who was the driver of an automobile at the time of the accident,

- (a) if, as a result of the accident, the driver is convicted of operating the automobile while his or her ability to operate it was impaired by alcohol or a drug, or of driving while his or her blood alcohol level exceeded the limits permitted by law or of an indictable offence related to the operation of the automobile;
- (b) if, as a result of the accident, the driver is asked to provide a breath sample and he or she is convicted for failure to provide the sample;
- (c) if, as a result of the accident, the driver is convicted of operating the automobile while it was not insured under a motor vehicle liability policy;
- (d) if the driver was not authorized by law to drive the automobile;
- (e) if the driver is an excluded driver under the contract of automobile insurance; or
- (f) if the driver knew or ought reasonably to have known that he or she was operating the automobile without the owner's consent. O. Reg. 776/93, s. 58 (1).

(2) Clause (1) (d) does not apply to a driver who is not authorized by law to drive an automobile only by reason of a suspension of a licence for failure to pay a fine. O. Reg. 776/93, s. 58 (2).

(3) The insurer is not required to pay income replacement benefits under Part II, education disability benefits under Part III, disability benefits under Part V or loss of earning capacity benefits under Part VI,

- (a) in respect of any person who has made, or who knows of, a material misrepresentation that induced the insurer to enter into the contract of automobile insurance or who intentionally failed to notify the insurer of a change in the risk material to the contract; or
- (b) in respect of an occupant of an automobile at the time of the accident who knew or ought reasonably to have known that the driver was operating the automobile without the owner's consent. O. Reg. 776/93, s. 58 (3).

(4) Clause (3) (b) does not prevent an excluded driver or any other occupant of an automobile driven by the excluded driver from recovering statutory accident benefits under a motor vehicle liability policy in respect of which the excluded driver or other occupant is a named insured. O. Reg. 776/93, s. 58 (4).

PART XV PROCEDURE

NOTICE AND APPLICATION FOR BENEFITS

59. (1) A person who wants to apply for benefits under this Regulation shall notify the insurer within thirty days after the circumstances arose that gave rise to the entitlement to benefits, or as soon as practicable thereafter. O. Reg. 776/93, s. 59 (1).

(2) The insurer shall promptly provide the person with,

- (a) the appropriate application forms;
- (b) a written explanation of the benefits available under this Regulation; and
- (c) written information to assist the person in applying for benefits, including information to assist the person in making any possible elections. O. Reg. 776/93, s. 59 (2).

(3) The person shall submit an application for the benefits to the insurer within ninety days of receiving the application forms. O. Reg. 776/93, s. 59 (3).

(4) A failure to comply with a time limit set out in subsection (1) or (3) does not disentitle a person to benefits if the person has a reasonable excuse. O. Reg. 776/93, s. 59 (4).

CERTIFICATE FOR WEEKLY BENEFITS

60. An insurer may require a person who has applied for or who is receiving weekly benefits under Part II, section 15 or Part IV or V to furnish a certificate from a health practitioner of the insured person's choice as to the cause and nature of the impairment, an estimate of the duration of the disability caused by the accident and a treatment plan. O. Reg. 781/94, s. 15.

ELECTION OF WEEKLY BENEFITS

61. (1) No more than one weekly benefit shall be paid to an insured person under this Regulation for the same period of time. O. Reg. 776/93, s. 61 (1).

(2) If it appears from an application for benefits under this Regulation that, in the absence of subsection (1), a person would be entitled to receive more than one weekly benefit under Part II, section 15 and Part IV, the insurer shall notify the person that the person must, within thirty days of receiving the notice, elect which weekly benefit he or she wishes to receive. O. Reg. 776/93, s. 61 (2).

(3) Within thirty days of receiving the notice, the person shall elect which weekly benefit he or she wishes to receive. O. Reg. 776/93, s. 61 (3).

(4) Pending receipt of the person's election, the insurer shall pay one of the weekly benefits to which the person is entitled and, when the insurer receives the election, the insurer shall adjust the amount of the weekly payments retroactively to the date the person became entitled to the weekly benefits that the person has elected. O. Reg. 776/93, s. 61 (4).

(5) If the person does not elect which benefit he or she wishes to receive within the thirty-day period referred to in subsection (3), the person shall be deemed to have elected the highest weekly benefit. O. Reg. 776/93, s. 61 (5).

(6) If a person ceases to receive weekly caregiver benefits under Part IV because there is no longer anyone who meets the qualifications set out in subsection 18 (5) and the person meets the qualifications set out in paragraph 5 of subsection 7 (1), the insured person is entitled to elect to receive weekly income replacement benefits under Part II and the insurer shall notify the person of that entitlement. O. Reg. 776/93, s. 61 (6).

(7) Subject to subsection (6), an election under this section may not be changed. O. Reg. 776/93, s. 61 (7).

PAYMENT OF WEEKLY BENEFITS

62. (1) An insurer shall mail or deliver a weekly benefit that is payable under Part II, section 15, Part IV or Part V to the insured person within fourteen days after the insurer receives an application for the benefit. O. Reg. 776/93, s. 62 (1).

(2) The insurer shall mail or deliver weekly benefits under Part II, section 15 or Part IV, V or VI to the insured person at least once every second week while the insured person remains entitled to receive the benefits. O. Reg. 776/93, s. 62 (2).

(3) Subsection (2) does not apply if the insurer prepays benefits owing. O. Reg. 776/93, s. 62 (3).

(4) An amount payable under Part II, section 15 or Part IV, V or VI is overdue if the insurer fails to comply with subsection (1) or (2). O. Reg. 776/93, s. 62 (4).

(5) Despite subsection (4), a payment is not overdue if the insurer required that a certificate be furnished under section 60 in respect of the payment and more than six weeks have elapsed without the certificate being furnished. O. Reg. 776/93, s. 62 (5).

(6) If subsection (5) applies and the certificate is later furnished, the payment becomes overdue if the amount payable is not mailed or otherwise delivered by the insurer within fourteen days after it received the certificate. O. Reg. 776/93, s. 62 (6).

(7) When a weekly benefit is first paid under Part II, section 15, Part IV or Part V or the amount of the weekly benefit is changed, the insurer shall provide the insured person with a written explanation of how the amount of the weekly benefit was determined. O. Reg. 776/93, s. 62 (7).

(8) If the insurer refuses to pay weekly benefits under Part II, section 15 or Part IV or V, it shall give the insured person notice of the reasons for the refusal,

(a) within 14 days after receiving an application for the benefits, if the refusal occurs before the application is approved;

(b) by the day on which it would have paid the next weekly benefit, if the refusal occurs after the application is approved. O. Reg. 781/94, s. 16.

