
BULLETIN NUMBER: 06-2019

TITLE: Use of Not At-fault and At-Fault Claims/Accidents

DATE: October 4, 2019

PURPOSE

The purpose of this Interpretation Bulletin is to advise insurers of the manner in which not at-fault and at-fault claims/accidents may be used as a rating variable in determining private passenger automobile insurance premiums and/or in determining eligibility for coverage. This Bulletin is issued pursuant to sections 509, 604, and 792.1 of the *Insurance Act (Act)* and section 2(2) of the Automobile Insurance Premiums Regulation (regulation).

EXPECTATIONS

In accordance with the Superintendent of Insurance's (Superintendent) authority to:

- Establish written procedures to be followed by insurers in determining the amount payable for basic coverage or additional coverage by an insured or an applicant for a contract of insurance in section 604 of the Act;
- Prohibit the use of any rating variable in an insurer's rating program in section 2(2) of the regulation; and
- Issue guidelines respecting the interpretation or application of section 509 (unfair practices) of the Act,

automobile insurers currently using not at-fault and at-fault claims/accidents as a rating variable in determining private passenger automobile insurance premiums must be in compliance with the following procedures effective April 1, 2020 for new business and June 1, 2020 for renewal business. If an insurer, in order to be compliant with this bulletin, changes its rating program and/or underwriting manual, that insurer must contact the Automobile Insurance Rate Board for instructions.

The Superintendent also establishes the following expectations, effective December 4, 2019, for automobile insurers using not at-fault and at-fault claims/accidents in determining eligibility for coverage, and pursuant to section 792.1 of the Act, shall interpret the use of not at-fault and at-fault claims in a contrary manner to be an unfair practice prohibited by section 509 of the Act.

Definitions

Not at-fault claims/accidents are those covered under:

- accident benefits coverage;
- the comprehensive portion of all perils coverage;
- comprehensive coverage;
- specified perils coverage;
- the collision portion of all perils coverage where the insured is 100 per cent not at-fault; and
- collision coverage where the insured is 100 per cent not at-fault.

At-fault claims/accidents are those that are covered under:

- third party liability coverage; and
- the collision portion of all perils or collision coverage where the insured is wholly or partially responsible for the accident.

Not At-Fault Claims/Accidents

Not at-fault claims/accidents are prohibited for use as a rating variable for all automobile insurance coverages. For added clarity, not at-fault claims must not be a part of an insurer's rating program.

Not at-fault claims/accidents may be used in determining eligibility only for comprehensive, specified perils, collision, and all perils coverages.

Not at-fault claims/accidents may only be used in determining eligibility for coverage as underwriting criteria for a maximum of three years.

At-Fault Claims/Accidents

At-fault claims/accidents may be used as a rating variable only for third party liability coverage and the collision portion of all perils or collision coverage.

At-fault claims/accidents may be used in determining eligibility for coverage as underwriting criteria only for the collision portion of all perils coverage and collision coverage.

At-fault claims/accidents may only be used in determining eligibility for coverage as underwriting criteria for a maximum of six years.

PENALTY FOR NON-COMPLIANCE

Where the Superintendent is of the opinion that an insurer has contravened a prescribed provision of the Act or its associated regulations, the Superintendent may require that insurer to pay an administrative penalty of up to \$25,000 for each contravention.

In the alternative to an administrative penalty, and pursuant to section 780 of the Act, an insurer who contravenes any of sections 509(1)(c) or 555(3) of the Act may be prosecuted. If convicted, under section 786 of the Act an insurer is subject to a fine of up to \$200,000 (and if of a continuing nature, each day or part of a day constitutes a separate offence).

If you have any questions regarding this Bulletin please contact the Superintendent's office at 780-643-2237 or tbfi.insurance@gov.ab.ca.

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