

# Appeal Options

A number of options are available to appeal decisions related to fault, injuries, damage and driver premiums.



MANITOBA  
PUBLIC INSURANCE

# What you can expect from Manitoba Public Insurance

We strive to treat all our customers fairly. It's important to understand your Autopac coverage has rules that go with it. Applying these rules helps ensure everyone is treated fairly and consistently.

Of course, not all situations are clear-cut, so sometimes we have to make judgment calls. You have a variety of appeal alternatives if you think the judgment call we've made isn't right.

## Appealing fault

The first line of appeal is informal and goes through your adjuster. You can ask your adjuster to reconsider your case. And, you're entitled to an explanation of why they assessed you at fault. If necessary, you can also ask the service centre supervisor/manager to review your case. If you're still unsatisfied with the liability assessment, you can speak with one of our Customer Relations officers about it. Finally, there are two formal, external appeal options: Independent Review and Small Claims Court.

### Independent Review

For \$50, you can apply for Independent Review by an independent adjudicator. You have to apply for the review within 30 days of receiving your adjuster's assessment of who was at fault. Your adjuster will give you the application form.

On the application, you get to give your version of events and explain why you think our assessment was wrong. Once you've sent in your application and payment, we'll submit all the facts of your case to the independent adjudicator. This reviewer looks at all the evidence and gives a written opinion that either upholds or changes your adjuster's assessment. Either way, you'll get a copy of the reviewer's opinion. You get your \$50 back if the reviewer holds you less than 50 per cent at fault. For example, if we assessed you 100 per cent responsible but the reviewer changes that to 25 per cent you get your \$50 back.

Any favourable changes in responsibility will affect your deductible. If you have already paid your deductible we will reimburse you accordingly.

Independent Review **is not available** for:

- single vehicle accidents — The Highway Traffic Act says drivers are automatically at fault for single vehicle accidents unless they can prove otherwise
- accidents involving motorists who have no Basic Autopac coverage
- accidents involving motorists insured outside Manitoba

## Small Claims Court

The courts have the final say over who was at fault. Even if you've had the independent adjudicator review your case, you can still go through the courts for a final decision. Small Claims Court is sometimes called 'The People's Court' because it's more informal than higher courts. You don't need a lawyer to make your case.

Here are a few things you need to know about the process:

- You have two years from the collision date to take your case to court.
- You can sue for your out-of-pocket expenses, such as your deductible, up to \$15,000. Or, you can ask the court just to decide who was at fault, without suing for an amount.
- If you're suing for \$5,000 or less, the fee to file your claim is \$75. If you're suing for more than \$5,000, the fee is \$100. Small claims court hearings are available throughout the province. Call the number listed below for more information.
- You sue whomever you believe caused the collision — you're the claimant and the other party is the defendant.
- You have to accurately identify the party you're suing. That means you have to make sure you have the other party's name and address exactly right. Then, you have to 'serve' the other party with a copy of the statement of claim form — physically handing it to the other party is the best way to do this.

- If you do not have the other party's name and address, speak to your claim adjuster to fill out the necessary form so that you may obtain this information for Small Claims Court purposes.
- Try to put together your case logically and clearly — it may help you convince the judge.
- We'll accept the court's decision, but either side can appeal the decision within 30 days.
- Call 204-945-3138 for more information about Small Claims Court.

## Disagreements over repairs or settlement amounts

If you think we haven't allowed enough repairs, or the right repairs, or if you think we've undervalued your vehicle, there are things you can do. The first step is talking things over with one of the service centre supervisors — either the estimating supervisor for disagreements over repairs or your adjuster's supervisor for disagreements over vehicle value. If we can't work out the problem, you can put your case in the hands of an independent representative and we'll do the same. Then, the two representatives will decide what the repairs or the settlement should be. This is called appraisal.

Please note that appraisal is for a disagreement over something your insurance covers — not to claim something your insurance doesn't cover. For example, you can't use appraisal to have your insurance pay for rust, because your insurance doesn't cover rust. Or, if we refused your claim because you broke the terms and conditions of your insurance, you can't use appraisal to dispute it. To dispute it, you must go to court.

## **The appraisal process**

- 1) You must indicate the amount you want to settle for on a proof of loss form, provided to you by your adjuster.
- 2) If Manitoba Public Insurance rejects your settlement offer, you can then choose an independent vehicle appraiser. Send your appraiser's name, address and phone number to your adjuster by registered mail. We will send our appraiser's name to you by registered mail within five days of receiving your letter. You're best off choosing someone experienced in estimating repairs or valuing vehicles (such as a professional vehicle appraiser) as your appraiser. Your adjuster can give you a list of reputable independent appraisers if you don't know anyone who can act for you.
- 3) The appraisers then try to agree on your vehicle's value or the repairs that are needed. If they agree, both you and Manitoba Public Insurance must accept the decision.
- 4) If the appraisers don't agree, they select a third independent appraiser, known as an umpire, whose decision is final and binding on both parties. If the appraisers can't agree on the choice of an umpire, the courts will name one. What does all this cost? You'll need to pay your representative's fee. Typically, this fee is about \$200, but it may be more, depending on whom you hire. Ask how much the fee is before hiring someone. Also, if your case goes to an umpire, you have to split the cost of the umpire with us.