63. REVOKED: O. Reg. 26/06, s. 26.

64. REVOKED: O. Reg. 26/06, s. 27.

INSURER EXAMINATIONS

65. (1) An insurer may, for the purposes of any of Parts II to VIII, X and XIII and as often as reasonably necessary, give an insured person notice requiring the person to be examined by one or more persons specified by the insurer, each of whom is a member of a health profession or a person with expertise in vocational rehabilitation. O. Reg. 776/93, s. 65 (1); O. Reg. 781/94, s. 18 (2).

(2) An examination under subsection (1) shall be scheduled by the insurer and, for that purpose, the insurer shall make reasonable efforts to schedule the examination for a time that is convenient for the insured person and shall provide the insured person with reasonable notice of the examination. O. Reg. 776/93, s. 65 (2).

(3) The person or persons who conduct the examination shall prepare a report and provide a copy of the report to the insurer and to the insured person. O. Reg. 776/93, s. 65 (3).

(3.1) If the examination relates to a claim for attendant care benefits, the report of the examination shall include a completed Form 1. O. Reg. 26/06, s. 28.

(4) A notice referred to in subsection (1) shall state the expense to which the examination relates. O. Reg. 776/93, s. 65 (4).

(5) If the insured person fails or refuses to make himself or herself reasonably available for an examination under subsection (1), the insurer is not required to pay the benefits under section 16 or Part VII, VIII, X or XIII, as specified in the notice under subsection (1), until the person submits to the examination. O. Reg. 781/94, s. 18 (3).

(5.1) If the insured person fails or refuses to submit to an examination under subsection (1), the insurer may withhold payment of the weekly benefits under Part II, section 15 or Part IV, V or VI until the person submits to the examination and, when the person submits to the examination, the insurer shall,

- (a) resume payment of the benefits; and
- (b) pay the benefits that were not paid. O. Reg. 781/94, s. 18 (3).

66. REVOKED: O. Reg. 781/94, s. 19.

PAYMENT OF CERTAIN BENEFITS

67. (1) Subject to subsection 65 (5), an insurer shall mail or deliver a benefit that is payable under section 16 or Part XI, XII or XIII to the person entitled within thirty days after the insurer receives an application for the benefit. O. Reg. 776/93, s. 67 (1); O. Reg. 781/94, s. 20 (2).

(2) An amount payable under section 16 or Part XI, XII or XIII is overdue if the insurer fails to comply with subsection (1). O. Reg. 776/93, s. 67 (2).

(3) When a benefit is paid under section 16 or Part XI, XII or XIII, the insurer shall provide the insured person with a written explanation of how the amount of the benefit was determined. O. Reg. 776/93, s. 67 (3).

(4) If the insurer refuses to pay a benefit under section 16 or Part XI, XII or XIII, it shall give the insured person notice of the reasons for the refusal within 30 days after receiving an application for the benefit. O. Reg. 776/93, s. 67 (4); O. Reg. 781/94, s. 20 (3).

INTEREST ON OVERDUE PAYMENTS

68. If payment of a benefit under this Regulation is overdue, the insurer shall pay interest on the overdue amount for each day the amount is overdue from the date the amount became overdue at the rate of 2 per cent per month compounded monthly. O. Reg. 776/93, s. 68.

PRIOR APPROVAL OF EXPENSES

69. (1) A person may, before an expense referred to in Part VII, VIII, X or XIII is incurred, request the insurer to,

- (a) confirm in advance that it will pay for the expense; or
- (b) authorize the person to have the expense billed directly to the insurer, subject to reasonable conditions established by the insurer. O. Reg. 776/93, s. 69 (1).

(2) The insurer may refuse the request only if there are reasonable grounds to believe that the expense is one for which the insurer would not be required to pay. O. Reg. 776/93, s. 69 (2).

(3) The insurer shall respond to the request,

- (a) within fourteen days after the person who made the request supplies the insurer with the information reasonably required to determine whether the expense is one for which the insurer would be required to pay, in the case of an expense claimed under Part VII, VIII or X; and
- (b) within thirty days after the person who made the request supplies the insurer with the information reasonably required to determine whether the expense is one for which the insurer would be required to pay, in the case of an expense claimed under Part XIII. O. Reg. 776/93, s. 69 (3).

(4) If the insurer refuses the request, it shall give the person who made the request notice of the reasons for the refusal. O. Reg. 776/93, s. 69 (4).

REPAYMENTS TO INSURER

70. (1) A person shall repay to the insurer any benefit received under this Regulation that is paid to the person through error, wilful misrepresentation or fraud. O. Reg. 776/93, s. 70 (1).

(2) The obligation to repay a benefit received under this Regulation that was paid to a person through error does not apply unless notice is given under subsection (5) within twelve months after the payment was made to the person. O. Reg. 776/93, s. 70 (2).

(3) A person shall repay to the insurer any benefit received under Part II, III, V or VI that is paid to him or her if the person or the person in respect of whom the payment was made was disqualified from payment under Part XIV. O. Reg. 776/93, s. 70 (3).

(4) A person shall repay to the insurer any benefit received under Parts II to VI to the extent of any payments received by the person that are deductible from those benefits under this Regulation. O. Reg. 776/93, s. 70 (4).

(5) If a person is required to repay an amount to an insurer under this section, the insurer,

(a) shall give the person notice of the amount that is required to be repaid; and

(b) if the person is receiving weekly benefits under this Regulation, may give the person notice that the insurer intends to collect the repayment by deducting up to 20 per cent of the amount of the weekly benefit from each payment of the weekly benefit. O. Reg. 776/93, s. 70 (5).

(6) An insurer that has given the notice referred to in clause (5) (b) may collect the repayment by deducting up to 20 per cent of the amount of the weekly benefit from each payment of the weekly benefit. O. Reg. 776/93, s. 70 (6).

(7) The insurer may charge interest on an amount repayable under this section from the fifteenth day after notice is given under subsection (5) at the bank rate in effect on that day. O. Reg. 776/93, s. 70 (7).

(8) In subsection (7),

“bank rate” means the bank rate established by the Bank of Canada as the minimum rate at which the Bank of Canada makes short term advances to the banks listed in Schedule I to the *Bank Act* (Canada). O. Reg. 776/93, s. 70 (8).

RIGHT TO DISPUTE

71. If an insurer refuses to pay a benefit that a person has applied for under this Regulation or reduces the amount of a benefit that a person received under this Regulation, the insurer shall inform the person in writing of the procedure for resolving disputes relating to benefits under sections 279 to 283 of the *Insurance Act*. O. Reg. 776/93, s. 71.

ASSESSMENT BEFORE MEDIATION

71.1 No insured person shall commence a mediation proceeding under section 280 of the *Insurance Act* unless he or she,

(a) has complied with section 59;

(b) when required, has submitted to and provided the information required for an assessment under section 23, 25, 39, 45 or 50, as the case may be; and

(c) REVOKED: O. Reg. 26/06, s. 29 (2).

