

November 29, 2024

Financial Services Regulatory Authority of Ontario  
Auto Insurance Sector  
25 Sheppard Avenue West, Suite 100  
Toronto, ON M2N 6S6

**Re:     SABS Guidelines Review  
          Health Service Provider Framework Review  
          HCAI System Review**

Dear Sir/Madam;

Thank you for the opportunity to provide feedback on the SABS Guidelines Review, Health Service Provider (“HSP”) Framework Review and the HCAI System Review. With respect to the HCAI System review, we have provided input into IBC’s response and agree with their comments. Our comments regarding the SABS Guidelines review and the HSP Framework Review follow.

## **SABS Guidelines Review**

FSRA has been asked to review as part of the Budget commitment, the Professional Services Guideline (“PSG”) and Attendant Care Hourly Rate Guideline (“ACHRG”). As part of this review, FSRA is also reviewing the HSP fees set out in the Minor Injury Guideline (“MIG”). While Aviva appreciates the need to review these fees, Aviva is very concerned about broad fee increases that will ultimately increase premiums at a time when Ontarians are struggling with affordability.

For several years, premiums have been under pressure from a number of external factors that are beyond the control of insurers- auto theft, rising new and used vehicle prices, increasing repair costs, supply chain disruptions. Physical damage costs are expected to continue to rise. According to FSRA’s retained actuary Oliver Wyman, DCPD, Collision and Comprehensive loss costs will increase by an average of 9.1%, 9.2%, and 13.6%, respectively over the next year and overall, premiums are expected to increase by 5.6%. Injury costs (bodily injury and accident benefits) have been fairly stable but increasing HSP and attendant care fees will lead to increased premiums. The accident benefit coverage currently accounts for 22% of claim costs. Medical and rehabilitation costs (including HSP fees) are a major component of these costs. Given the volume of treatment, even a small across-the-board fee increase will have an impact on premiums. Aviva estimates that an across-the-board 10% increase of HSP fees would have a net impact of \$14 million and add \$21 per driver to the premium.

We do not support increases for all HSP's but some fees should be increased. We recommend that FSRA look to offset costs for any increase, as well as explore and pursue policy changes that would provide customers with evidence-based quality care that is also financially efficient.

We recommend that FSRA consider the following:

### **1. Conduct a Market Survey of HSP Rates**

Aviva's top 5 billing HSP's are physiotherapists, chiropractors, psychologist/psychotherapists, and massage therapists. Psychologists and massage therapists are the only providers that seem to be below market rates. Aviva has experienced rate issues for the mental health providers such as - psychologists, psychological associates, psychotherapists, and social workers. These health professionals provide what is called the "talking therapies" - psychotherapy, cognitive behavioral therapy, and counseling. Timely access due to capacity issues are also a challenge for our claimants with psychological impairments. [REDACTED]

Aviva recommends that FSRA conduct a market survey of the rates for psychologist and massage therapists and then determine how best to proceed. In addition, social workers do not have a set hourly rate.

### **2. Develop Billing Guidelines and Fees for Administrative Tasks**

Aviva's medical and rehabilitation spend is comprised of three types of services – treatment, assessments, and administrative costs. [REDACTED]

**Table 1- Breakdown of Billings by HSP**

Category	All HSPs	Physiotherapist	Chiropractor	Occupational Therapist	Psychologist
Treatment	■	■	■	■	■
Assessment	■	■	■	■	■
Administrative	■	■	■	■	■

The tasks that appeared most often in the “administrative services” category are:

- Provider travel time, provider to treatment
- Documentation, support activity for claim form (e.g. for insurance, third party payor, worker's compensation)
- Documentation, support activity
- Planning service
- Brokerage service
- Preparation service

Many of the administrative services are billed at the HSP hourly rate because the Professional Services Guideline does not provide adequate direction. Contrast this with WSIB’s Psychology services fee schedule (link: <https://www.wsib.ca/en/fee-schedule-psychology>) which provides detailed instruction on what can be billed on an hourly rate basis. Administrative fees are to be billed on a flat fee basis and the fees are set out.

Aviva recommends that FSRA adopt a similar fee schedule model as the WSIB which differentiates billing for treatment, assessment, and administrative services.

### **3. Develop Explicit Billing Guidelines for Supervised and Delegated Services**

Rules around billing for supervised and/or delegated services are vague and have resulted in confusion and allegations of overbilling especially with respect to the provision of psychological treatment. There are frequent examples of Psychological Associates or social workers which have fewer qualifications, billing at the full Psychologist rate for providing services supervised or delegated by a psychologist. Explicit billing guidelines and billing codes should be created to reflect the actual credentials and/or actual time spent delivering medical care.

