The background of the slide features a vintage-style map with a compass rose in the upper left corner. The map shows geographical outlines and some text, including "CAPE" and "120 140 160".

**SOLUTIONS FOR INJURED
CHILDREN AND THEIR FAMILIES
UNDER THE NEW MOTOR
VEHICLE REGULATIONS**

May 3, 2006

The background of the slide features a vintage-style map with a compass rose in the upper left corner. The map shows geographical outlines and some text, including "CAPE" and "120 140 160".

**OVERVIEW OF CHANGES AS
THEY AFFECT CHILDREN**

Sloan H. Mandel
416-868-3123
smandel@thomsonrogers.com

OVERVIEW – IMPORTANT CHANGES

- elimination of DACS replaced by Sec. 42 Insurer Examinations
- responding assessment or examination after denial
- pre-claim examinations
- income replacement , non-earner, caregiver benefit and housekeeping and home maintenance expenses now referred to as specified benefits
- insurance & non-earner benefits available once child becomes 16
- additions to Unfair & Deceptive Acts and Practices - Part XVIII of the Insurance Act
- onerous timelines

SEC. 42 EXAMINATIONS

To assist insurer in determining whether a person is entitled or continues to be entitled to a benefit.

How many? As often as reasonably necessary

Who? One or more health professionals, social workers or vocational rehab specialist

Who pays? The insurer

Limit on cost? None

SEC. 42 EXAMINATIONS

- insurer must provide notice of Sec. 42 request, with details including reasons for examination
- insured must provide all reasonably available information and documents that are relevant and necessary within 5 days after notice of examination received
- can be paper review of material requested or personal examination
- if paper review, referral must be made within 2 business days of notice
- if personal examination, referral must be made within 5 business days

SEC. 42 EXAMINATIONS

- examination to be completed within 10 business days or within 30 business days for catastrophic determination
- treating providers and assessors may consult - insurer pays



Questions & Comments



CHANGES TO BENEFITS AND THE NEW TIMELINES

Leonard H. Kunka
416-868-3185
lkunka@thomsonrogers.com

Patricia J. Howell
416-236-7680
patriciahowell@sympatico.ca

SEC. 35 SPECIFIED BENEFITS

Income replacement benefit, non earner benefit, caregiver, housekeeping or home maintenance.

- application + current disability certificate – can be requested “as often as reasonably necessary”
- new disability certificate must be provided within 15 business days otherwise no benefit payable until certificate provided

SEC. 35 SPECIFIED BENEFITS

- insurer must respond within 10 business days of receiving disability certificate by:
 - i. paying benefit
 - ii. requesting further info
 - iii. examination under oath
 - iv. Sec. 42 exam
- if insurer requests Sec. 42 report, insurer has 30 business days to conduct assessment and evaluator has 10 business days to deliver report to insurer

SEC. 38 MED-REHAB BENEFITS

- social workers can now prepare treatment plans and OCF 22 forms (Application for Approval of Assessments or Examinations)
- insurer must give notice of determination within 10 business days indicating which goods and services it will agree to pay or not pay and request a Sec. 42 exam
- if notice not given within 10 days – insurer must pay from 11th day onward until notice is provided

TIMELINES FOR SEC. 42 EXAMINATIONS

- counting from the day the Sec. 42 notice is given to the insured, the exam must be completed and the report given to the insurer:

Paper Review

- PAF – 5 business days
- OCF 22 – 5 business days
- CAT (only GSC of 9) - 10 business days after all necessary documents are made available

LIVE EXAMS – All other I.E.'s

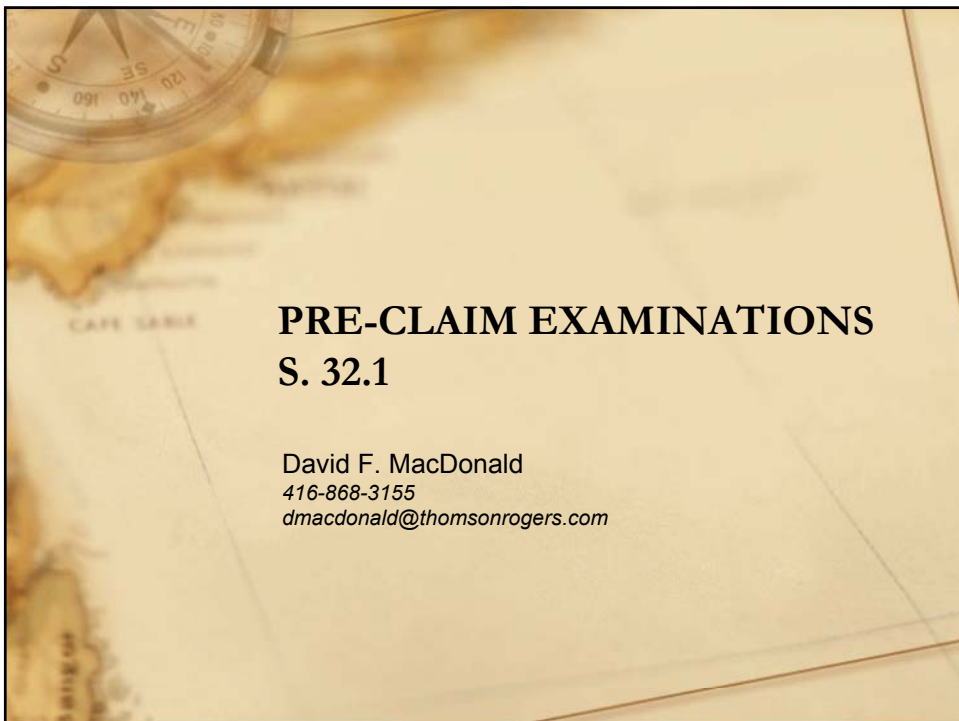
- may be conducted after only 5 days notice to insured
- exam must be completed within 30 business days after insurer gives notice
- report must be delivered to insurer by the evaluator within 10 business days after exam completed
- insurer must provide report or determination of entitlement within 15 days after examination completed

TIME LIMITS & AVOIDING DISPUTES

- time limits will be virtually impossible for insured and insurer to comply with
- pre-claim examinations could interfere with recommendations of hospital treatment providers
- key to avoid disputes is to have early private rehabilitation – intervention, who will work cooperatively with hospital treatment providers



Questions & Comments



PRE-CLAIM EXAMINATIONS S. 32.1

David F. MacDonald
416-868-3155
dmacdonald@thomsonrogers.com

SEC 32.1 PRE-CLAIM EXAMINATIONS

- applies to insured person admitted to hospital or long term care facility or who has been discharged within previous three days
- no application for benefits has been made
- written consent of insured required
- report to be provided to insurer and insured within 5 days
- failure to consent does not affect insured's right to benefits
- report cannot be relied upon by insurer in making a determination that insured person not entitled to benefit

SEC 32.1 PRE-CLAIM EXAMINATIONS RECOMMENDATIONS

- avoid pre-claim examinations as they are of little benefit to the insured since insurer has no obligation to follow recommendations of the assessment
- underscores importance of getting legal counsel involved as early as possible to ensure:
 - application for A/B's completed as quickly as possible;
 - occupational therapist becomes involved, who should complete Form 1 & in-home Assessment as soon as possible;
 - case manager should be appointed, who hospital team & counsel are content with, to assist in creating a treatment team



Questions & Comments