O. Reg. 781/94, s. 21; O. Reg. 26/06, s. 29.

TIME LIMIT FOR PROCEEDINGS

72. (1) A mediation proceeding under section 280 of the *Insurance Act* or an arbitration or court proceeding under section 281 of the Act in respect of a benefit under this Regulation shall be commenced within two years from the insurer’s refusal to pay the amount claimed or, if the person has engaged in an employment as permitted by section 14 or has returned to elementary, secondary or post-secondary education as permitted by section 17, within two years of the insurer’s refusal to pay further benefits. O. Reg. 776/93, s. 72 (1).

(2) Despite subsection (1), an arbitration or court proceeding under section 281 of the *Insurance Act* may be commenced within ninety days after the mediator reports to the parties under subsection 280 (8) of the Act. O. Reg. 776/93, s. 72 (2).

PART XVI

RESPONSIBILITY TO OBTAIN TREATMENT AND PARTICIPATE IN REHABILITATION

73. (1) A person entitled to weekly income replacement benefits under Part II, weekly education disability benefits under section 15, weekly caregiver benefits under Part IV or weekly disability benefits under Part V shall obtain such treatment and participate in such rehabilitation as is reasonable, available and necessary to,

(a) permit the person to engage in an employment that satisfies the criteria set out in subsection 30 (2), in the case of a person entitled to weekly income replacement benefits under Part II; or

(b) shorten the period during which the weekly benefits are payable, in any other case. O. Reg. 776/93, s. 73 (1).

(2) Subsection (1) does not apply if compliance with subsection (1) would be detrimental to the person’s treatment or recovery. O. Reg. 776/93, s. 73 (2).

(3) If a person refuses to comply with subsection (1), the insurer may notify the person that the insurer intends to reduce the amount of the weekly benefit in accordance with subsection (4) and the notice shall provide the information contained in subsections (4) and (5). O. Reg. 776/93, s. 73 (3).

(4) If at least thirty days have elapsed after giving the notice and the person is still refusing to comply with subsection (1), the insurer may, subject to subsection (5), reduce the amount of the weekly benefit by 50 per cent. O. Reg. 776/93, s. 73 (4).

(5) If, within thirty days after the notice is given, the person disputes the reduction in accordance with sections 279 to 283 of the *Insurance Act* and provides the insurer with a certificate from a physician or other member of a health profession stating that the person is complying with subsection (1) or that compliance with subsection (1) would be detrimental to the person's treatment or recovery, the insurer shall continue to pay the weekly benefit without any reduction until the dispute is resolved. O. Reg. 776/93, s. 73 (5).

(6) REVOKED: O. Reg. 26/06, s. 30.

(7) Subsections (3) and (4) do not apply if the insurer is making a deduction under subsection 13 (4). O. Reg. 776/93, s. 73 (7).

PART XVII INTERACTION WITH OTHER SYSTEMS

SOCIAL ASSISTANCE PAYMENTS

74. (1) The insurer shall pay benefits under this Regulation even though the insured person is entitled to, or has received, benefits under an Act administered by the Ministry of Community and Social Services for Ontario or under similar legislation in another jurisdiction. O. Reg. 776/93, s. 74 (1).

(2) For the purpose of subsection (1), a service, benefit or entitlement provided under an Act, the administration of which was transferred from the Ministry of Community and Social Services to the Ministry of Health by Order-in-Council, shall be deemed to be provided under an Act administered by the Ministry of Community and Social Services for Ontario so long as the nature of the service, benefit or entitlement remains substantially the same as it was before the transfer. O. Reg. 776/93, s. 74 (2).

COLLATERAL BENEFITS

75. (1) The insurer may deduct the following amounts from the amount payable to an insured person for weekly income replacement benefits under Part II, education disability benefits under section 15, caregiver benefits under Part IV, other disability benefits under Part V or weekly loss of earning capacity benefits under Part VI:

1. Net payments for loss of income that have been received by the insured person as a result of the accident under the laws of any jurisdiction or under any income continuation plan.
2. Net payments for loss of income that have not been received by the insured person but are available to the insured person as a result of the accident under the laws of any jurisdiction or under any income continuation plan, unless the insured person has applied to receive the payments for loss of income. O. Reg. 776/93, s. 75 (1); O. Reg. 781/94, s. 22.

(2) Despite subsection (1), no deduction shall be made for,

- (a) unemployment insurance benefits that have been received by or are available to the insured person;
- (b) payments under a sick leave plan that have not been received by the insured person but are available to the insured person; or
- (c) payments under a workers' compensation law or plan that have not been received by the insured person and to which the insured person is not entitled because the insured person has elected under the workers' compensation law or plan to bring an action. O. Reg. 776/93, s. 75 (2).

(3) Subsection (1) does not apply to,

- (a) weekly income replacement benefits paid to a person to whom subsection 12 (2) applies; or
- (b) weekly loss of earning capacity benefits that have been adjusted under subsection 35 (1). O. Reg. 776/93, s. 75 (3).

(4) The insurer may deduct the following amounts from any weekly income replacement benefits payable to an insured person under Part II, any weekly education disability benefits payable to an insured person under section 15, any weekly caregiver benefits payable to an insured person under Part IV or any weekly disability benefits payable to an insured person under Part V:

1. Any temporary disability benefits being received by the insured person in respect of a period following the accident and in respect of an impairment that occurred before the accident.
2. Any other periodic benefit being received by the insured person in respect of a period following the accident and in respect of an impairment that occurred before the accident, if the insured person was receiving the other periodic benefit at the time he or she first qualified for the weekly income replacement benefits under Part II, weekly education disability benefits under section 15, weekly caregiver benefits under Part IV or weekly disability benefits under Part V, and, at that time, the other periodic benefit was a temporary disability benefit. O. Reg. 776/93, s. 75 (4).

(5) Subsection (4) does not apply to weekly income replacement benefits paid to a person to whom subsection 12 (2) applies. O. Reg. 776/93, s. 75 (5).

(6) The insurer may deduct the following amounts from the amount of the weekly supplement payable to a person under section 32:

1. Net payments for loss of income that have been received by the insured person as a result of the accident under the laws of any jurisdiction or under any income continuation plan in respect of the employment in which the person is unable to engage during the temporary period, except to the extent that the net payments for loss of income have been deducted under subsection (1) from the amount of the weekly loss of earning capacity benefits payable to the insured person.
2. Net payments for loss of income that have not been received by the insured person but are available to the insured person as a result of the accident under the laws of any jurisdiction or under any income continuation plan in respect of the employment in which the person is unable to engage during the temporary period, unless the insured person has applied to receive the payments for loss of income, except to the extent that the net payments for loss of income have been deducted under subsection (1) from the amount of the weekly loss of earning capacity benefits payable to the insured person. O. Reg. 776/93, s. 75 (6).

