

SUMMARY CHART

A Summary Chart of the most significant new policy changes that take effect on June 1, 2016, including the current policy provisions as well as consumer choices under the new policy, are set out below:

Most Significant Changes

On June 1, 2016, if a consumer is buying a new policy or renewing an existing one, brokers should be aware of the most significant changes to auto insurance:

Benefit	Current Policy	New Policy	Client Can Choose
Medical, Rehabilitation and Attendant Care Benefit for Non-Catastrophic injuries	\$50,000	\$65,000 (new combined total)	Increase the benefit to \$130,000
Attendant Care	\$36,000		Increase to \$2,000,000 (for catastrophic injuries)
Non-Catastrophic injuries (Minor injuries i.e. sprains, whiplash and serious injuries i.e. broken bones severe strains).	\$1,000,000 (for catastrophic injuries)	\$1,000,000 total for Medical, Rehabilitation and Attendant Care (for Catastrophic injuries)	Increase to \$1,000,000 (for Non-Catastrophic injuries)

Some important things to remember about these choices:

- Medical, Rehabilitation and Attendant Care benefits for minor injuries are fixed at a maximum limit of \$3,500.
- If clients purchase both the additional Medical, Rehabilitation and Attendant Care benefit for catastrophic injuries and for all injuries, the total eligible benefit amount for a catastrophic impairment would be **\$3,000,000**.

Other Optional Benefits

There are many other options available to purchase additional or increased benefits and coverages. The following chart lists some but not all of those and indicates if those options will change on **June 1, 2016**. Clients can also choose not to increase any benefit or coverage. Brokers should let clients know if they had previously purchased any optional benefits. A further review of documents is required as they may have changed.

Benefit/Coverage	Current Policy	New Policy	Client Can Choose (Options Available to Clients)
Income Replacement benefit	70% of gross income up to \$400 per week.	No change	To increase the weekly limit to \$600, \$800 or \$1,000 per week.
Caregiver benefit	Available only for catastrophic injuries: Up to \$250 per week for the first dependent plus \$50 for each additional dependent.	No change	To make the same amounts available in current policy for catastrophic injuries available for all injuries.
Housekeeping and Home Maintenance expenses	Available only for catastrophic injuries: Up to \$100 per week.	No change	To make the same amounts available in current policy for catastrophic injuries available for all injuries.
Death and Funeral benefits	\$25,000 lump sum to an eligible spouse; \$10,000 lump sum to each dependent; maximum \$6,000 funeral benefits.	No change	\$50,000 lump sum to an eligible spouse; \$20,000 lump sum to each dependent; maximum \$8,000 funeral benefits.
Dependent Care benefit	Not provided	Not provided	To purchase this benefit and add up to \$75 per week for the first dependent and \$25 per week for each additional dependent to a maximum of \$150 per week.
Indexation benefit	Not provided	Not provided	To add an annual adjustment for inflation for many benefits according to the Consumer
Third Party Liability	\$200,000 minimum for claims as a result of lawsuits against you.	No change	Options exist to increase the minimum amount.
Tort Deductible	\$36,905.40 deductible for court awarded compensation for pain and suffering (Jan. 1-Dec. 31, 2016)	No change	Reduce deductible by \$10,000 regardless of annual indexation percentage increases.

MAJOR CHANGES TO THE SABS REGIME AS SET OUT IN ONTARIO REGULATION 251/15

1. The Accident Benefit Reductions

Further reductions in available accident benefits have been introduced into legislation.

On August 27, 2015, the Ontario government posted Ontario Regulation 251/15 which amends the current Statutory Accident Benefit Schedule (known as Ontario Regulation 34/10).

The changes will only impact claims arising from accidents on or after **June 1, 2016**.

The changes will curtail the rehabilitation of seriously injured accident victims.

There are **THREE** major changes:

- a) A reduction in the non-catastrophic benefit limits and the duration that benefits are available;
- b) A major reduction in the scope of non-earner benefits; and,
- c) A reduction in the catastrophic impairment benefit limits.

Each of these changes is reviewed below:

A) A REDUCTION IN THE NON-CATASTROPHIC BENEFIT LIMITS AND THE DURATION THAT BENEFITS ARE AVAILABLE

For accidents on or after June 1, 2016, the maximum accident benefits available for non-catastrophic impairment claims has been reduced from the current total maximum of \$86,000 (being \$50,000 for medical and rehabilitation benefits plus \$36,000 in attendant care benefits) to a combined total of \$65,000 (a \$21,000 or approximately 25% total reduction).

In addition, the duration for accessing these benefits has been shortened from 10 years to 5 years (260 weeks), except in cases involving children (those under 18 at the time of the accident) where claims can be made until the claimant's 28th birthday.

This represents a significant change. Efforts should be made to educate your auto clients as to its potential impact in their coverage, as well as what options exist to increase coverage in appropriate situations.

B) REDUCTION IN THE SCOPE OF NON-EARNER BENEFITS

For students, stay at home parents, the unemployed and retirees, non-earner benefits have been available to accident victims to provide some modest weekly benefit entitlement.

While non-earner benefits are not payable for the first 6 months post-accident, they are, thereafter, payable at a rate of \$185 per week for seriously injured accident victims that have suffered 'a complete inability to carry on a normal life'. For students, the weekly amount increased to \$320 per week at the 2 year anniversary of the accident.

Non-earner of benefits have always been payable for life, assuming the claimant continues to qualify for them, although the weekly amounts are reduced after age 65.

The new legislation, applicable to claims arising from accidents on or after June 1, 2016, reduces the duration of eligibility for non-earner benefits from 'life' to a maximum duration of 2 years (while replacing the 6 month waiting period that currently applies with a four week waiting period).