#### 4. Attendant Care Hourly Rate

Aviva will spend [REDACTED] attendant care services in 2024. The table below illustrates the impact to Aviva if rates are increased to either WSIB level or increased using a CPI indexed rate.

**Table 2- Impact of Attendant Care Fee Increases**

Attendant Care	WSIB	CPI Indexed Rate
Level 1 - \$14.90	[REDACTED]	[REDACTED]
Level 2 - \$14.00	[REDACTED]	[REDACTED]
Level 3 - \$21.11	[REDACTED]	[REDACTED]
Net impact	[REDACTED]	[REDACTED]

Aviva recommends increasing Level 1 and 2 rates to the CPI Indexed rates.

#### 5. Minor Injury Guideline

The Minor Injury Guideline (MIG) has worked well. Most of Aviva's claimants recover within the MIG monetary limits. Our average spend [REDACTED]. The current limits are usually not exhausted so there is no reason to increase the fee.

#### 6. Introduce Additional Programs of Care

##### Common Traffic Injury (CTI)

The MIG is proof that programs of care provide effective treatment and cost stability. Despite its success, the MIG can be improved upon. The Common Traffic Injury protocol is the next iteration of this. The CTI provides clear guidelines on evidence-based care that have been shown to be effective for 11 soft tissue injury types. The CTI can utilize the same block fee billing, the difference with the MIG is that there are set frequency and duration of treatment and type of treatment interventions to be followed. This provides more clarity for both the HSPs and claims adjusters on what treatment is/is not recommended and also provides cost certainty.

Besides the CTI, other programs of care should be adopted especially for concussions and psychological impairments.

### Concussion/Mild Traumatic Brain Injury:

Concussion injuries in Canada have been on the rise, posing a significant public health concern. The Canadian Institute for Health Information (CIHI) reports that between 2018 and 2023, there were approximately 823,884 traumatic brain injury (TBI)-related emergency department visits, with concussion accounting for 80% to 95% of these injuries. (<https://www.cihi.ca/en/national-ambulatory-care-reporting-system-nacrs-metadata>) The top 3 causes of concussion stem from sport-related accidents, falls and motor vehicle collisions. ([Traumatic Brain Injuries - Canada.ca](#)).

We have seen [REDACTED]. The WSIB's Minor Traumatic Brain Injury Program of Care (mTBI POC) is a treatment guideline designed for early care of mTBI/concussion. (Link: <https://www.wsib.ca/en/new-mild-traumatic-brain-injury-program-care>). Aviva would be happy to work with FSRA to explore the possibility of the adoption of this guideline.

### Psychological Impairments:

Early psychological impairments as a sequelae of minor soft tissue injuries can be managed within the MIG. Reassurance and normalizing the post-traumatic experience have been practiced by physiotherapists, chiropractors and occupational therapists to help patients in their recovery. However, should the symptoms persist post-12 weeks, there is no clinical pathway to manage this other than referral to a psychologist.

[REDACTED]

Aviva recommends that FSRA investigate if this is a rising trend collectively in the insurance industry (P&C insurers, Life, Health & Disability insurers, etc). Something has to be done, as psychological impairments impact multiple stakeholders – employers, insurers, healthcare system, caregivers, and the public.

## **7. Introduce Health Outcome Measurement**

We need to move the focus on the accident benefits system from fees and hourly rates to health outcomes. Insurers pay a significant amount of money to HSP's to treat injured people. However, the system does not measure health outcomes and so we are unable to measure the effectiveness of treatment. The measurement of health outcomes has been utilized by health

systems (WSIB, Hospitals) to analyze how well the system is working. Effective data collection and analysis is essential to understand med-rehab costs, treatment outcomes and continually improve treatment protocols.

Aviva's preferred provider network (PPN) contracts include outcome measures as part of their key performance indicators. We analyze their data on a regular basis to ensure our claimants are receiving high quality and effective treatment. This approach needs to be adopted on a system wide basis. Existing forms, including the OCF-23, OCF-18, and OCF-21 will need to be updated to allow for outcome data collection through HCAI.

## **HSP Framework Review**

FSRA has been instructed by Government to conduct a review of the HSP Framework "to find administrative and cost efficiencies to contribute to having a more modern and efficient system." FSRA notes that its review will focus on ensuring that the current framework is fit for purpose and is accomplishing its intended goal. FSRA's role in HSP licensing and supervision is to "monitor the conduct of regulated entities, with oversight of the business and billing practices of licensees. Notably, FSRA's role does not include overseeing standards of practice or quality of care provided by regulated health professionals, which falls under the supervision of the Regulatory Health Colleges ("RHC")."

