
BULLETIN NUMBER: 04-2015

TITLE: Automobile Insurance - Total Disability Benefits

DATE: December 2015

PURPOSE:

This Bulletin is being issued to advise automobile insurers that I consider failing to provide automobile insurance total disability benefits in accordance with the provisions of legislation, automobile insurance policy forms and interpretation Bulletins to be an unfair act or practice.

BACKGROUND:

One of the major objectives and coverages of the Insurance Act (Act), the Automobile Accident Insurance Benefits Regulations (AAIB) and automobile insurance policy forms is income replacement for those that are disabled as the result of injuries sustained in automobile accidents. Under automobile insurance, income replacement is provided as a total disability benefit, which enables claimants to pay for the necessities of life, and mitigate the financial consequences of accidents. Given the impact on claimants, I consider not paying total disability benefits as prescribed to be a serious matter.

INTERPRETATION:

In accordance with my delegated authority under Section 791(2) of the Act and pursuant to Section 792(1) of the Act I have determined that failing to pay automobile accident insurance total disability benefits as prescribed by the Act, the AAIB and automobile insurance policy forms is an unfair act, or practice. An unfair act or practice is prohibited by Section 509(1) (c) of the Act. Non-compliance with Section 509 of the Act is an offence under Section 780 (d) of the Act, for which an administrative penalty may be assessed pursuant to Section 789 of the Act. An administrative penalty of up to \$25,000.00 may be assessed for each occurrence in which an offence is committed.

I strongly encourage insurers to ensure that all of their applicable staff are aware of this Bulletin.

If you have questions regarding this Bulletin please contact our office at TBF.insurance@gov.ab.ca or (780) 427-8322 (toll-free in Alberta by first dialing 310-0000).

[ORIGINAL SIGNED]

Mark Prefontaine

Attachment:

[Deputy Superintendent Bulletin 07-2010 - Accident Benefit Total Disability Claims](#) (June 18, 2010)

Superintendent of Insurance

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June 18, 2010

BULLETIN NO. 07-2010

TO: ALL INSURANCE COMPANIES LICENSED FOR THE CLASS OF AUTOMOBILE INSURANCE

ATTENTION: Claims Manager

Subject: Accident Benefit Total Disability Claims

We are writing to all insurance companies, licensed for the class of automobile insurance in Alberta, asking them to determine whether Accident Benefit Total Disability claims are being adjusted in accordance with the coordination of benefit clause and formula in the approved Alberta Standard Automobile Insurance Policies.

Recently, it came to our attention that the coordination of benefit clause in the Accident Benefit section of the automobile insurance policy was being misinterpreted and incorrectly applied in the adjustment of some claims. This misinterpretation has resulted in the underpayment of total disability benefits to claimants.

The Total Disability coverage in the approved automobile insurance policies permits a coordination of benefits when a claimant is receiving total disability benefits under the automobile policy and under another contract providing disability insurance. However, the coordination of benefits is applicable only if the total disability benefit payable under both the automobile insurance coverage and under another contract **exceeds** the claimant's gross weekly earnings. (Please note the disability benefit under the *Employment Insurance Act (Canada) (EI)* and the *Canada Pension Plan (CPP)* is not considered benefits under another contract).

When the combined total of the benefits under the automobile insurance policy and another contract exceed the average gross weekly earnings of the claimant, the coordination of benefits is calculated in accordance with the formula outlined in Part II Total Disability of Section B of the automobile insurance policy.

The following two examples outline how and when the coordination clause in the automobile insurance policy is applicable:

Example one

Claimant's gross weekly income	\$900
Disability benefit under automobile policy (lesser of \$400 or 80% of average gross weekly income)	\$400
Disability benefit from another contract	<u>\$450</u>
Total Benefits Received	\$850

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As the total of all disability benefits do not exceed the claimant's average gross weekly income no coordination of benefits is to be calculated under the automobile insurance policy.

Example two

Claimant's gross weekly income	\$490
Disability benefit under automobile policy (lesser of \$400 or 80% of average gross weekly income)	\$392
Disability benefit from another contract	<u>\$294</u>
Total of All Benefits Received	\$686

As the total of all disability benefits exceed the claimant's average gross weekly income the coordination of benefits clause and formula in the automobile insurance policy is applicable and the weekly benefit payable by the automobile insurer is calculated as follows.

$$WB = \frac{80\% \text{ of } WE}{PB + OB} \times PB$$

WB is the weekly benefit,

WE is the average gross weekly earnings of the claimant

PB is the lesser of \$400 and 80% of WE

OB is the total of all other weekly benefits payable under other contracts (excluding EI and CPP benefits)

$$WB = \frac{392}{392 + 294} \times 392$$

Therefore, the weekly benefit (WB) payable under the automobile policy in this example is \$224.

We are requesting all insurance company claims managers to review the claim handling procedures used to calculate Accident Benefit Total Disability claims and advise whether these types of claims are being correctly adjusted in accordance with the coordination of benefit clause in the Standard Automobile Insurance Policies. **Please provide our office with the results of your review by July 16, 2010.**

You may contact Peter Blandy, Compliance Manager, with any questions on this matter. Peter's telephone number is 780-415-8556.

Yours sincerely,

Original signed by

Arthur Hagan, FCIP, CRM
Deputy Superintendent of Insurance