(7) Despite subsection (6), no deduction shall be made for,

- (a) unemployment insurance benefits that have been received by or are available to the insured person; or
- (b) payments under a sick leave plan that have not been received by the insured person but are available to the insured person. O. Reg. 776/93, s. 75 (7).

(8) For the purpose of this section, net payments for loss of income shall be determined by subtracting from the gross amount of payments for loss of income the income tax payable by the person under the *Income Tax Act* (Canada) and the *Income Tax Act* (Ontario) on the gross amount of payments for loss of income. O. Reg. 776/93, s. 75 (8).

(9) Despite subsection (8), an insurer may elect that all determinations required by this section of net payments for loss of income be made in accordance with the publication of the Ontario Insurance Commission dated November 25, 1993 and entitled "Net Payments for Loss of Income (Collateral Benefits) Table". O. Reg. 776/93, s. 75 (9).

(10) Subject to subsection (11), an election under subsection (9) applies to all persons in respect of whom determinations of net payments for loss of income are required by this section. O. Reg. 776/93, s. 75 (10).

(11) An election under subsection (9) does not apply to a determination of net payments for loss of income if the gross payments for loss of income exceed \$1,850 per week. O. Reg. 776/93, s. 75 (11).

(12) An election under subsection (9) may be revoked. O. Reg. 776/93, s. 75 (12).

(13) No payment is required for that portion of an expense referred to in Part VII, VIII, X or XIII that is reasonably available in respect of the insured person under any insurance plan or law or under any other plan or law. O. Reg. 776/93, s. 75 (13).

WORKERS' COMPENSATION BENEFITS

76. (1) The insurer is not required to pay benefits under this Regulation in respect of any insured person who, as a result of an accident, is entitled to receive benefits under any workers' compensation law or plan. O. Reg. 776/93, s. 76 (1).

(2) Subsection (1) does not apply in respect of an insured person who elects to bring an action referred to in section 10 of the *Workers' Compensation Act* so long as the election is not made primarily for the purpose of claiming benefits under this Regulation. O. Reg. 776/93, s. 76 (2).

(3) If a person is entitled to receive benefits under this Regulation as a result of an election made under section 10 of the *Workers' Compensation Act*, no benefits are payable to the person under Part II, III, IV or V in respect of any period of time before the person makes the election. O. Reg. 776/93, s. 76 (3).

(4) If a person who would be entitled to benefits under this Regulation in the absence of subsection (1) elects to bring an action referred to in section 10 of the *Workers' Compensation Act* and there is a dispute concerning the insurer's liability to pay an expense for a vocational rehabilitation program that the person was attending at the time of the election and continues to attend, the insurer shall pay the expense pending resolution of the dispute. O. Reg. 776/93, s. 76 (4).

(5) Despite subsection (1), if there is a dispute about whether subsection (1) applies to a person, the insurer shall pay full benefits to the person under this Regulation pending resolution of the dispute if,

- (a) the person makes an assignment to the insurer of any benefits under any workers' compensation law or plan to which he or she is or may become entitled as a result of the accident; and
- (b) the administrator or board responsible for the administration of the workers' compensation law or plan approves the assignment. O. Reg. 776/93, s. 76 (5).

ACCIDENTS IN QUEBEC

77. (1) The insurer shall pay with respect to a person insured in Quebec who dies or who sustains an impairment as a result of an accident in Quebec or who incurs a cost described in section 36 or 40, as the person may elect,

- (a) benefits provided by this Regulation, other than benefits referred to in clause (b); or
 - (b) benefits in the same amounts and subject to the same conditions as if the person was a resident of Quebec (as defined in the *Automobile Insurance Act* (Quebec) and the regulations made under that Act) and was entitled to payments under that Act and those regulations. O. Reg. 776/93, s. 77 (1).
- (2) A person who elects to claim a benefit as provided in clause (1) (a) is thereafter eligible only for benefits referred to in that clause. O. Reg. 776/93, s. 77 (2).
- (3) A person who elects to claim a benefit as provided in clause (1) (b) is thereafter ineligible for benefits referred to in clause (1) (a). O. Reg. 776/93, s. 77 (3).
- (4) For the purpose of this Part, a person is insured in Quebec if the person at the time of the accident,
- (a) was authorized by law to be or to remain in Canada and was living and ordinarily present in Ontario;
 - (b) met the criteria prescribed for recovery under the *Automobile Insurance Act* (Quebec);
 - (c) was not the owner or driver of, or an occupant of an automobile registered in Quebec; and
 - (d) was,
 - (i) an occupant of the insured automobile,
 - (ii) the named insured, his or her spouse or a dependant of either of them while the occupant of any automobile,
 - (iii) a person who was not the occupant of an automobile and was struck by the insured automobile,
 - (iv) the named insured, his or her spouse or a dependant of either of them and was struck by any automobile,
 - (v) if the named insured is a corporation, unincorporated association, partnership or sole proprietorship, a person for whose regular use the insured automobile was supplied, his or her spouse or a dependant of either of them who suffered an impairment,
 - (A) while the occupant of any automobile,
 - (B) by any automobile while not the occupant of the automobile, or
 - (vi) a person struck by an automobile that was driven by a person described in subclause (i), (ii) or (v). O. Reg. 776/93, s. 77 (4).

NON-RESIDENTS

- 78.** (1) A benefit set out in this Regulation that is paid in respect of a person who was not living and ordinarily present in Ontario at the time of the accident shall, if the benefit is provided under a contract evidenced by a motor vehicle liability policy issued in Ontario or under the *Motor Vehicle Accident Claims Act*, be reduced by the extent to which the person was at fault or negligent in the accident. O. Reg. 776/93, s. 78 (1).
- (2) Subsection (1) does not apply to a benefit paid to a person who, at the time of the accident,
- (a) was an occupant of an insured automobile;
 - (b) was a named insured under a contract evidenced by a motor vehicle liability policy; or
 - (c) was the spouse of a person referred to in clause (b) or a dependant of the person or of his or her spouse. O. Reg. 776/93, s. 78 (2).

PART XVIII INDEXATION

WEEKLY BENEFITS

- 79.** (1) Each of the following amounts shall be revised, effective the 1st day of January in every year after 1994, by adjusting the amount by the indexation percentage published under section 268.1 of the *Insurance Act*:
1. The net weekly income from employment used to determine the amount of a person's weekly income replacement benefit under Part II.
 2. The amount of a person's weekly education disability benefit under section 15.
 3. The amount of a person's weekly caregiver benefit under Part IV.
 4. The net weekly incomes used to determine the amount of a person's weekly loss of earning capacity benefit under Part VI, if the benefit is payable to a person who is less than sixty-five years of age.
 5. The amount of a person's weekly loss of earning capacity benefit under Part VI, if the person is sixty-five years of age or more and is not receiving a weekly benefit of \$185 under subsection 35 (2). O. Reg. 776/93, s. 79 (1).

