

WRITE A BLOG ARTICLE EXPLAINING THE STATUTORY ACCIDENTS

BENEFITS SCHEDULE

What Are Statutory Accident Benefits?

Statutory accident benefits are benefits available for an injured or killed person in an automobile accident, regardless of who was at fault during the accident; this is also known as "no-fault accident benefits." The person should be injured by an accident that arose directly out of the use or operation of the automobile, and then he may be entitled to these no-fault accident benefits. The Statutory Accident Benefits Schedule regulates it, a regulation made under the Insurance Act of Ontario (also called no-fault benefits).

Who Is Eligible for Accident Benefits?

Anyone injured in an accident may be eligible for benefits. An applicant's injuries must be caused by accident. The circumstances causing the impairment must meet the definition of the accident: "accident" means an incident in which the use or operation of an automobile directly causes an impairment or directly causes damage to any prescription eyewear, denture, hearing aid, prosthesis, or other medical or dental devices.

There are some circumstances, however, that may limit a claim for benefits or make an applicant ineligible. For example:

- driving without a valid driver's licence,
- driving a vehicle without the owner's consent,
- being a passenger in a vehicle driven by someone without the owner's consent,
- driving without valid insurance,

- driving while impaired or refusing to provide a breath sample, and
- using a vehicle in connection with criminal activity.

What Types of Benefits Are Available?

Statutory accident benefits coverage pays for things such as medical treatment, income replacement if, as a result of the accident, a person cannot work, and the cost of attendant care in more severe cases. Some of the benefits available include the following:

- *Income replacement benefits (IRB):*

If an injured person cannot work due to an auto accident, he may be eligible for weekly income replacement benefits of 70 percent of their gross income, up to \$400/ week.

- *Caregiver benefits:*

Suppose an injured person can no longer provide full-time care to a dependant, for example, a child or other person as a result of a catastrophic injury. In that case, he may be eligible for caregiver benefits to be reimbursed for expenses in hiring someone to take over for him. This benefit is available only to claimants whose impairment meets the definition of "catastrophic" or who have purchased optional benefits.

- *Non-earner benefits (NEB):*

If the person's injuries result in a complete inability to carry on a normal life, and he or she does not qualify for income replacement benefits or was a full-time student at the time of the accident, then the injured person may be eligible for non-earner benefits of \$185/week.

- *Medical and rehabilitation benefits:*

These benefits cover costs such as massage, chiropractic, physiotherapy, prescriptions, counseling, and transportation to medical appointments not covered by OHIP or private group insurance plans.

- *Attendant care benefit (ACB):*

These benefits cover the need for an attendant to care for an injured person, either at home or in a healthcare facility, if the person has been seriously injured in an auto accident. ACBs are not available if the impairments are considered to be minor injuries.

- *Some additional categories of benefits are:*

- lost education expenses
- visitor's expenses
- housekeeping and home maintenance
- death and funeral expenses
- damage to clothing
- interest

Role of LAT (AABS):

The AABS assists people injured in a motor vehicle accident, has made a claim for statutory accident benefits, and has had their claim denied by an insurance company. Drivers, passengers, pedestrians, or family members of a person injured or dies may all have a potential claim for benefits.

If an insurer refuses or stops a claim for benefits, an applicant can apply to LAT AABS to help resolve the dispute.

Brief of Licence Appeal Tribunal

The Licence Appeal Tribunal (LAT) is an adjudicative tribunal established under the Licence Appeal Tribunal Act, 1999 (LATA). The LAT's mandate is to resolve appeals regarding compensation claims and licensing decisions made by a variety of regulators and in accordance with the appeal rights set out under several statutes. The tribunal receives appeals, conducts hearings, resolves disputes, and makes decisions on numerous matters.

The LAT currently hears appeals from decisions pursuant to over 25 statutes. Some of the most common LAT cases involve liquor licenses, new home warranty claims, medical suspension of driver's licences, impoundment of motor vehicles, and the regulation of some occupations and businesses. Some recent additions to the LAT include adjudicative responsibility for beer-in-grocery-store licensing appeals and appeals relating to horse racing licences.

