



October 4 2018

When insurers don't pay, the taxpayer does - How the Ontario taxpayer is subsidizing wealthy auto insurers:

Insurers routinely download the costs of accident victims onto social services such as OW, ODSP, CPP disability and OHIP. How many social services clients are actually unpaid car accident victims? We have no way to know but the number of recipients is rising faster since 2010 when insurers slashed coverage and capped 85% of injuries at \$3500 for med/rehab. *Social Assistance Summaries* https://maytree.com/wp-content/uploads/Social_Assistance_Summaries_ON.pdf

How is it that auto insurers find their injured customers are not seriously injured and yet these same patients end up on OW and then are classified as permanently disabled from work by ODSP and CPP Disability? Is it because they have lower thresholds to meet or is because people really are injured? Ontario has ended up with insurer doctors fighting our treating (OHIP funded) doctors over just how injured people are. This imposes a serious cost to our public system along with significant harm to patients who can be left behind after a poor quality medical examination (IME) report or the often shoddy or partisan expert evidence that finds its way into our civil justice system. *OPEN LETTER - sent to MPPs and media September 8, 2017* <http://www.fairassociation.ca/wp-content/uploads/2017/09/OPEN-LETTER-sent-to-MPPs-and-media-Sept-8-2017.pdf>

Taxpayers end up paying for prescription drugs, therapies and assistive devices when insurers fail to pay - and what about the negative result for the patients who lose funding and resources they need for maximum possible recovery? This is especially important for brain injuries where the window for treatments can be short.

The government's own 2016 HSPRN report suggested that there is a significant shortfall in the transfer payment from insurers to the province for the medical cost of treating accident victims. The Liberal government's own estimate of that cost to taxpayers was \$383,099,805 for MVAs that occurred in 2013/14. *HSPRN Report, "Cost of Public Health Services for Ontario Residents Injured as a Result of a Motor Vehicle Accident"* <http://www.fairassociation.ca/wp-content/uploads/2016/03/HSPRN-AHRQ-MVA-Report-2016-FINAL1.pdf>

The Auditor General pointed out this failure to collect the real medical costs from insurers in 2005 and 2011. No adjustment has been made to this payment since 2006 when the transfer payment was increased from \$80 million to \$142 million dollars so in the past 12 years over \$1 billion has fallen through the cracks and into wealthy insurer pockets. see page 65 *2011 Annual Report of the Office of the Auditor General of Ontario* <http://ow.ly/2cGV307S61I>

Are insurers manipulating and overwhelming our courts with cases of denied injury claims? According to StatsCan there are over **58,000** motor vehicle related cases on the civil court docket - a backlog of cases that would take decades to hear in our overloaded court system. *StatsCan 58,105 motor vehicle related cases on the civil court docket.* <https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=3510011401&pickMembers%5B0%5D=1.4&pickMembers%5B1%5D=3.2&pickMembers%5B2%5D=2.1>

According to the LAT AABS data from April 1, 2017 to March 31, 2018 LAT-AABS received **10,125** applications and as of September 21, 2018, LAT-AABS had **5,767** active cases. These are the injured patients who are in the queue for their accident benefits and recovery resources and whose cases are too often derailed by a flawed and biased hearings system designed to assist insurers. A review of the Canlii AABS LAT decisions revealed that one Ontario insurer who has less than 10% of the market share has 47% of the cases being heard at the LAT.

Aviva cases on Canlii LAT AABS

<https://www.canlii.org/en/on/onlat/#search/type=decision&cclid=onlat&sort=decisionDate&id=AABS&origType=decision&origCclid=onlat>

Did you know that the court tort (pain and suffering) deductible of \$38,000.00 is money often clawed back by rich insurance companies out of an injured person's settlement dollars? Insurers have created 'thresholds' that injured MVA victims must meet or else be subjected to this 'deductible' that juries are not told about.

Insurers have created many 'thresholds' like MIG and CAT that are obstacles to recovery and serve insurers as excuses not to pay the costs victims incur. These thresholds are the catalyst to the ensuing court overload the taxpayer is paying for. Insurers know victims don't have the resources to hold them to account so our courts are routinely used as a club to intimidate injured Ontarians and this includes the LAT where plaintiffs are not awarded their legal costs. This has created an access to justice issue.

Did you know that there are little to no dis-incentives for insurers when they fail to pay a claim? Car accident victims must even pay the cost of filing a claim against their errant insurer while insurers pay nothing. Pre-judgment interest (PJI) or the interest owing on monies insurers have wrongly withheld from MVA victims is now 1.3% per year and is significantly down from the prior 2% per month on overdue payments. Too often the cost of holding the insurer to their promised coverage is too high and recoveries are delayed when timeliness is lost. It costs more to hire legal representation and present your evidence than can be recovered and insurers know this.

"In 2013, Aviva paid \$44 million to its own lawyers to handle claims in dispute—that means either in litigation in the court system or in dispute through the FSCO DRS system." Karen Ots, Aviva, Queen's Park November 5 2014

https://www.ola.org/en/legislative-business/committees/general-government/parliament-41/transcripts/committee-transcript-2014-nov-05#P152_32167

After years of cutting benefits by insurers and a failure by past governments to address the core issue of poor quality medical evidence insurers use to disqualify their injured customers, the system is in a shambles. Effectively we have ended up with a blended public/private auto insurance. Private insurer profits soar when they deliberately fail to live up to their promised coverage and download the costs of accident victims to unsuspecting taxpayers.

Ontario's car accident survivors and the taxpayers who are on the hook deserve better.

A 'startling turn of events': Judge rules case points to improper influence in Ontario auto insurance disputes

<https://nationalpost.com/news/a-startling-turn-of-events-judge-rules-case-points-to-improper-influence-in-ontario-auto-insurance-disputes>

Shameful attempts by auto insurer to fight paying a teen with catastrophic injury <https://goo.gl/xJsMPK>

Licence to bill <http://ow.ly/mabB30h0n7B>

Insurance assessment firms altered, ghostwrote accident victim reports <http://ow.ly/igml30h24lw>

Hired gun in a lab coat: How medical experts help car insurers fight accident claims <http://ow.ly/n12E307LjPu>

FAIR – supporting auto accident victims through advocacy and education

fairautoinsurance@gmail.com

www.fairassociation.ca