



Standard *Automobile Policy*

INTRODUCTION

In Alberta, the policy wordings governing automobile insurance are prescribed by legislation, giving rise to a standardized policy. Thus, the policy wording is the same for all motorists. The Standard Policy Form (SPF 1) is divided into three sections:

SECTION A

LIABILITY INSURANCE
(mandatory)

SECTION B

ACCIDENT BENEFITS
(mandatory)

SECTION C

LOSS OF OR DAMAGE TO INSURED VEHICLE
(optional)

Additionally, an insured can augment the standard policy by purchasing additional coverages by way of endorsements to the policy. Examples of such modifications include Glass Coverage Waiver, Waiver of Depreciation, Vehicle Replacement Endorsement and Family Protection Endorsement (SEF 44).

SECTION A

THIRD PARTY LIABILITY (MANDATORY)

Third party liability coverage is mandatory for all motorists in Alberta. Each automobile must be insured for liability to a minimum of \$200,000.00.

Liability insurance is designed to protect the insured from financial ruin should he/she be responsible for a collision, and cause injury to others or damage to their property. Liability coverage is mandatory in order to ensure that accident victims have access to funds to compensate them for losses suffered in collisions. When an insured person is responsible for an accident, the liability insurer agrees to defend the insured against claims and to pay any amounts owing by the insured to the

other party, up to the limit of insurance in place on the policy. In fact, the insurer is, pursuant to the terms of the SPF 1, deemed to be the agent of the insured for the purposes of defending claims. As such, the insurer has the power to settle claims made against the insured.

Thus, while an accident victim technically has a claim against the at-fault motorist (*and if suing, must sue the at-fault motorist rather than the insurer*), his/her counsel will most often deal with the at-fault motorist's insurer in order to access compensation under Section A of the at-fault motorist's policy.

Section B of the standard policy is also mandatory. It provides benefits to the insured, the insured's family members and other occupants of the insured vehicle at the time of the collision, as well as to pedestrians who are struck by the insured vehicle.

Section B benefits are available regardless of fault and include coverage for medical expenses, wage replacement for those totally disabled by their injuries, a weekly allowance for disabled homemakers, as well as death and funeral benefits.

SECTION B

ACCIDENT BENEFITS (MANDATORY)

1. Medical Expenses

All people injured in accidents are, regardless of fault, entitled to Section B benefits for medical expenses. As a result of new legislation introduced by the Alberta government for collisions occurring on or after October 1, 2004, there are differing benefits available depending upon the nature of one's injuries and the treatment protocol that they follow.

The insurer of an individual sustaining a "minor injury" who wishes to be diagnosed and treated in accordance with the *Diagnostic and Treatment Protocols Regulation* is required to pay for up to 21 medical, physical therapy, chiropractic and adjunct therapy visits in the 90 days following the accident, depending upon the nature of the injury and the treatment that is recommended by the insured's caregiver. If the injuries have not resolved within 90 days after the accident, any further treatment that is required will only be covered if it is approved by the insurer.

For an insured person sustaining an injury not defined as a "minor injury", or for an insured person with a "minor injury" who chooses not to be diagnosed and treated in

accordance with the *Diagnostic and Treatment Protocols Regulation*, medical benefits are available for up to two years following the collision to a maximum of \$50,000.00 per person. Expenses usually covered by Section B include ambulance bills, prescriptions, physiotherapy, occupational therapy, massage therapy (to a maximum of \$250), acupuncture (to a maximum of \$250), chiropractic care (to a maximum of \$750), psychological counselling and dental work. This list is not exhaustive. Any treatment deemed medically necessary by a doctor could be covered.

It is important to note, however, that in circumstances where the *Diagnostic and Treatment Protocols Regulation* does not apply, the Section B insurer may choose to have the insured person examined by a medical practitioner of the insurer's choosing, and will most likely rely on that doctor's opinion when deciding what treatment should be covered.

A decision as to whether or not an individual sustaining a "minor injury" should be diagnosed and treated in accordance with the

Diagnostic and Treatment Protocols Regulation should be made in consultation with a health care practitioner. In doing so, it is important to bear in mind the provisions of the *Minor Injury Regulation*. Under that regulation, if an individual who sustains a "minor injury" is, without reasonable excuse, not diagnosed and treated in accordance with the *Diagnostic and Treatment Protocols Regulation*, and the "minor injury" does not resolve and results in a serious impairment, the individual's non-pecuniary damage award in his or her personal injury action may still be capped in accordance with the amount set out in the *Minor Injury Regulation*.

With the exception of expenses covered under the *Diagnostic and Treatment Protocols Regulation*, Section B benefits are considered excess insurance. This means that if an insured has other means of paying for treatment (for example Alberta Health Care coverage, medical benefits available through work, private Blue Cross coverage, etc.) then those sources must be exhausted before Section B benefits can be accessed.