(2) Subsection (1) does not apply to the amount referred to in paragraph 1 of subsection (1) if the person has been receiving the weekly income replacement benefits for less than one year after the onset of the disability in respect of which the benefits are payable. O. Reg. 776/93, s. 79 (2).

(3) No amount shall be reduced by the operation of subsection (1). O. Reg. 776/93, s. 79 (3).

(4) The amount of a weekly loss of earning capacity benefit under Part VI that is payable to a person who is receiving a weekly benefit of \$185 under subsection 28 (3) or 35 (2) shall be revised to the amount to which it would have been revised under subsection (1) if subsection 28 (3) or 35 (2) had never applied to the person, effective the 1st day of January in the year in which, if subsection 28 (3) or 35 (2) had never applied, the person's weekly benefit would have been revised to an amount greater than \$185. O. Reg. 776/93, s. 79 (4).

MONETARY AMOUNTS IN THIS REGULATION

80. (1) Every monetary amount referred to in this Regulation shall be revised, effective the 1st day of January in every year after 1994, by adjusting the amount by the indexation percentage published under section 268.1 of the *Insurance Act*. O. Reg. 776/93, s. 80 (1).

(2) On or before the 1st day of January in every year, the Superintendent shall publish in *The Ontario Gazette* the amounts to which each monetary amount referred to in this Regulation will be revised by the operation of subsection (1). O. Reg. 776/93, s. 80 (2); O. Reg. 304/98, s. 6.

(3) Subsections (1) and (2) do not apply to the following amounts:

1. The \$185 amount referred to in subsection 10 (2).
2. The \$185 amount referred to in subsection 19 (2).
3. The \$185 amount referred to in subsection 28 (3).
4. The \$185 amount referred to in subsection 35 (2).
- 4.1 The \$3,000 amount referred to in subsection 36 (5).
- 4.2 The \$2,000 amount referred to in clause 39 (2) (b).
- 4.3 The \$1,850 amount referred to in subsection 75 (11).
5. The \$185 amount referred to in paragraph 5 of subsection 79 (1).
6. The \$185 amounts referred to in subsection 79 (4).
7. The \$96,200 amount referred to in clause 82 (3) (a).
8. The \$1,850 amount referred to in clause 82 (3) (b). O. Reg. 776/93, s. 80 (3); O. Reg. 781/94, s. 23.

PART XIX INCOME CALCULATIONS

NET WEEKLY INCOME FORMULA

81. (1) For the purpose of this Regulation, a person's net weekly income from employment shall be determined in accordance with the following formula:

$$A = \frac{B - C - D - E}{52}$$

where,

A = the person's net weekly income from employment,

B = the person's gross annual income from employment,

C = the annual premium payable by the person under the *Unemployment Insurance Act* (Canada) on the gross annual income from employment,

D = the annual contribution payable by the person under the *Canada Pension Plan* on the gross annual income from employment,

E = the income tax payable by the person under the *Income Tax Act* (Canada) and the *Income Tax Act* (Ontario) on the gross annual income from employment.

O. Reg. 776/93, s. 81 (1).

(2) For the purpose of subsection (1), the person whose net weekly income from employment is to be determined shall be deemed to be a resident of Ontario. O. Reg. 776/93, s. 81 (2).

NET WEEKLY INCOME TABLES

82. (1) Despite subsections 10 (5) and 19 (5) and section 81, an insurer may elect that,

- (a) in the case of persons whose income from employment does not include income from self-employment, all determinations required by this Regulation of a person's net weekly income from employment or net income in respect of an employment subsequent to an accident shall be made in accordance with the publication of the Ontario Insurance Commission dated November 25, 1993 and entitled "Net Weekly Income Table — Other than Self-Employment"; and
- (b) in the case of persons whose income from employment consists only of income from self-employment, all determinations required by this Regulation of a person's net weekly income from employment or net income in respect of an employment subsequent to an accident shall be made in accordance with the publication of the Ontario Insurance Commission dated November 25, 1993 and entitled "Net Weekly Income Table — Self-Employment". O. Reg. 776/93, s. 82 (1).

(2) Subject to subsection (3), an election under subsection (1) applies to all persons described in subsection (1) in respect of whom determinations of net weekly income from employment and net income in respect of an employment subsequent to an accident are required by this Regulation. O. Reg. 776/93, s. 82 (2).

(3) An election under subsection (1) does not apply to,

- (a) a determination of net weekly income from employment if the person's gross annual income from employment exceeds \$96,200; or
- (b) a determination of net income in respect of an employment subsequent to an accident if the gross income received from the employment exceeds \$1,850 per week. O. Reg. 776/93, s. 82 (3).
- (4) An election under subsection (1) may be revoked. O. Reg. 776/93, s. 82 (4).

INCOME FROM SELF-EMPLOYMENT

83. For the purpose of this Regulation, a person's income from self-employment shall be determined in the same manner as the person's profit from the business in which the person was self-employed would be determined under the *Income Tax Act* (Canada) and the *Income Tax Act* (Ontario), but without taking into account,

- (a) expenses that are eligible for capital cost allowance or an allowance on eligible capital property;
- (b) capital gains or losses; or
- (c) losses deductible under section 111 of the *Income Tax Act* (Canada). O. Reg. 776/93, s. 83.

PRE-DETERMINED INCOME FROM SELF-EMPLOYMENT

84. Despite section 83, an insurer and a named insured who is self-employed and not otherwise employed may agree in a contract evidenced by a motor vehicle liability policy that, for the purpose of determining benefits under this Regulation in respect of an accident that occurs during the period covered by the contract, the named insured's gross income from self-employment for every week shall be deemed to be the weekly income amount specified in the contract if, at the time of the accident, the person continues to engage in the self-employment in which he or she engaged at the time the contract was entered into and the person is not otherwise employed. O. Reg. 776/93, s. 84.

INCOME TAX CALCULATIONS

85. (1) For the purpose of this Regulation, the income tax payable by a person under the *Income Tax Act* (Canada) and the *Income Tax Act* (Ontario) shall be determined having regard to only the following deductions and tax credits that apply to the person under those Acts:

1. Alimony and maintenance payments deduction.
2. Basic personal tax credit.
3. Married person's tax credit or equivalent to married tax credit.
4. Age tax credit.
5. Disability tax credit.
6. Unemployment insurance premium tax credit.
7. *Canada Pension Plan* tax credit.
8. *Quebec Pension Plan* tax credit. O. Reg. 776/93, s. 85 (1).

(2) If a determination of the income tax payable by a person under the *Income Tax Act* (Canada) and the *Income Tax Act* (Ontario) is necessary to determine the amount of a benefit under this Regulation, a person who applies for the benefit shall provide the insurer with such information as is reasonably necessary to enable the insurer to determine the income tax payable by the insured person under the *Income Tax Act* (Canada) and the *Income Tax Act* (Ontario). O. Reg. 776/93, s. 85 (2).

