



Financial Services
Commission
of Ontario



Commission des
services financiers
de l'Ontario

Ontario

Service Providers

2016 Annual Information Return

Results Summary Report

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Executive Summary

Introduction

The Financial Services Commission of Ontario (FSCO) is a regulatory agency established by the *Financial Services Commission of Ontario Act, 1997* and accountable to the Minister of Finance. FSCO's legislative mandate is to provide regulatory services that protect the public interest and enhance public confidence in the sectors it regulates. FSCO oversees insurance, pension plans, mortgage brokering, credit unions and caisses populaires, co-operative corporations, loan and trust companies, and health service providers that invoice auto insurers for statutory accident benefits claims.

All service providers holding a licence with FSCO at December 31, 2016, were required to file the Annual Information Return (AIR) and pay the annual regulatory fee by March 31, 2017.

[Ontario Regulation 90/14](#) requires licensees to provide the Superintendent with information about the service provider's business in connection with statutory accident benefits, including information related to the service provider's business systems and practices, and matters of integrity in the management of the service provider's operations.

This report summarizes the findings from the AIR for 4,247 licensed service providers.¹ The 2016 AIR Results Summary Report details the key compliance issues arising from the AIR results and provides a profile of the licensed sector based on the responses.

About the AIR

The AIR collects information about licensed service providers' business practices and internal controls. The AIR data supports FSCO's compliance and monitoring activities, and helps identify changes in risk and suitability.

Since on-site examinations can only be conducted for a fraction of service providers each year, AIR data helps FSCO target its resources to have the greatest impact.

Key findings

- In 2016, 90 per cent of service providers reported having policies and procedures in place versus 86 per cent in 2015.
- In 2016, 85 per cent of service providers reported fully compliant practices in the signing and submission of Ontario claims forms (OCFs) versus 82 per cent in 2015.

¹ AIR filings received by June 26, 2017.



AIR filing compliance

While the majority of service providers filed by March 31, over 16 per cent failed to file the AIR and pay the annual regulatory fee by the deadline. Service providers that miss the deadline are subject to administrative monetary penalties and/or licence suspension or revocation.

For this newly regulated sector, FSCO has taken a progressive approach to enforcement related to non-filing of the AIR and non-payment of the regulatory fee. For the inaugural 2014 AIR, FSCO took an educational approach, including phone call reminders and newsletters. For the 2015 AIR, FSCO sent letters to late filers notifying the licensee that there had been a contravention, that late filing is noted on file, and that FSCO considers repeat contraventions when reviewing non-compliance.

For 2016, FSCO took a more rigorous approach to late filing.

Service providers received email reminders to submit the AIR and, if the AIR had not been filed, to advise that the deadline has passed. The messages notified service providers that they are subject to licence suspension or revocation and administrative monetary penalties of \$2,000 in the event of late filing. As of November 24, 2017, 131 service provider licences were suspended for failure to file the 2016 AIR and pay the annual regulatory fee. Late filers were also warned that additional enforcement action, including administrative monetary penalties, is possible.

AIR findings

The **2016 AIR results show overall improvements** for areas of concern identified in the 2015 AIR Results Summary Report.

The results reflect a growing understanding of regulatory requirements for service provider billing and business practices. FSCO continually works to increase awareness of requirements through on-site examinations and through communications, including sector reports and newsletters as well as the support of industry association partners.

Enhancements to the 2017 AIR will provide additional information to support the sector's understanding of requirements.



Detailed findings

The following are the 2016 AIR findings for key areas of concern.

Suitability

One per cent of service providers reported suitability issues in the 2016 AIR.

In order to protect consumers, FSCO continuously assesses the suitability of service providers to remain licensed in Ontario. Suitability requirements apply to licensed businesses and to individuals providing goods and services on their behalf. The data provided through the AIR updates the information gathered through FSCO's initial licensing application screening and supplements information from other sources, such as complaints.

When suitability-related issues, such as bankruptcies and professional college suspensions, are reported in the AIR, FSCO reviews to determine follow-up action. This could include on-site examinations or a licensing suitability review.

Policies and procedures

90 per cent of service providers reported having policies and procedures in place, as required in Section 17 of [Ontario Regulation 90/14](#).

All service providers are required to establish and implement policies and procedures that are appropriate to the nature and volume of their business related to statutory accident benefits.

Policies and procedures set out the service provider's business practice standards, promoting consistency and compliant practices. Developing and periodically reviewing procedures provides an opportunity for the business to ensure all practices meet regulatory requirements and guidelines. Communicating policies and procedures to all staff and providers involved in Statutory Accident Benefits Schedule (SABS) billings also helps the business avoid facilitating non-compliant practices.

