

FAIR Association of Victims for Accident Insurance Reform

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FAIR Comment on SABS Regulatory Amendments made on January 21, 2013

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Ontario's accident victims support the fight on fraud - after all they are very often the unknowing victims of fraud during the course of a claim. The Anti-Fraud Task Force recognized this while specifying "Our recommendations should not make things worse for legitimate claimants." The changes to regulations on January 21, 2013 are not a reflection of the intent of the Task Force and have changed substantially from the proposals put before the public and consumers in their final report.

The new regulatory changes, specifically those at 46.3 (1): the Duty of insured person to provide information, now see the Minister of Finance placing additional stress on accident victims with burdensome questions that many accident victims would be unable to answer. Consumers who are injured, often in pain and sometimes cognitively challenged know nothing of the intricacies of a rehabilitation workers file, management time or costs, nor do they have receipts for items purchased on their behalf. Yet they will be subject to questioning on "what, when and by whom the goods and services were provided" and asked to make sworn statements on those points. Claimants who are unable to swear to the details of their goods and services will now have payments stalled under "(3) For the purpose of section 51, the amount payable by an insurer under an invoice is not overdue and no interest accrues on it during any period during which an insured person fails to comply with subsection (2)." This will disadvantage claimants in a way not intended by the Task Force. The Minister of Finance has left an open door for some unscrupulous insurers to potentially abuse vulnerable accident victims. There is no defined limitation on the amount of times insurers might request under oath testimony from innocent accident victims for goods and services. Why is that? Why would the Minister not follow the Task Force recommendation that those who provide the goods and services should also make available the signed forms confirming that the goods and services were provided? Providers of goods and services are better equipped to track expenses and will be audited on a regular basis – so why put the responsibility on the accident victim?

The implementation of these new regulations, as they read now, not only fail to "not make things worse" but the wording now has the potential to punish innocent and vulnerable accident victims even while making them soldiers in the war on fraud. FAIR feels that the language of these regulatory changes should better reflect the intent of the Anti-Fraud Task Force and that all accident victims should be treated fairly and with respect by their insurers and their government.

Fair is a not-for-profit consumer advocacy group dedicated to ensuring all accident victims are treated fairly under current automobile insurance legislation.

Rhona DesRoches

FAIR, Board Chair

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- **4. Section 33 of the Regulation is amended by adding the following subsection:**
- (9) Clause (2) (a) shall not be interpreted as prohibiting an additional examination of the applicant under oath, under Ontario Regulation 283/95 (Disputes Between Insurers) made under the Act, at the insurer’s request that is conducted for the purpose of determining who is liable under section 268 of the Act to pay statutory accident benefits in respect of the accident.
- **5. Subsection 38 (8) of the Regulation is amended by striking out “the medical and any other reasons why the insurer considers any goods, services, assessments and examinations, or the proposed costs of them, not to be reasonable or necessary” at the end and substituting “the medical reasons and all of the other reasons why the insurer considers any goods, services, assessments and examinations, or the proposed costs of them, not to be reasonable and necessary”.**
- **6. The Regulation is amended by adding the following section:**
- **Duty of insured person to provide information**
- **46.3** (1) An insurer may request any of the following information from an insured person who submits an invoice to the insurer for payment for goods or services under this Regulation, or from an insured person on whose behalf such an invoice is submitted:
 - 1. Confirmation in writing that the goods or services were provided to the insured person.
 - 2. A statutory declaration as to the circumstances that gave rise to the invoice, including particulars as to when, where and by whom the goods or services were provided.
- (2) The insured person shall give the insurer the information requested under subsection (1) within 10 business days after receiving the request.
- (3) For the purpose of section 51, the amount payable by an insurer under an invoice is not overdue and no interest accrues on it during any period during which an insured person fails to comply with subsection (2).