Who’s at Fault?

Frequently Asked Questions

• How your adjuster assesses fault
• How fault affects you
• Appeal options
What is fault?

When Manitoba Public Insurance assesses fault, we are determining which driver(s) is responsible for a collision. Fault is identified as a percentage. For example, if a driver is determined to be completely responsible for causing the collision, the fault will be assessed at 100 per cent. If the collision involves two drivers who are at fault for the collision, but one driver is more responsible, fault may be assigned at 75 per cent and 25 per cent.

Assigning fault often determines what each driver is required to pay and whether the collision will affect their level on the Driver Safety Rating scale (DSR). (For more information on DSR, see page 8.)
Assessing fault

How does my adjuster assess fault?

Before assessing fault, the adjusters gather all the details about the collision. For example, they obtain statements from the drivers involved, witnesses and, in some cases, passengers. Vehicle damage is compared to the statements provided by the drivers to determine if the damages explain how the collision occurred. Adjusters may also review police reports and visit the accident scene.

Once the adjusters have collected this information, they’ll assess fault for the collision. They do this by reviewing past court decisions with similar circumstances, The Highway Traffic Act and common sense.

For straightforward collisions, adjusters may only need the drivers’ statements to assess fault. An example would be a driver who rear-ends a car stopped at a red light. In this case, a detailed investigation to assess who was at fault is usually not needed.
Are passengers and friends suitable as witnesses?

We try to assess the case the way a court would likely assess it. Therefore, reports from impartial witnesses (sometimes called independent witnesses) carry the most weight.

Do Autopac adjusters usually assess fault at 50-50?

Our adjusters try not to assess fault at 50-50. Most often one driver is more at fault than the other.

From time to time, we do assess fault at 50-50. It may be because both drivers contributed equally to the collision, or conflicting evidence won’t allow us to say conclusively who was at fault. Under similar circumstances the courts would also settle these types of collisions at 50-50.
Am I at fault?

*A traffic court cleared me of a Highway Traffic Act infraction related to this collision. Why did my adjuster still assess me at fault?*

A traffic court has a narrow focus and looks at whether or not the driver is guilty, beyond a reasonable doubt, of a specific traffic offence. Your adjuster, on the other hand, takes into account how the collision occurred and looks at the bigger picture to determine who likely caused the collision.

For example, a motorist collides with a parked car and the police charge the driver with careless driving. A traffic court then acquits the driver because there is no clear-cut evidence of careless driving. The traffic court focused only on the traffic charge, not on who caused the collision. However, we would still hold the driver at fault for causing the collision with the parked car. That means the owner of the parked car can then get fair compensation for out-of-pocket expenses, such as their deductible.

To sum it up, Manitoba Public Insurance, like a civil court, has a much broader focus than a traffic court. We look at all the circumstances and consider past decisions to determine who was at fault for the collision.
While I was turning left, someone tried to pass me on the left and we collided. My adjuster told me I would likely be 75 per cent responsible. Can that be right?

Yes. The courts often place more fault on the left-turning driver in this type of collision because anyone turning left has to yield to both oncoming and passing traffic. The rules of the road, as stated in *The Highway Traffic Act*, say that anyone turning from a straight line must do so safely. If the other driver should have known that you were turning left, we may assess that driver some fault for passing at an inappropriate time.

Someone cut me off and I hit a telephone pole. I can’t identify the other driver or vehicle and no one else saw it happen. Do you consider me at fault?

Yes. *The Highway Traffic Act* states that when you have a single-vehicle accident, you are automatically at fault unless you can prove otherwise. Without independent witnesses or knowing who cut you off, you likely can’t prove you were not at fault.

The road was icy and I rear-ended a stopped vehicle. Do you still consider me at fault, despite the poor road conditions?

Yes. The reality is that most of these collisions can be avoided by recognizing the poor road conditions and driving with extra caution. *The Highway Traffic Act* states that drivers must expect hazardous conditions and adjust their driving accordingly. This means slowing down to a speed below the posted limit and maintaining a safe following distance, especially in the winter.
If you’re at fault

Does fault affect my claim settlement?