Service providers should create specific policies and procedures that address each aspect of Ontario Regulation 90/14, and are designed to avoid the submission of misleading information to an insurer and prevent the business from facilitating such activities by others.

FSCO encourages industry-based solutions supporting compliance and best practices. A number of industry associations have created tools and made information available to their members to help them comply with the law.



Identity verification

97 per cent of service providers reported having procedures in place to verify the identity of SABS claimants.

Section 5 of [Ontario Regulation 90/14](#) establishes the duty to verify identity and creates accountability for the business. The service provider must verify that goods and services are being provided to the person who was involved in the motor vehicle accident.

Licensees should keep in mind that during an on-site examination, the service provider is responsible for demonstrating that they carried out the stated process. For example, they could demonstrate confirmation that identification was verified through a checkbox on intake and visit forms.

Claimant signatures on the OCF-18 and OCF-23

85 per cent of service providers reported fully compliant practices relating to the signing of the OCF-18 and OCF-23.

To prevent fraud, it is important that the OCF-18 and OCF-23 are signed correctly. Before obtaining signatures, the entire form must be completed and reviewed by the health care practitioner, the regulated health professional (if applicable) and the claimant. If the service provider requires additional time to complete a form, the claimant may sign it on a subsequent visit.

15 per cent of service providers reported non-compliant practices, including permitting a claimant to sign a blank form, which is a violation of [Ontario Regulation 7/00 Unfair or Deceptive Acts or Practices](#).

Ensuring that forms are correctly signed is important for fraud prevention. The **only** compliant practice for the submission of the OCF-18 and OCF-23 is to complete the form, obtain the client signature, and then submit the form. Where the service provider requires additional time to complete a form, it can be signed by the claimant on a subsequent visit, and only submitted once completed and signed.



Security and integrity of records

98 per cent of service providers reported secure records that could not be falsified.

This requirement, under section 14 of [Ontario Regulation 90/14](#) is of particular importance to avoid facilitating fraud and to reduce the risk of cyber security breaches. This includes ensuring that physical and electronic records are not accessible to unauthorized individuals.

Health Claims for Auto Insurance (HCAI) controls

The AIR data indicates that the number of people with access to submit invoices and/or treatment plans in HCAI varies by business model and volume. Regardless of the number, maintaining control of access to HCAI is important for fraud prevention.

The policies and procedures required under [Ontario Regulation 90/14](#) must be designed to avoid the preparation or submission of false, misleading or deceptive forms by the service provider or any other person. For HCAI, this includes:

- not sharing passwords
- using the tools provided by HCAI to assign appropriate user roles and levels of authorization
- using the tools provided by HCAI to deactivate profiles when a user leaves the business

HCAI Roster

97 per cent of licensees reported an up-to-date HCAI provider roster.

FSCO expects licensees to safeguard the credentials of health practitioners by ensuring that only current authorized providers are active on their provider roster in HCAI. The results are in contrast with the findings of FSCO's 2016/17 on-site examinations, where over 15 per cent of cases had an outdated and/or inaccurate roster. This is the only category of non-compliance results from the on-site examinations that has increased each year.

Both clinics and practitioners must ensure that providers who are no longer employed or working with the clinic have been end-dated in HCAI. Those who do not comply are subject to administrative monetary penalties of up to \$25,000. Those penalties can rise to more than \$100,000 where false billings were made. The HCAI Enrolment section of [FSCO's Superintendent's Guideline No. 01/17](#) outlines service providers' responsibilities regarding the HCAI roster.



Sector profile for service providers

This section provides an overview of key licensee characteristics based on the 2016 AIR. The data reported in the AIR informs FSCO's oversight, prioritization and exam program development.

Principal Representative

The principal representative of a licensed service provider is required to ensure that the business, and persons authorized to provide goods and services on its behalf, comply with the *Insurance Act* and that business operations are carried out with integrity and honesty.

This includes:

- making recommendations to the licensee regarding changes in business practices and management, as needed
- ensuring a system of supervision is in place to meet all legal requirements
- providing attestations (such as AIR responses) on the licensee's behalf about the business and compliance with the Insurance Act

In 2016, 82 per cent of principal representatives were regulated health professionals, with many holding more than one health profession registration. The most common professions, held among 70 per cent of principal representatives, were:

- chiropractors (35 per cent)
- physiotherapists (19 per cent)
- massage therapists and psychology professionals (16 per cent)

For businesses where the principal representative was not a regulated health professional, 86 per cent had one or more regulated health professionals on staff. Others offer goods and services provided by non-regulated providers, such as case management and vocational rehabilitation counselling.

