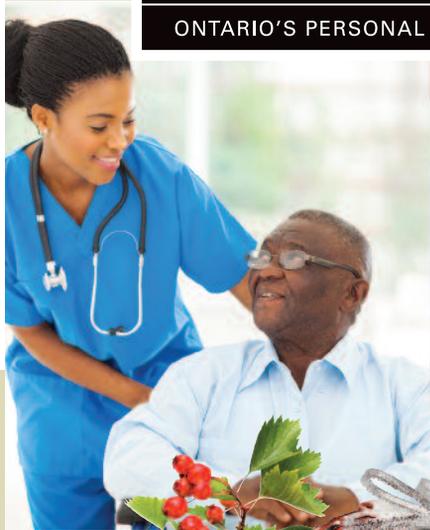


Oatley Vigmond

ONTARIO'S PERSONAL INJURY LAW FIRM



The Law and You

Winter Edition 2015

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Don't Get Into a Car Accident After May 31st!

If you do get into a car accident after May 31st, make sure you don't injure yourself. If you suffer the misfortune of sustaining catastrophic injuries, you will only have half the insurance benefits available to you on or after June 1st, then you would have had on May 31st.

As part of the provincial budget announced on April 23, 2015, the Ontario government decided to throw seriously injured accident victims under the bus and then deprive them of the ability to make a good recovery from their injuries. The coming changes to the benefits available to accident victims under the Statutory Accident Benefits Schedule will greatly reduce the benefits, and thus greatly impair people's ability to make a fulsome recovery.

The changes will only impact claims arising from accidents on or after June 1, 2016. The changes will, without question, curtail the rehabilitation of serious injured accident victims¹.

There are four major changes:

1 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 & rehabilitation benefits plus \$36,000 in attendant care benefits) to a combined total of \$65,000 (a \$21,000 total reduction, equivalent to about a 25% 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

2 A reduction in the catastrophic impairment benefit limits

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

The current \$2 million total maximum has been in place for roughly 20 years and, after accounting for inflation on all of the benefits available (none of which have been

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¹For more information, see Auto Insurance Rates for the Second Quarter of 2015, accessed at <https://www.fsco.gov.on.ca/en/auto/rates/Pages/q2-2015.aspx>.

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adjusted for inflation since at least 1996), these further benefit changes will result in access for quadriplegic (and other catastrophically impaired) claimants to roughly 30% of what was available back in 1996 (a roughly 70% reduction in what was once available).

The new maximums will lead to heightened scrutiny over benefit spending. Spending on crucial items like home renovations, vehicular modifications and outsourced attendant care will all be second guessed out of concern for long term planning given the reduced benefit limits.

Even with the current maximum limits it has been a struggle for the most seriously injured claimants to evaluate how to best use their limited medical/rehabilitation benefits and attendant care benefits. When you reduce the available limits by half, the pressure to make wise decisions and cut corners is substantially increased. The result is increased stress both emotionally and financially on the accident victim and their family.

3 A major 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 six months post-accident, they are thereafter payable at a rate of \$185 per week for severely 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 two year anniversary of the accident.

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

The coming changes will reduce the duration of eligibility for non-earner benefits from “life” to a maximum duration of only two years (while replacing the 6 month waiting period that currently applies with a four week waiting period).

4 Narrowing of the definition of catastrophic impairment

To make matters worse, the coming changes will include a complete overhaul of the definition of catastrophic impairment. The changes will introduce new tests in order



to meet the definition of catastrophic impairment and the changes will eliminate some of the current tests.

The most significant change will eliminate the “GCS of 9 or less” test that has been widely applied and easily understood over the years. Prior to June 1st, claimants who suffer brain impairment and have a recorded GCS of 9 or less within a reasonable period of time after the accident will qualify as having sustained a catastrophic impairment. This provision in the SABS will no longer apply as of June 1st.

By changing the now well understood CAT tests that have been in place for close to 20 years and by eliminating the simple and easy GCS test, it will be challenging to identify who will qualify as catastrophically impaired. Accessing the increased benefits that come with a CAT designation will be delayed in the future, causing negative impacts on a claimant’s rehabilitation.

For clarity, it should be noted that the coming changes will only impact claims for accidents occurring on or after June 1, 2016.

The Importance of Optional Benefits

The Optional Benefits available to us under our automobile insurance policies will become even more important after June 1st. With the payment of a small yearly premium, motorists will have the option to increase their accident benefit coverage to at least match the coverage they carry now. For example, for pennies a day, you can increase your medical & rehabilitation benefits to \$1 million and the attendant care benefits to \$1 million in the event you suffer a catastrophic impairment. Purchasing the optional coverage will effectively double the med/rehab and attendant care benefits available to you in the event of catastrophic injuries.

With the coming reductions to our accident benefits coverage, motorists should consider all of the optional benefits available to them when renewing their auto insurance policies on or after June 1st, 2016.

Announcements

PIA Law is proud to announce the Annual Healthcare Education Bursary Program

This bursary program consists of two different bursaries:



Community Healthcare Professional BURSARY

The purpose of this bursary is to support and encourage healthcare professionals working within the brain and spinal cord injury fields to continue to pursue professional development in the areas of brain and spinal cord injury rehabilitation.

PIA Law is proud to fund two annual bursaries awarded to community healthcare professionals working within the brain and spinal cord injury fields to a maximum of \$2,500 per bursary.

The bursary will be awarded twice a year. Application forms must be received by June 1st or December 1st of the current calendar year.

To learn more about the bursary program and to apply, visit

www.pialaw.ca/healthcarebursary



Hospital Clinician EDUCATIONAL BURSARY

The purpose of this bursary is to support and encourage hospital clinicians working within the brain injury field to continue to pursue professional development in the areas of brain injury rehabilitation.

OBIA will be offering four annual bursaries awarded to hospital clinicians working within the brain injury field to a maximum of \$2,500 per bursary.

The bursary will be awarded twice a year. Application forms must be received by June 1st or December 1st of the current calendar year.

To learn more about the bursary program and to apply, visit

www.pialaw.ca/hospitalclinicianbursary

In the News

Oatley Vigmond proudly donates \$10,000 to the Seasons Centre for Grieving Children, in Barrie.



Connect with us through social media



Oatley Vigmond is using social media as a way of keeping our network up-to-date. We cover a diverse range of personal injury related topics and include information about upcoming events, conferences and sponsorships, among other things. Connect with us and other supporters on your favourite social media sites.

How to keep receiving emails from us

Stay on the list! With Canada's anti-spam law (CASL) in force as of July 1, 2014, we may be affected in our ability to send you invitations to our events and other emails on topics of interest to you. Please email events@oatleyvigmond.com for instructions on how to continue receiving emails from Oatley Vigmond which includes legal updates, news, publications, and invitations to programs and events.