

Interpretation

Effective Date Posting: October 19, 2020

Identifier: No. AU0134INT (*previously listed as AU0037ORG*)

Guideline on Public Hospitals and Determination of Catastrophic Impairment

This Guidance is effective as of October 17, 2020. Please direct any feedback to contactcentre@fsrao.ca.

Purpose

This Interpretation Guidance replaces Superintendent's Guideline No. 01/16 and names public hospitals for the purposes of s.3.1 (1) 5 (i) of the [Statutory Accident Benefits Schedule – Effective September 1, 2010](#) ("SABS")¹

Rationale and Background

Subsection 3.1 (1) 5 of the SABS sets out the requirements for determining whether an insured person, under 18 years of age (minor), at the time of an automobile accident has a traumatic brain injury that is a catastrophic impairment. Clause 5 (i) of subsection 3.1 (1) states:

The insured person is accepted for admission, on an in-patient basis, to a public hospital named in a Guideline with positive findings on a computerized axial tomography scan, a magnetic resonance imaging or any other medically recognized brain diagnostic technology indicating intracranial pathology that is a result of the accident”, including, but not limited to, intracranial contusions or haemorrhages, diffuse axonal injury, cerebral edema, midline shift or pneumocephaly”.

If a minor does not meet the requirements of s. 3.1(1) 5 (i) they may still apply for catastrophic designation under other criteria of the SABS.

Interpretation

This Guidance interprets clause 5 (i) of subsection 3.1 (1) as it applies to “a public hospital named in a Guideline” issued by the Financial Services Regulatory Authority of Ontario (FSRA) under subsection 268.3 (1) of the *Insurance Act*.²

FSRA is interpreting the requirements of section 3.1(1) 5 of the SABS, which allows FSRA to name a public hospital in a Guideline³, as being satisfied through the issuance of this Interpretation Guidance which hereby deems any public hospital designated by the Critical Care Services Ontario, in partnership with the Ontario Ministry of Health, as Lead Trauma Hospitals for the purposes of clause 5(i) of subsection 3.1(1) of the SABS. FSRA’s approach with respect to the requirements of clause 5(i) of subsection 3.1(1) of the SABS is to designate those public hospitals already identified by Critical Care Services Ontario, in partnership with the Ministry of Health, rather than listing the specific names of any Lead Trauma Hospitals, in order to maintain consistency and continuity where there has been an administrative change with respect to a designated public hospital.

Compliance Expectations

Compliance with this Guidance is expected by FSRA and is subject to supervisory activities related to auto insurance.

Effective Date and Future Review

This Guidance is effective on October 17, 2020 and remains in effect until it is withdrawn by FSRA. This Guidance will be reviewed by FSRA on or before October 17, 2025.

About this Guidance

This document is consistent with [FSRA's Guidance Framework](#). As Interpretation Guidance, it describes FSRA's view of requirements under its legislative mandate (i.e. legislation, regulations and rules) so that non-compliance can lead to enforcement or supervisory action.

¹ <https://www.ontario.ca/laws/regulation/100034>

² Pursuant to subsection 268.3 (1) of the Insurance Act the Chief Executive Officer can issue guidelines on the interpretation and operation of the *Statutory Accident Benefits Schedule* or any provision of that *Schedule*. For the purposes of this Interpretation Guidance only, reference made to the authority outlined in the Act will be to FSRA.

³ Guideline is defined in the SABS to mean a Guideline issued by the CEO and published in the Gazette.