A BRAVE NEW WORLD

Back to School

with

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MCLEISH ORLANDO
OATLEY VIGMOND
THOMSON ROGERS
PERSONAL INJURY LAWYERS

and

Toronto abi Network

(All proceeds will be donated to Toronto ABI Network)
THE COMING CHANGES TO ONTARIO AUTO LEGISLATION: ACCIDENT BENEFITS & TORT

Presented by:

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CHANGES ARE HERE

- Tort changes are already here
- Accident benefit changes effective June 1, 2016
  - Ontario Regulation 251/15 released August 27, 2015
### REVIEW OF CHANGES:

- Reduced Accident Benefits & Some New Rules
- Narrowed CAT Definition
- Increased Tort Deductible
- The LAT (Licence Appeal Tribunal)
- The Newish “Incurred”
- Tort PJI (Prejudgment Interest)
- Accident Benefit Dispute Interest Rate
- MIG (Minor Injury Guideline) Overhaul
Reduced ABs (as of June 1, 2016)

- Non-CAT total limits - new reduced total of $65,000 (down from previously reduced $86,000 total)
- Non-Earner benefits to be limited to 2 years only (with 4 week waiting period, rather than 6 month)
- CAT Total Limits – now reduced total of $1,000,000 (down from $2,000,000 total)

IMPACT:
- Horrible for seriously injured
- Prioritizing use and cutting corners
- Increased magnitude of tort claims
New AB Rules (as of June 1, 2016)

• Freedom 65:
  – $65,000 can be used for med/rehab or AC (no longer a $50,000 med/rehab max and a $36,000 AC max)
  – still a $3,000 per month AC cap (now for 5 years)

• Non-CAT Duration—5 years (not 10 years) or until age 28 for minors

IMPACT:
• Avoid ‘incurred’ & use $ for med/rehab
• Advance attendant care claims in tort (along with housekeeping)
New AB Rules (as of June 1, 2016)

• For other goods and services (see: med s.15(1)(h) and rehab s.16(2)(l)):
  – Must be goods/services the ‘insurer agrees are essential’ (i.e. insurer can veto any creative requests outside enumerated provisions)

IMPACT:
• Fit requests within a listed category
Narrowed CAT Definition

• Introduction of new tests
• No more GCS test
• For accidents on or after June 1, 2016

IMPACT:
• CAT benefit access delays
• Confusion and uncertainty
Increased Tort Deductible

• As of August 1, 2015 (…retrospective debate)
• Indexed for inflation
• New deductible of:
  – $36,450
  – $18,270 (for FLA claims)
• New ‘vanishing’ deductible limit of:
  – $121,799
  – $60,899 (for FLA claims)

IMPACT: Reduced compensation
LAT (Licence Appeal Tribunal)

- To replace FSCO
- No more right to sue over AB disputes
- Process overview:
  - Paper review
  - Expedited hearings
  - Full in person hearings
- Implementation as of April 1, 2016 (?)

IMPACT: Disorganization and confusion
The Newish “Incurred”

• As of February 1, 2014
• Dollar for dollar ‘economic’ loss requirement

IMPACT: Outsource attendant care
Tort PJI (Prejudgment Interest)

- As of January 1, 2015
- New lower PJI rate
- Insurers attempted retrospective application

IMPACT: Tort settlement delays
Accident Benefit Dispute Interest Rate

• As of January 1, 2015
• Reduced dispute interest rate

IMPACT: Prolonged AB disputes
MIG Overhaul

- Replace MIG with CTI (Common Traffic Impairment)
- Mild Brain Injury to be included (?)

**IMPACT:**
- Increased dispute over classification
- Increased reliance on key providers
CONCLUSIONS:

- Extensive Changes Are Here
- Reduced CAT Limit Problems/Stress
- Narrowed CAT Definition Confusion
- MIG Expansion Controversy
- Collaboration and Coordination Even More Crucial
- Monitor PIA Law for More Info on Changes
THANK YOU

Please feel free to call or email with questions.

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