(3) Failure to comply with subsection (2) does not relieve the insurer from any time limit established by this Regulation for the payment of the benefit, but the insurer shall determine the amount of the benefit on the basis of its best estimate of the income tax payable by the person under the *Income Tax Act* (Canada) and the *Income Tax Act* (Ontario), subject to later adjustment of the amount of the benefit when subsection (2) is complied with. O. Reg. 776/93, s. 85 (3).

CONVERSION OF PART-TIME INCOME TO FULL-TIME INCOME

86. (1) For the purpose of subsection 29 (1), a person's net weekly income used in determining the person's pre-accident earning capacity shall be converted to a full-time net weekly income in accordance with this section if,

- (a) the person was employed on a part-time basis at some point during the period of time used under section 9 for the purpose of determining the amount of the person's weekly income replacement benefits;
- (b) the person would have worked on a full-time basis at some time after the accident; and
- (c) the gross income used under section 9 for the purpose of determining the amount of the person's weekly income replacement benefits includes income from employment other than self-employment. O. Reg. 776/93, s. 86 (1).

(2) The full-time net weekly income shall be determined in accordance with section 81 or 82 using a gross annual income determined in accordance with the following formula:

$$A = B \times C \times 52$$

where,

A = the gross annual income,

B = the person's hourly rate of wages or salary in the employment designated under subsection (3),

C = the number of hours in a regular work week for a person employed on a full-time basis in the employment designated under subsection (3), determined in accordance with subsection (4).

O. Reg. 776/93, s. 86 (2).

(3) For the purpose of subsection (2), the person shall designate one employment, other than self-employment, in which the person engaged on a part-time basis during the time period used under section 9 for the purpose of determining the amount of the person's weekly income replacement benefits. O. Reg. 776/93, s. 86 (3).

(4) For the purpose of subsection (2), the number of hours in a regular work week for a person employed on a full-time basis in the employment designated under subsection (3) shall be determined in accordance with the following rules:

1. If the number of hours in a regular work week for a person employed on a full-time basis is fixed by a collective agreement or by law for a person employed in the position in which the person whose full-time net weekly income is to be determined was employed, that number of hours shall be used for the purpose of subsection (2).
2. If rule 1 does not apply but there is a standard number of hours in a regular work week for a person employed on a full-time basis in the position in which the person whose full-time net weekly income is to be determined was employed, that number of hours shall be used for the purpose of subsection (2).
3. If rules 1 and 2 do not apply but there is a standard number of hours in a regular work week for other persons employed on a full-time basis in the workplace in which the person whose full-time net weekly income is to be determined was employed, that number of hours shall be used for the purpose of subsection (2).
4. If rules 1 to 3 do not apply but there is a standard number of hours in a regular work week for persons employed on a full-time basis in the industry or profession in which the person whose full-time net weekly income is to be determined was employed, that number of hours shall be used for the purpose of subsection (2).
5. If rules 1 to 4 do not apply but there is a reasonable method for establishing the number of hours in a regular work week for a person employed on a full-time basis for the purpose of subsection (2), that method shall be used.
6. If rules 1 to 5 do not apply, the number of hours in a regular work week for a person employed on a full-time basis shall be deemed to be 36.5 hours for the purpose of subsection (2). O. Reg. 776/93, s. 86 (4).

SEVERANCE PAY, TERMINATION PAY

87. For the purpose of this Regulation, payments of severance pay or termination pay shall not be included in a determination of a person's income. O. Reg. 776/93, s. 87.

PART XX MISCELLANEOUS

APPLICATION

88. (1) The benefits set out in this Regulation shall be provided under every contract evidenced by a motor vehicle liability policy in respect of accidents occurring after December 31, 1993 and before November 1, 1996. O. Reg. 463/96, s. 2.

(2) Benefits payable under this Regulation in respect of an insured person shall be paid by the insurer who is liable to pay under subsection 268 (2) of the *Insurance Act*. O. Reg. 776/93, s. 88 (2).

(3) Subject to Part XIV, the insurer shall pay the benefits under this Regulation despite section 225, subsection 233 (1), section 240 and subsection 265 (3) of the *Insurance Act*. O. Reg. 776/93, s. 88 (3).

METHOD OF PAYMENT

89. Subject to clause 69 (1) (b) and to section 271 of the *Insurance Act*, payment of a benefit under this Regulation shall be made by cheque payable to the person entitled to the benefit, despite any direction to the contrary. O. Reg. 776/93, s. 89.

ASSIGNMENT OF BENEFITS

90. (1) The assignment of a benefit under this Regulation is void. O. Reg. 776/93, s. 90 (1).

(2) Subsection (1) does not apply to,

(a) the assignment of a benefit to the Ministry of Community and Social Services; or

(b) the assignment of a benefit to the Ministry of Health in respect of a service, benefit or entitlement provided under an Act the administration of which was transferred by Order-in-Council from the Ministry of Community and Social Services to the Ministry of Health. O. Reg. 776/93, s. 90 (2).

COMPANY AUTOMOBILES, RENTAL AUTOMOBILES

91. (1) Subject to subsection (3), if an insured automobile is made available for the regular use of an individual who is living and ordinarily present in Ontario by a corporation, unincorporated association, partnership, sole proprietorship or other entity, or an insured automobile is rented to an individual who is living and ordinarily present in Ontario, the individual shall be deemed for the purpose of this Regulation to be the named insured. O. Reg. 776/93, s. 91 (1); O. Reg. 781/94, s. 24 (1).

(2) Subject to subsection (3), if an insured automobile is made available for the regular use of an individual who is not living and ordinarily present in Ontario by a corporation, unincorporated association, partnership, sole proprietorship or other entity, the individual shall be deemed for the purpose of this Regulation to be the named insured while the individual, his or her spouse or any dependant of either of them is an occupant of the insured automobile. O. Reg. 776/93, s. 91 (2); O. Reg. 781/94, s. 24 (2).

(3) Subsections (1) and (2) apply in respect of accidents occurring before January 1, 1995. O. Reg. 781/94, s. 24 (3).

(4) Subject to subsection (7), if an insured automobile is made available for the regular use of an individual who is living and ordinarily present in Ontario by a corporation, unincorporated association, partnership, sole proprietorship or other entity, or if an insured automobile is rented for a period of more than 30 days to an individual who is living and ordinarily present in Ontario, the individual shall be deemed to be the named insured under the policy insuring the automobile for the purpose of payment of the statutory accident benefits set out in this Regulation. O. Reg. 781/94, s. 24 (3).