Those that were about to enter or re-enter the workforce will now only be eligible for weekly benefits totaling \$18,500 over their lifetime (\$185 per week for 2 years, other than during the first four weeks) instead of a lifetime of access.

This represents a significant change. Efforts should be made to educate your auto clients as to its potential impact in their coverage, as well as what options exist to increase coverage in appropriate situations.

C) A REDUCTION IN THE CATASTROPHIC IMPAIRMENT BENEFIT LIMITED

For claims arising out of accident that occurred on or after June 1, 2016, the maximum benefits available to 'catastrophically impaired' persons has been reduced from \$2 million (\$1 million in medical and rehabilitation benefits plus \$1 million in attendant care benefits) to a total of \$1 million (i.e. a 50% reduction).

It should be noted that any benefit reductions will only impact new claims for accidents occurring on or after June 1, 2016.

This represents a significant change. Efforts should be made to educate your auto clients as to its potential impact in their coverage, as well as what options exist to increase coverage in appropriate situations.

2. The Revised CAT Definition

The intention to revise the definition of 'catastrophic impairment' has been part of an effort to capture only the most seriously injured persons. But, given that all government supported proposals on this issue have included the removal of the Glasgow Coma Scale (GCS) test, the revised definition will undoubtedly be seen as a significant narrowing of the 'catastrophic impairment' designation.

The new CAT definition stems from the Superintendent's Report on the Definition of Catastrophic Impairment in the Statutory Accident Benefit Schedule (prepared December 15th, 2011 and released publicly in June, 2012).

The new CAT definition will apply to claims arising out of accidents that occur on or after June 1, 2016. A number of new tests have been introduced in support of the new CAT definition.

3. Changes to the Tort Deductible

On August 1, 2015, the tort deductible was increased for tort claims for pain, suffering and loss of enjoyment of life and for tort claims of family members for loss of their loved ones' care, guidance and companionship. *After November 1, 1996*, a \$30,000 deductible applied to all cases whether a judge or jury awarded a plaintiff less than \$100,000 for his or her pain, suffering and loss of enjoyment of life. Similarly, a \$15,000 deductible applied to the *Family Law Act* claims of family members who were awarded less than \$50,000 for the loss of the injured or deceased person's care, guidance and companionship.

The regulations have been amended to adjust the deductibles with inflation. From August 1 to December 31, 2015, the \$30,000 deductible is now \$36,450 and the \$15,000 deductible is \$18,270. As of January 1, 2016, the deductible will be adjusted in accordance with an indexed percentage stipulated in the Insurance Act. On January 1 of every subsequent year, the prescribed amount of the deductible will be revised according to the indexation percentage of the *Insurance Act* for that year. For 2016 the deductible has been adjusted to \$36,905.40.

The monetary threshold for applying a deductible for claims for pain, suffering and loss of enjoyment of life was previously \$100,000. In other words, where an injured plaintiff was awarded more than \$100,000 for his or her pain, suffering and loss of enjoyment of life, the deductible would not apply. The threshold for applying a deductible to *Family Law Act* claims for loss of guidance, care and companionship was \$50,000.

As of August 1, 2015, the deductible will not apply where the award for pain and suffering is greater **than \$121,799** for the period of August 1, 2015 to December 31, 2015. Thereafter, the threshold will be **inflation-indexed annually**. For 2016 the monetary threshold has been adjusted upwards to \$123,016.97. The \$50,000 threshold for deductible in *Family Law Act* claims has increased to \$60,899, and will also be adjusted annually.

These changes apply only to accidents that occur on or after August 1, 2015.

4. Dispute Resolution – Licence Appeal Tribunal

In 2014 the Ontario government passed Bill 15 – the *Fighting Fraud and Reducing Automobile Insurance Rates Act, 2014*. The bill received royal assent on November 20, 2014.

Under the existing system, when an insurance company denies reasonable and necessary accident benefits to an insured, the insured can dispute that denial by starting a mediation process with the Financial Services Commission of Ontario (“FSCO”). If the FSCO mediation does not resolve the dispute, the insured person can choose to sue his or her insurer in civil court or they can initiate arbitration proceedings with FSCO. FSCO is one of the regulators of the insurance sector in Ontario. As part of that role, FSCO has a dispute resolution section which has conducted mediation and arbitration proceedings of accident benefits disputes for a number of years.

Bill 15 changes this long established system. Under the new system which commences **April 1, 2016**, mediations and lawsuits will no longer be available over denied accident benefits. FSCO has also been removed from the accident benefits dispute resolution process and is replaced by the Licensing Appeal Tribunal which is part of the Ministry of the Attorney General.

Other Key Changes Include:

Minor Accident	Insurers can no longer use a minor at-fault accident that occurs on or after June 1, 2016 meeting certain criteria to increase your premiums. The criteria include that no payment has been made by any insurer, that there are no injuries and that damages to each car and property were less than \$2,000 per car and were paid by the at-fault driver. This provision is limited to one minor accident every three years.
Interest Rate for Monthly Payment Plans	The maximum interest rate that insurers can charge if you make monthly premium payments has been lowered from 3% to 1.3% for one year policies, with corresponding reductions for shorter terms.
Comprehensive Deductible	The standard deductible for Comprehensive coverage has been increased from \$300 to \$500.
Non-Earner Benefit	The six-month waiting period for people who are not working to receive benefits has been reduced to four weeks. Also, benefits can now only be received for up to two years after the accident.
Duration of Medical, Rehabilitation and Attendant Care Benefits	For all claimants except children, the amount of time that you can receive this standard benefit is now five years for non-catastrophic injuries, and it will be paid only as long as you remain medically eligible.