From April 1, 2016, the LAT accepted applications to the new Auto-mobile Accident Benefits Schedule (AABS) system that aims to quickly resolve disagreements between individuals and insurance companies about accident benefits. These disputes were previously heard by the Financial Services Commission of Ontario (FSCO). AABS applications at LAT now represent the largest number of appeals. LAT receives more than 800 applications per month.

Statutory Accident Benefits Schedule (SABS)

The Statutory Accident Benefits Schedule (SABS) is a regulation under the IA that sets out the benefits and compensation that may be available to someone injured in an accident. The benefits set out in the SABS are standardized among all Ontario insurance companies. The accident date, also known as the date of loss, is key in determining which SABS Schedule applies. The available benefits and rules apply differently depending on the date of the accident.

Summary Of SABS Schedule

Date of Accident	Legislation	Applicable Schedule
Accidents after September 1, 2010	O Reg 34/10 Applicable	Statutory Accident Benefits Schedule-Effective September 1, 2010.
Accidents on or after November 1, 1996, to August 30, 2010	O Reg 403/96	Statutory Accident Benefits Schedule-Accidents on or After November 1, 1996.
Accidents on or after December 31, 1993, and before November 1, 1996	O Reg 776/93	Statutory Accident Benefits Schedule-Accidents After December 31, 1993, And Before November 1, 1996.
Accidents before January 1, 1994.	RRO 1990, Reg 672	Statutory Accident Benefits Schedule-Accidents Before January 1, 1994.

Rule & Legislation

Like all administrative tribunals, the LAT aims to provide clear and flexible appeal processes and dispute resolution services that are accessible to the public. The tribunal is subject to the rules of natural justice and the Statutory Powers Procedure Act (SPPA) requirements. The members appointed to the tribunal conduct fair, efficient, and impartial hearings during which they consider all evidence presented and make a decision with written reasons. Most tribunal decisions are subject to appeal to the Superior Court of Justice (Divisional Court). All tribunal proceedings are subject to reconsideration and judicial review according to the Judicial Review Procedure Act.

The Insurance Act

The enabling statute governing the AABS is the *Insurance Act (IA)*. Section 280 of the Act states that:

280(1) This section applies to the resolution of disputes in respect of an insured person's entitlement to statutory accident benefits or the amount of statutory accident benefits to which an

insured person is entitled.

Application to the tribunal (2) The insured person or the insurer may apply to the Licence Appeal Tribunal to resolve a dispute described in subsection (1). *Sections 279-288 of the Insurance Act* set out the dispute resolution process.

The AABS Dispute Resolution Process

Filing an AABS Application The person injured by accident can file an application with LAT-AABS if there is a disagreement about the injured person's claim to accident benefits or the amount of benefits. Application forms and procedures are available at Tribunals Ontario website: <https://tribunalsontario.ca/lat/automobile-accident-benefits-service/forms/>.

However, an insurance company is also entitled to file an application with AABS if it seeks repayment from an insured person. If an insurance company believes an individual has been paid too much under their policy, they can file an AABS application to return the money. AABS does not hear disputes about:

- damages for pain and suffering,
- damage to cars or other property,
- who was at fault in the accident, and
- which insurer is responsible for a claim.

Case Conference:

Rule. 14.2 allows LAT to conduct case conferences on parties' written requests or its own initiative.

A case conference can be held in electronic format in person, on a telephone call, or in written form. The main of a case conference is to facilitate a fair, accessible, and open process that allows

the effective participation of parties and ensures a timely resolution of the matter. If a party fails to resolve the dispute in a case conference, the dispute will resolve according to the judicial hearing process.

Two-Year Limitation Period

If an insurance company denies or stops paying benefits to an insured person, it must provide written notice of this decision that includes the reasons for its decision. If an applicant wants to dispute the denial of their claim, he or she must file an AABS application within two years after the denial notice from the insurance company. This is set out in *section 56 of the SABS Schedule*:

The time limit for proceedings:

Section 56: An application under subsection 280(2) of the IA Act concerning benefits shall be commenced within two years after the insurer refuses to pay the claimed amount.

To trigger the two-year limitation period, the denial or stoppage of benefits must be "clear and unambiguous."

Decisions and Case Laws:

All LAT-AABS decisions are published on CanLII, and FSCO decisions are available on the FSCO website. However, LAT adjudicators are not binding by the decisions of FSCO; they can be considered persuasive.