FSRA's current review is focused on administrative and cost efficiencies. Aviva fully supports efforts to find administrative and cost efficiencies because reducing these costs should reduce overall costs. The three initiatives listed- Modernizing HSP Licensing Through FSRA Process and System Improvements, Modernizing the Supervisory Approach with a New HSP Supervisory Tool and Enhancing Cooperation and Collaboration with RHC's- are appropriate initiatives to undertake. However, these initiatives may not address the stakeholder feedback included in the consultation document:

- The current requirement for HSPs to obtain a licence in order to bill electronically does not appear to be achieving the intended objectives of controlling costs and ensuring effective provisions of benefits by reducing fraud.
- FSRA's role is too narrow and limited to monitoring conduct of regulated entities, with oversight specifically pertaining to the business and billing practices of licensees.

- Fraud and abuse in the auto insurance system, which HSP licensing was intended to manage, is still perceived as a major issue by the public and stakeholders despite the implementation of HSP licensing and conduct oversight.

Aviva urges FSRA to take a broader perspective in its review and specifically consider whether it is fulfilling its mandate to address fraud in the sector. Clarifying HSP billing for insurers would go a far way in fighting fraud and addressing some of the recurring compliance issues.

### **Review and Clarification of Billing Guidelines**

Aviva has referred several cases to FSRA for enforcement due to fraud. In some cases, FSRA was unable to take action due to a lack of explicit rules and a perceived lack of jurisdiction by FSRA to impose billing standards on HSPs. We encourage FSRA to undertake a review of billing rules so that it is clear what can be billed and how. Although rules exist, they are scattered in Guidelines, and associated documents that are incorporated by reference. Specifically, under the HCAI Guideline, some of the important parts of the billing procedures are referenced under [www.hcaiinfo.ca](http://www.hcaiinfo.ca), where one needs to do some further digging to uncover and interpret what the requirements are. This can be overcome by FSRA adopting its own standards for billing insurers regardless of the standards that are imposed on each HSP through their colleges. There should be a higher standard of billing in insurance claims, as abuses of billings negatively impacts on a claimant's ability to get the amount and quality of service they require.

Being explicit on the billing procedure and standards also will fix the gap in enforcement between FSRA and the regulatory colleges. When Aviva has filed complaints to FSRA on service provider fraud, one of the problematic areas has been the jurisdiction of each regulator. The colleges are hesitant to rule on whether billings complied with SABS requirements, whereas FSRA has avoided making orders under UDAP based on improper supervision practices. In order to address these issues, FSRA should consider the following:

#### **1. Consolidate all billing rules and requirements into the HCAI Guideline**

The rules that are currently embedded within [www.hcaiinfo.ca](http://www.hcaiinfo.ca) should be brought within the wording of the guideline document itself. This would provide more clarity on billing requirements.

#### **2. Develop Explicit Billing Guidelines for Supervised and Delegated Services**

See recommendation in SABS section.

### **3. Clarify the Definitions and Provide an Explanation Unit Measures should be used.**

It is common for HSP's, such as physical therapists and chiropractors to invoice for one hour of therapy at the permitted FSRA rate even if the treatment is shorter. These inaccurate billing codes ultimately lead to higher claims costs and higher premiums for consumers.

### **4. Clarify Billing for Administrative Tasks**

See recommendations in the SABS section.

### **5. HSP Access to HCAI**

Individual HSPs do not currently have access to HCAI. A repeat finding of FSRA's supervisory reviews is "HCAI roster outdated/ inaccurate". A potential avenue to fraud is clinics continuing to use the identity of individual providers to approve or bill for treatment after the individual provider stops working at the clinic. FSRA should establish clear rules for when and how HCAI rosters are to be updated. HSP submissions should be restricted through the HSP's registration number exclusively. This would prevent multiple entries of the same HSP and would prevent submission without the HSP's knowledge.

### **6. HSPs with Practice Restrictions**

HSP's who are under practice restrictions with the RHC should be restricted from submitting treatment plans. This is essential for consumer protection as the consumer is unlikely to know whether a HSP is under restrictions. This requires ongoing communication between FSRA and RHCs.

Aviva appreciates the work that FSRA is doing to review the SABS Guidelines, the HSP Licensing Framework and HCAI. Thank you for the opportunity to comment. We would be pleased to discuss.

Yours very truly,

**AVIVA CANADA INC.**

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