Business structure

The proportion of licensed service providers by business structure in 2016 was as follows:

- incorporated businesses (56 per cent)
- sole proprietorships (39 per cent)
- general or limited partnerships (5 per cent)

This represents a slight shift of two per cent from sole proprietorships to incorporated businesses, with no change to the proportion of partnerships.



Proportion of SABS claimants by business type

The number of unique statutory accident benefits claimants (along with the number of locations) is used to calculate the annual regulatory fee.² The claimant numbers reported by the sector provide FSCO with information about the scale of SABS business for each service provider, showing the volume of claimants for the business. Since a claimant may undergo assessment or treatment by multiple service providers, there is no direct correlation between the number of claimants reported by all service providers and the overall number of claimants receiving services.

- While corporations made up 56 per cent of all licensed service providers, their volume of claimants represented 82 per cent of the total.
- Partnership service providers made up five per cent of licensed service providers, while claimants treated or assessed by partnerships represented nine per cent of the total.
- Conversely, sole proprietorships made up 39 per cent of all licensed service providers, but claimants they treated or assessed made up only nine per cent of the total.

Region

Similar to the 2015 AIR data, over half of service providers licensed by FSCO were located outside the Toronto City and Toronto Suburban regions. The proportion of licensed service providers by region has been stable, with only a slight change from 2015. In 2016, as illustrated in the chart below, there was a smaller than two per cent increase in the percentage located in the Toronto Suburban region, with corresponding decreases in the Toronto City and Southwestern Ontario regions.

Proportion of licensed service providers by region

	Central Ontario	Eastern Ontario	Northern Ontario	Toronto City	Toronto Suburban	Southwestern Ontario
2016	22%	11%	5%	23%	22%	17%
2015	22%	11%	5%	24%	20%	18%

Insurer examinations/claimant assessments

The AIR provides information about the types of services provided by licensees, enabling FSCO to tailor regulatory activities. While the majority of service providers' primary business activity is providing treatment to claimants, a significant number conduct clinical evaluations of claimants' health status either on behalf of insurers (insurer examinations) or on behalf of

² A claimant is included in the AIR calculation for each year in which a payment was received.



claimants or their health care provider (assessments). Accident benefits assessment and insurer examination costs run in the hundreds of millions of dollars annually, and represent a significant cost within the accident benefits system.

- In 2016, 13 per cent of service providers reported business activities that include insurer examinations and/or claimant assessments.
- 79 per cent of service providers who conducted examinations and/or assessments reported providing claimant treatment as well.

Preferred provider networks (PPNs)

In 2016, five per cent of service providers (211 licensees) reported participation in PPNs.

The proportion of service providers reporting participation in PPNs has remained steady at five per cent since the inception of licensing in this sector in 2014.

Preferred providers are insurer-selected health care providers who deliver programs of care to claimants with injuries resulting from a motor vehicle accident. PPNs are generally characterized by at least one of the following:

- A contractual relationship between the insurer and the health practitioner, often including pre-arranged prices for service.
- Claimant participation in the PPN resulting from insurer referral.
- Treatment plans pre-approved by the insurer or a cap set by the insurer on the cost or number of weeks of treatment, subject to the minimum requirements set out in the Statutory Accident Benefits Schedule (SABS).

Although the *Insurance Act* is silent on the delivery of medical and rehabilitation benefits by PPNs, FSCO's [Bulletin A-08/06](#) provides best practices for service providers in the use of PPNs, such as disclosure and written consent regarding the claimant's right to choose a service provider. The bulletin reminds health professionals of their continued fiduciary duty to patients and of the need to disclose conflict of interest, including that use of the PPN is voluntary.



Conclusion

FSCO is encouraged by the overall 2016 AIR results reporting improvements for areas of concern identified in the 2015 AIR report. This indicates a growing understanding in the sector of the regulatory requirements. However, there remains room for improvement. FSCO will therefore continue to support increased awareness of requirements in the sector.

One of the ways FSCO will do so will be through FSCO's new desk review program. Beginning in winter 2017/18, the desk review program will address concerns with non-compliance and will specifically examine outdated and inaccurate HCAI provider rosters. FSCO will also continue to address discrepancies in reported and demonstrated compliance.

FSCO will continue its progressive approach to filings, in addition to enforcement action for late filers, and will also take steps to support timely filing through enhanced licensee communications.

Thank you to the service provider industry for their diligence in the AIR filing process.