Being determined at fault will affect expenses not covered by your Basic Autopac insurance, such as the deductible and alternative transportation. How much you’ll get back depends on how much you and the other driver were assessed to be at fault.

For example, if the other driver was 100 per cent at fault, you’ll get back 100 per cent of your deductible. But if the other driver was only 25 per cent at fault, you’ll get back 25 per cent of your deductible, and the other driver will get back 75 per cent of his or her deductible.

This only applies when we know who the other motorist is and if you are both insured by Manitoba Public Insurance. If the at-fault driver lives outside of Manitoba and has insurance with another company, your out-of-pocket expenses will have to be paid by the other driver’s insurance company.

If you’re at fault, you’re not required to pay the other driver’s deductible personally. This expense is covered by third party liability coverage as part of your Basic Autopac insurance.

As for physical damages or injury claims, your Basic Autopac covers the costs no matter who is at fault.
**How does an at-fault accident affect my vehicle and driver premiums?**

Each at-fault accident will move you down five levels on the Driver Safety Rating (DSR) scale. Depending on your level on the DSR scale, you may lose your vehicle insurance discount or pay higher premiums on your driver's licence.

If you have also been convicted of a driving infraction, you can expect to move further down the scale. For example, speeding may move you down the scale two or five levels, depending on how fast you were going. Each violation is assessed a value that will determine how far you move down the scale. To find out how an at-fault collision could affect your Driver Safety Rating and premiums, go to our online Driver Safety Rating calculator at mpi.mb.ca.

You can appeal additional driver premiums through the Rates Appeal Board, which operates independently from Manitoba Public Insurance. You can contact the Rates Appeal Board at 204-985-7071.

For more information about the DSR program, please see the DSR brochure, available at your local Autopac agent, a Manitoba Public Insurance Service Centre or online.
## Merits for Safe Driving

| +15 | +14 | +13 | +12 | +11 | +10 | +9  | +8  | +7  | +6  | +5  | +4  | +3  | +2  | +1  | 0 (BASE) | -1  | -2  | -3  | -4  | -5  | -6  | -7  | -8  | -9  | -10 | -11 | -12 | -13 | -14 | -15 | -16 | -17 | -18 | -19 | -20 |

## Demerits for Higher-Risk Driving

Where you were.

Where you could be if you have an at-fault collision.

*Example of how an at-fault collision could affect your level on the DSR scale.*

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Saves you money!

Costs you money!
I caused an accident but there was hardly any damage. Is there a way for me to avoid losing my premium discount or paying any additional premiums?

Yes. You and the other driver involved can settle with each other outside Autopac. If you do, the collision won’t affect your level on the DSR scale. There is no need to contact Manitoba Public Insurance if you choose to do this.

Even if you and the other motorist have already submitted claims, you can choose to cancel them.

If the other driver chooses to proceed through Autopac or any payments are made on the file, you have the option to buy back the claim. This means that you will have to pay back any money we pay out for the incident. Then, we’ll remove the collision from your driving record so it won’t affect your DSR rating. Please contact your adjuster for more information.
I don’t think you’ve assessed fault correctly. What can I do?

You can ask your adjuster’s supervisor to review the claim for you. If you disagree with your adjuster’s supervisor, you may contact our customer relations unit for further support.

Two formal appeal options are also available. First, for $50, you can apply for a review by an independent adjudicator. This individual will examine all the evidence and either uphold or change your adjuster’s assessment. If the adjudicator changes the assessment so you are less than 50 per cent responsible, you will get your $50 appeal fee back. Your adjuster can provide you with more information.

The second option is to take the other driver to small claims court. The courts have the final say over fault and we will uphold the court’s decision. If you go to court after getting an independent adjudicator’s assessment, the court’s decision will override that assessment.
The information contained in this brochure is of a broad, general nature. The Manitoba Public Insurance Corporation Act, The Highway Traffic Act, The Drivers and Vehicles Act and their accompanying Regulations should be consulted for interpretation and application of the law.