(5) Subject to subsection (7), if an insured automobile is rented for a period of 30 days or less to an individual who is living and ordinarily present in Ontario, the individual shall be deemed not to be the named insured under the policy insuring the automobile for the purpose of payment of the statutory accident benefits set out in this Regulation. O. Reg. 781/94, s. 24 (3).

(6) Subject to subsection (7), if an insured automobile is made available for the regular use of an individual who is not living and ordinarily present in Ontario by a corporation, unincorporated association, partnership, sole proprietorship or other entity, the individual shall be deemed to be the named insured under the policy insuring the automobile while the individual, his or her spouse or any dependant of either of them is an occupant of the insured automobile. O. Reg. 781/94, s. 24 (3).

(7) Subsections (4), (5) and (6) apply in respect of accidents occurring on or after January 1, 1995. O. Reg. 781/94, s. 24 (3).

COPIES OF REGULATION

92. On request, the insurer shall provide a copy of this Regulation without charge to a named insured or a person entitled to benefits under this Regulation. O. Reg. 776/93, s. 92.

NOTICES

93. If an insurer is required or permitted by this Regulation to give a notice to an insured person, the notice shall be given in writing. O. Reg. 776/93, s. 93.

FORMS

94. Each of the following documents shall be in a form approved by the Superintendent:

1. A certificate under subsection 13 (5).
2. A certificate under subsection 32 (2).
3. A certificate under subsection 34 (1).

4. REVOKED: O. Reg. 26/06, s. 31.
- 4.1 An explanation under subsection 39.1 (5).
- 4.2 A notice under subsection 39.1 (6).
5. REVOKED: O. Reg. 26/06, s. 31.
- 5.1 An explanation under subsection 45.1 (5).
- 5.2 A notice under subsection 45.1 (6).
- 5.3 An explanation under subsection 50.1 (4).
- 5.4 A notice under subsection 50.1 (5).
6. The application forms referred to in clause 59 (2) (a).
7. The explanation required by clause 59 (2) (b).
8. A certificate under section 60.
9. An election under subsection 61 (3) or (6).
10. An explanation under subsection 62 (7).
11. A notice under subsection 62 (8).
12. REVOKED: O. Reg. 781/94, s. 25 (2).
13. REVOKED: O. Reg. 26/06, s. 31.
14. REVOKED: O. Reg. 781/94, s. 25 (4).
15. REVOKED: O. Reg. 781/94, s. 25 (4).
16. An explanation under subsection 67 (3).
17. A notice under subsection 67 (4).
18. An agreement under section 84. O. Reg. 776/93, s. 94; O. Reg. 781/94, s. 25; O. Reg. 304/98, s. 7; O. Reg. 26/06, s. 31.

TITLE

95. This Regulation may be cited as the *Statutory Accident Benefits Schedule — Accidents after December 31, 1993 and before November 1, 1996*. O. Reg. 463/96, s. 3.

96. OMITTED (PROVIDES FOR COMING INTO FORCE OF PROVISIONS OF THE ENGLISH VERSION OF THIS REGULATION). O. Reg. 776/93, s. 96.

FORM 1
ASSESSMENT OF ATTENDANT CARE NEEDS

Insurance Act

Return this form to:

Policy No.
Claim No.

Use this form to report the future needs for attendant care required by the client as a result of an automobile accident. This form has five parts:

- Part 1: Level 1 Attendant Care
- Part 2: Level 2 Attendant Care
- Part 3: Level 3 Attendant Care
- Part 4: Calculation of Attendant Care Costs
- Part 5: Signature of Assessor(s)

Please complete all relevant parts. You will have to make copies and give one to:

- the client
- the client's health practitioner
- the client's insurance company

Client's Name	Client's Name	Date of Birth	
	Street Address	Date of Accident	
	City	Province	Postal Code
	Name of Policyholder (if different than above)	Policy No.	

What is the date of this assessment?

Is this the first assessment of this client? Yes No

Date of Last Assessment
Current Monthly Allowance

Client's Health Practitioner	Name of Health Practitioner	Telephone No.
	Facility or Institution	
	Street Address	
	City	Province

Insurance Company	Name	Telephone No.	
	Street Address		
	City	Province	Postal Code
	Name of Policyholder	Policy No.	

**Part 1:
Level 1
Attendant Care**

Level 1 attendant care is for routine personal care. Please assess the care requirements of the client for each activity listed. Estimate the time it takes to perform each activity, and the number of times each week it should be performed. Multiply the number of minutes by the number of times each week the activity should be performed to get the total number of minutes per week for each activity.

		Number of minutes	x Times per week	= Total minutes per week
Dress	Upper Body (for example, underwear, shirt / blouse, sweater, tie, jacket, gloves, jewelry)			
	Lower Body (for example, underwear, disposable briefs, skirt / pants, socks, panty hose, slippers, shoes)			
	Subtotal			
Undress	Upper Body (for example, underwear, shirt / blouse, sweater, tie, jacket, gloves, jewelry)			
	Lower Body (for example, underwear, disposable briefs, skirt / pants, socks, panty hose, slippers, shoes)			
	Subtotal			
Prosthetics	applies upper / lower limb prosthesis and stump sock(s)			
	exchanges terminal devices and adjusts prosthesis as required			
	ensures prosthesis is properly maintained and in good working condition			
	Subtotal			
Orthotics	assists dressing client using prescribed orthotics (for example, burn garment(s), brace(s), supports, splints, elastic stockings)			
	Subtotal			
Grooming	Face: wash, rinse, dry, morning and evening			
	Hands: wash, rinse, dry, morning and evening, before and after meals, and after elimination			
	Shaving: shaves client using an electric / safety razor			
	Cosmetics: applies makeup as desired or required			
	Hair:			
	Brushes / combs as required			
	shampoos, blow / towel dries			
	performs styling, set and comb-out			
	Fingernails: cleans and manicures as required			
	Toenails: cleans and trims as required			
Subtotal				

Part 1 continued . . .

Number of minutes x Times per week = Total minutes per week

Feeding	prepares client for meals (includes transfer to appropriate location)		
	provides assistance, either in whole or in part, in serving and feeding meals		
	Subtotal		

Mobility (location change such as to and from the bedroom for afternoon rests)	assists client from a sitting position (for example, wheelchair, chair, sofa)		
	Supervises / assists in walking		
	performs transfer needs as required (for example, bed to wheelchair, wheelchair to bed)		
	Subtotal		

Extra Laundering	launders client's bedding and clothing as a result of incontinence spillage		
	Launders / cleans orthotic supplies that require special care		
	Subtotal		

Part 1 Total - Add all Part 1 Subtotals. Fill in total here and in Part 4 on Page 7.

**Part 2:
Level 2
Attendant Care**

Level 2 attendant care is for basic supervisory functions. Please assess the care requirements of the client for each activity listed. Estimate the time it takes to perform each activity, and the number of times each week it should be performed. Multiply the number of minutes by the number of times each week the activity should be performed to get the total number of minutes per week for each activity.