2. Wage Loss Benefits

If an insured is injured in an accident to the extent that within 60 days of the accident he or she is unable to continue working, benefits are available to partially offset the loss of income. There is a seven day elimination period (the benefit is not available for the first seven days of missed work). The benefit payable is 80% of the insured's income to a maximum of \$400.00 per week, for a maximum of 104 weeks.

Some important points to remember regarding wage loss benefits include:

- a. To be eligible, the insured must have been employed at the time of the collision, or have been at least 18 years of age and have been employed for six of the preceding twelve months;
- b. To be eligible, the insured must be wholly and continuously disabled from performing his or her job;

- c. Generally, the insurer will demand that the insured's doctor confirm the disability. The insurer will require a form completed by the insured's physician as well as a form completed by the insured's employer. The insurer may also require periodic updates. Forms can be obtained from the Section B adjuster.
- d. The insurer may choose to have the insured examined by a doctor of the insurer's choosing to determine whether the insured is truly disabled.
- e. Section B wage loss benefits are excess to benefits available from other sources. Thus, if the insured is entitled to short term or long term disability benefits or CPP disability benefits, they must apply for such benefits. Any benefits payable under Section B would then be calculated pursuant to a formula set out in the policy.

3. Homemakers Benefits

If an insured is married, living with his/her spouse, not employed for wages or profit, and unable to perform any of his/her household duties, he/she is eligible for benefits of \$135.00 per week for up to 26 weeks.

4. Death Benefits

If the insured was a member of a household, and fatally injured as a result of a collision, then death benefits are payable as prescribed by the policy. The amount of the benefit depends upon the age and status of the deceased in the house at the time of death. Benefits are generally payable to the surviving head of the household, or the surviving spouse.

5. Funeral and Grief Counselling Expenses

In addition to death benefits, funeral expenses to a maximum of \$5,000.00 and grief counselling expenses to a maximum of \$400.00 per family are covered.

SECTION C

LOSS OF OR DAMAGE TO THE INSURED AUTOMOBILE (OPTIONAL)

Section C coverage is optional coverage that the insured can purchase to protect against theft of or damage to the insured vehicle. There are four types of Section C coverage available: Collision, Comprehensive, Specified Perils and All Perils.

Collision coverage insures against damage to the vehicle caused by collision or upset. Generally, this means that if the insured vehicle comes into contact with another vehicle, or some other object, then, subject to a few exceptions, the insurer will pay to have the vehicle repaired, or if the vehicle is a total loss (cost of repairs exceeds the market value of the vehicle less salvage value) pay the value of the vehicle.

Comprehensive coverage insures the vehicle with respect to all perils other than collision or upset.

Specified Perils coverage insures against damage caused only by certain listed events such as fire, theft or storm.

All Perils coverage insures the vehicle from all perils including collision or upset.

Normally, Section C payments are subject to a deductible. This simply means that the insured pays for the first part of the loss, while the

insurer pays the balance. The amount of the deductible for any particular type of Section C coverage is negotiable with the insurer.

If an insured has All Perils or Collision coverage, and is involved in a collision for which another motorist is responsible, then he/she can demand that his/her own insurer repair the vehicle or pay the actual cash value (in the event of a total loss). Typically, the insurer would then demand that the insurer of the at-fault motorist reimburse them for the payment. In effect, the insurer steps into the insured's shoes to demand payment for the loss from the at-fault insurer. When an insurer makes a payment and then seeks to recover from the at-fault party, this is called subrogation. Often, the at-fault motorist's insurer will acknowledge responsibility to pay for the vehicle damage at an early stage, or may even agree to pay for the repairs directly. This enables the vehicle's insurer to "waive the deductible" as the insurer knows that the cost of repairs will be repaid in full. If the deductible is not waived, then it is up to the insured or his/her counsel to recover the amount of the deductible from the at-fault motorist's insurer.

1. Endorsements

In addition to the three types of coverage set out in the Standard Automobile Policy, insurers can offer specific additions or modifications to the policy by way of an endorsement. The endorsement wordings are again in an approved format and are standardized throughout the industry. Endorsements can provide for such things as a waiver of glass coverage (to save premiums), a waiver of depreciation (to protect against depreciation for the first two years of new car ownership), or vehicle replacement (rental while vehicle is being repaired).

The most important endorsement is the SEF 44 Family Protection Endorsement. It is so important that most insurers place the endorsement on the policy as a matter of course. This endorsement provides coverage if the insured or a family member (living in the same house) is seriously injured in a collision and the at-fault motorist has insufficient insurance coverage. In essence, the endorsement assures that the insured will have access to at least as much insurance as the limit of their own Section A coverage. Obviously, the Family Protection Endorsement is applicable only in serious personal injury cases, but in such cases, when the at-fault motorist has little coverage, the endorsement is invaluable.