



FAIR Association of Victims for Accident Insurance Reform

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Questions regarding the Ontario Budget 2019

<http://budget.ontario.ca/2019/chapter-1b.html#section-3>

(Page 79) The government's Putting Drivers First blueprint will give auto insurance companies the flexibility to offer drivers more choices in terms of discounts and coverage options to make their insurance policy more affordable. For example, drivers should have the choice to **lower their premiums by allowing insurers to consider their credit history, or by agreeing to use preferred providers of auto repair or health care services.**

Why would the claimant's credit be a factor? How will it be used? Who would insurers share this information with? Is this a move by auto insurers to rid themselves of those customers who don't have extra coverage through work? The public is generally unaware that auto insurers are payors of the last resort. If these individuals, who are often on the lower end of the pay scale with jobs without insurance, share their credit scores with insurers it will likely give the insurer an opportunity to deny coverage that may not have previously existed. It could push up the cost of insurance for those who can least afford it once they are labeled as a 'risk'. Certainly this is already at play in less affluent neighborhoods where, without extra coverage through work, more claims for auto insurers exist.

"Preferred providers" What does that mean? Are they preferred because of THEIR own proven experience in the field necessary to help the survivor reach maximum recovery or are they the insurers hired help? There's a history of consumer dissatisfaction with insurer preferred auto collision repair centers so why would the government consider allowing insurers, at any time, have any control over any of Ontario's vulnerable patients? It would be a step into privatized healthcare and there's plenty of evidence south of the border to say that isn't a practical or cost-saving way to deliver healthcare with good results. This is one of the few areas in which MVA victims continue to have a choice. If they find that a treatment provider isn't suitable, they have the right to change providers. This is an important step toward recovery - control over treatment. Try to imagine someone you don't trust will help you with your recovery and NOT being able to fire that person and hire another who is more suitable. We've already seen how insurers and their adjusters are making medical decisions without any medical training or expertise and how that has led to medical file manipulations by insurer experts and this failure to reign in assessor bias has clogged Ontario's court systems with wrongly denied claims.

The Option to use a service provider of the claimant's choice should be a priority. Level of recovery can increase when the claimant feels safe. **What will happen in rural areas where certain medical specialties or treatments are not easily accessible? Are insurers going to have one of their preferred**

vendors in every town in Ontario? If not, will they be paying for transportation to and from these preferred providers? An MVA victim travelling long distances to/from treatments is never a good idea.

(Page 80) A **“Care, Not Cash” default clause to ensure that a driver’s auto insurance coverage will pay for treatment instead of costly legal fees while giving the driver the option to be eligible to receive cash settlements if they so choose;**

Care but not Cash for it? There should be no cross-over of funding; care is care that insurers should pay for in its entirety, including HST. Legal fees are incurred when insurers don't stand up to their promise of coverage so essentially the high legal costs victims must bear is a direct result of an insurer failing to adjust their claim. If an insurer pays for treatments and handles a claim, there's no need for legal representation. 'Care so Cash isn't needed' or 'Care so I don't have to get a lawyer for my recovery resources' would likely save insurers dollars. It's preposterous to suggest that narrowing access to care will in any way reduce the legal costs to victims when insurers behave badly. This is a new government who is now managing the legacy of a Liberal government who removed all the disincentives and penalties for insurers who treat their customers badly. It is evidenced in the volume of court cases in the province. These are not money-hungry victims looking to cash out, these are all the claimants that insurers have kicked to the curb in order to realize greater profits. Just under 6,881 (2018) cases are pending at the LAT and an additional 56,821 (2018) are on the civil court docket. It is a system without checks and balances and with no consequences for insurers. **Is there a plan to put back some of the dis-incentives for insurers who abuse their own customers and to rein in their behavior that leads to higher legal costs?**

We are concerned at how some of these suggestions could work in tandem to create chaos for the victims and higher costs for the general public. If a consumer were to purchase coverage giving insurers' access to their credit scores and history that is a tool that can be used to leverage low-ball settlements because big insurers with deep pockets will know just how far any claimant can go to push back on an unfair denial. **If that same customer also purchased the preferred treatment deal without the suggested buy up to get cashed out, are they not completely at the mercy of the insurer treatment providers? Providers who may be so beholden to the insurer that it could lead to denying that any further treatment might be needed so there is no cash to be had anyway? Isn't it a possibility that a consumer who buys up on the option to settle out for cash and if they signed on the preferred treatment they wouldn't see those dollars anyway?**

Aren't we (and the government) only speculating insurers are losing money in Ontario because they say they are? It is the taxpayers who are the biggest losers in the last few decades as insurers manipulated legislation to download victims onto social supports with less and less costs to themselves. And with every threshold created, denials get quicker. **Isn't it time to look at their books because any business that says they are losing \$1.6 billion to fraud while creating a medical and court system catastrophe for taxpayers shouldn't be taken at their word?** Ontario's insurers have used this inflated fraud cost loss to simply tack on an additional \$237.00 per year to every insured driver's policy. **Is there a plan to gain better knowledge about where all these premium dollars end up?**

We have a concern that insurers are putting downward pressure on treatment providers' wages (Page 78) and the result may be that many competent providers will leave and no longer treat victims. It would be a loss of talent as insurers strive to pay less than WSIB and Veterans Affairs do in their systems which are considered to be far less adversarial and with less paperwork involved. **Is the plan to give car accident victims bargain-basement insurer healthcare and then have the public OHIP system pick up the pieces?**

Is there going to be a move to hold insurers to account in the budget when it comes to the download to the public healthcare system? We would have liked to have seen the healthcare transfer payment increased to reflect both inflation and the significantly higher numbers of victims downloaded to the public. The Auditor General recommended a substantial increase over a decade ago and we'd like to see some action on that to save the taxpayer dollars that are better spent on healthcare than in already wealthy insurer pockets.

Will there be anything in place to oversee insurer assessors who operate in this system with less accountability than the treatment providers? (Page 78) This is a serious oversight given that the access to treatments is reliant on these third-party vendors of medical opinions and evidence. Unlike the treatment providers whose oversight comes not only from FSCO but also from their respective regulatory Colleges, the assessors have no duty of care to the vulnerable Ontario patient whose misfortune was to end up injured and in a private system. It is no wonder that this area of medicine is a wild-west of profit based on harm. **Is the government going to continue to rely on regulation from the governing Colleges that is virtually non-existent?** This regulatory failure is behind the volume of unpaid claimants who are waiting for hearings in our courts. **Is the plan to further block claimants from holding their insurers to account or to hold insurers to account for the overuse of the system?**

Is the government considering some changes to 'joint and several liability' legislation? (Page 210) We are deeply concerned that removal of the rights of Ontario's car accident victims to hold those who may be responsible for their injuries will lead to even more MVA victims becoming dependent on our already overburdened taxpayer funded supports. Such a failure to hold others to account for what could be negligence in road maintenance or improper car manufacture or repair would seriously hinder claimants from recovering their losses while also removing considerable accountability for those who may be partially at fault for damages to individuals injured on our roads.

One only has to look at the outcome for many of Ontario's car accident survivors to know there is something amiss at the Licensed Appeal Tribunal. One auto insurer consistently has more than 40% of the hearings and there have been issues with the adjudicators and interference with the course of justice by management. Consumer confidence is eroded and accident victims have zero faith that they are being treated fairly. A functioning hearings system is an integral part of auto insurance given the extraordinary volume of claims denied in the province. **Is there a plan to restore public confidence in the LAT? Or to introduce some disincentives for insurers who overuse the system?**