Hygiene	Bathroom		
	clean tub / shower / sink / toilet after client's use		
	Bedroom		
	changes client's bedding, makes bed, cleans bedroom, including Hoyer lifts, overhead bars, bedside tables		
	ensures comfort, safety and security in this environment		
	Clothing Care		
	assists in preparing daily wearing apparel		
	hangs clothes and sorts clothing to be laundered / cleaned		
Subtotal			

Part 2 continued . . .

Number of minutes x Times per week = Total minutes per week

Ventilator Dependent (high level quadriplegic or approx.)	client lacks the capacity to reattach tubing if it becomes detached from the trachea			
	client lacks the physical capacity to be self-sufficient in an emergency situation			
	Subtotal			

Spinal Cord Injuries (paraplegic / quadriplegic)	client requires assistance to transfer from bed to wheelchair, periodic turning, genitourinary care			
	client lacks the physical capacity to be self-sufficient in an emergency situation			
	Subtotal			

Severe Head Injuries	client lacks ability to respond to an emergency or needs custodial care due to changes in behaviour			
	Subtotal			

Attendant Care on an Intermittent Basis	client lives alone or is left alone in the day, determine the degree to which the client may be dependent on others (for example, meals, laundry, housekeeping)			
	client may be independent during the day when in a wheelchair or wearing a prosthesis, but needs assistance for meals, laundry			
	Subtotal			

Multiple Amputations (upper bilateral, triple, quadruple amputee)	client lacks the ability to independently get in and out of a wheelchair or to be self-sufficient in an emergency			
	Subtotal			

Financial Affairs	client requires assistance in managing financial affairs (maximum 1 hour per week)			
	Subtotal			

Part 2 Total - Add all Part 2 Subtotals. Fill in total here and in Part 4 on Page 7.

--

**Part 3:
Level 3
Attendant Care**

Level 3 attendant care is for complex health / care and hygiene functions. Please assess the care requirements of the client for each activity listed. Estimate the time it takes to perform each activity, and the number of times each week it should be performed. Multiply the number of minutes by the number of times each week the activity should be performed to get the total number of minutes per week for each activity.

Number of minutes x Times per week = Total minutes per week

	Number of minutes	x	Times per week	=	Total minutes per week
Genitourinary Tracts	performs catheterizations				
	positions, empties and cleans drainage systems				
	cleans client and equipment after procedure / incontinence				
	uses disposable briefs as required				
	attends to menstrual cycle needs as required				
	monitors residuals				
	Subtotal				

Bowel Care	administers enemas or suppositories and performs stimulation or disimpaction				
	performs colostomy and / or ileostomy care				
	positions, empties and cleans drainage systems, including ilio-conduits				
	uses disposable briefs as required				
	cleans client and equipment after procedure / evacuation				
	Subtotal				

Tracheostomy Care	changes and cleans inner and outer cannulae as needed				
	changes tapes as required				
	performs suctioning as required				
	cleans and maintains suction equipment				
	Subtotal				

Ventilator Care	ensures volume rate and pressure are maintained as prescribed				
	maintains humidification as specified				
	changes and cleans tubing and filters as required				
	cleans humidification system as required				
	adjusts settings according to client needs (for example, colds, congestion)				
	Subtotal				

Exercise	assists client with prescribed exercise / stretching program				
	assists client with walking activities using crutches, canes, braces and / or walker				
	Subtotal				

Number of minutes x Times per week = Total minutes per week

	Number of minutes	x	Times per week	=	Total minutes per week
Skin Care (excluding bathing)	attends to skin care needs - wounds, sores, eruptions, (amputees, severe burns, spinal cord injuries, etc.)				
	applies medication and prescribed dressings				
	applies creams, lotions, pastes, ointments, powders as prescribed or required				
	checks body area(s) for evidence of pressure sores, skin breakdown or eruptions				
	periodic turning to prevent or minimize pressure sores and skin breakdown / shearing				
				Subtotal	

Medication	Oral				
	administers prescribed medications				
	monitors medication intake and effect				
	maintains and controls medication supply				
	Injections				
	administers prescribed medications				
	monitors medication intake and effect				
	maintains and controls medication supply				
	Inhalation / Oxygen Therapy				
	administers prescribed dosage as required				
	maintains and controls inhalation supplies				
	cleans and maintains equipment				
					Subtotal

Bathing	Bathtub or Shower				
	transfers client to and from bed, wheelchair or Hoyer lifts to bathtub or shower				
	bathes and dries client				
	applies creams, lotions, pastes, ointments, powders as prescribed or required				
	Bed Bath				
	prepares equipment				
	bathes and dries client				
	applies creams, lotions, pastes, ointments, powders as prescribed or required				
	cleans and maintains bed / bath equipment				
	Oral Hygiene				
	brushes and flosses				
	cleanses mouth as required				
	cleans dentures as required				
				Subtotal	

Part 3 continued . . .

Number of minutes x Times per week = Total minutes per week

Other Therapy	Transcutaneous Electrical Nerve Stimulation (TENS)			
	prepares equipment			
	administers treatment as prescribed or required			
	Dorsal Column Stimulation (DCS)			
	monitors skin			
	maintains equipment			
Subtotal				

Maintenance of Supplies and Equipment	monitors, orders and maintains required supplies / equipment			
	ensures wheelchairs, prosthetic devices, Hoyer lifts, shower commodes and other specialized medical equipment and assistive devices are safe and secure			
Subtotal				

Part 3 Total - Add all Part 3 Subtotals. Fill in total here and below.

**Part 4:
Calculation of
Attendant Care
Costs**

This part must be completed by the assessor. Calculate the monthly attendant care allowance for Part 1, 2 and 3. The sum of all three parts will be the Total Assessed Monthly Attendant Care Benefit.

	Total Minutes per week	÷ 60 =	Total Weekly Hours	x 4.3 =	Total Monthly Hours	x	Hourly Rate	=	Monthly Care Benefit
Part 1 (from Pg. 3)	<input type="text"/>		<input type="text"/>		<input type="text"/>		<input type="text"/>		<input type="text"/>
Part 2 (from Pg. 4)	<input type="text"/>		<input type="text"/>		<input type="text"/>		<input type="text"/>		<input type="text"/>
Part 3 (from Pg. 7)	<input type="text"/>		<input type="text"/>		<input type="text"/>		<input type="text"/>		<input type="text"/>

Total Assessed Monthly Attendant Care Benefit
(This amount is subject to the limits allowed under the Statutory Accident Benefits Schedule)

\$

**Part 5:
Signature(s)
of Assessor(s)**

Name		Signature
Title	Date	
Name of Assessing Facility		Telephone No.
Street Address		Fax No.
City	Province	Postal Code

Français

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