Sometimes appraisal takes a while to finish. If your vehicle is a total loss, we realize you may need money quickly to buy another one. To help out, your adjuster can give you a settlement advance while your claim is in appraisal (provided you're unable to drive your vehicle and it's in our possession). The advance will equal how much we believe your vehicle is worth. Then, if appraisal awards you a higher amount, we'll pay you the balance.

## **Injury claims**

If you were not satisfied with your case manager's decision regarding your injury claim, there are appeal processes available to you: Review by Manitoba Public Insurance's Internal Review and review by a third-party organization called Automobile Injury Compensation Appeal Commission (AICAC). The first step of the appeal process is review by Manitoba Public Insurance. Your case manager will give you the forms you need to file an appeal.

### **MPI internal review**

Manitoba Public Insurance has several review officers, who work independently from the claims department. They will thoroughly examine your file and may conduct investigation and request more information. They can overrule your case manager's decision if they believe it was incorrect. One way or another, an internal review officer will write you to explain the reasons for their decision.

### **Review by a third-party organization**

If you disagree with the internal review officer's decision, you can then appeal to a review body outside Manitoba Public Insurance. It's called the Automobile Injury Compensation Appeal Commission (AICAC) and it operates completely apart from Manitoba Public Insurance.

After the Notice of Appeal has been filed, you will be given an option for an independent mediation before proceeding with the appeal with AICAC.

### **Mediation**

Mediation is an option if you have an appeal with AICAC. An independent mediator will work with you and the representative from MPI's Injury Claims Management department in an effort to achieve a resolution as an alternative to a hearing.

If you are unable to resolve the matter through mediation, then a hearing with AICAC will be scheduled. The Commission makes a final decision on your case.

You can appeal AICAC's decision to the Manitoba Court of Appeal, but only if the disagreement is with respect to a question of jurisdiction or of law, and only with leave obtained from a judge of the Court of Appeal.

## **The Claimant Adviser Office**

If you're appealing the internal review officer's decision to the AICAC, the Claimant Adviser Office can help you. It operates independently of both Manitoba Public Insurance and AICAC, and its services are free. They can also provide assistance with your mediation. Here's how to reach them:

Claimant Adviser Office

200-330 Portage Avenue

Winnipeg, MB R3C 0C4

Phone: 204-945-7413

Toll-free: 1-800-282-8069 ext. 7413

TTY: 1-800-855-0511

Fax: 204-948-3157

email: [cao@gov.mb.ca](mailto:cao@gov.mb.ca)

Hours: 8:30 a.m. - 4:30 p.m. Monday to Friday

## **Additional driver premiums on your driver's licence**

Your driver's licence fees include an insurance premium. You have to pay additional driver premiums on your driver's licence for the following, which may also move you down the Driver Safety Rating (DSR) scale:

- at-fault accidents
- traffic convictions

## Appealing additional driver premiums on your driver's licence

The Rates Appeal Board (RAB) is an independent board that hears appeals on the additional driver premiums which are paid by customers with a negative placement on the DSR scale. The RAB doesn't determine fault for a claim or overturn a conviction. You can appeal an additional driver premium through the RAB if you believe it is unduly harsh or if you think it is based on incorrect information on your drivers' record. The board has the authority to waive a portion of the premium, the entire amount, or to deny the appeal. To appeal through the RAB, call 204-985-7071. It costs \$10 to start your appeal. If your appeal is successful, you get your \$10 back. But if it's not, you'll have to pay another \$25 for making the appeal.

To appeal your position on the DSR scale, you have to appeal the at-fault accident or conviction that resulted in your moving down the scale. To appeal an at-fault accident, you should consider an independent review or small claims court. To appeal a conviction that occurred in Manitoba, you can appeal through the traffic court system. If the conviction occurred outside Manitoba, you can file an appeal through the courts of the jurisdiction where the conviction occurred.



## Who else can give you answers?

Our Contact Centre staff can answer most questions about your Autopac insurance or claims issues. If your question is more complex, they can put you in touch with one of our Fair Practices & Customer Relations team members who can research it in more detail.

An important outside agency to know about is the Manitoba Ombudsman. The Ombudsman can investigate complaints. The Manitoba Ombudsman is an independent officer of the Legislative Assembly, who assists people and public sector organizations with their concerns by conducting impartial investigations, making recommendations and providing guidance to ensure people are treated in a consistent, fair and reasonable manner and that their rights to information and privacy are protected. The Ombudsman is not an appeal body and cannot substitute their opinion for that of the Corporation. They do not have the power to overturn decisions. In its investigations, the Ombudsman identifies problems with a particular process, decision or systemic issue and may make recommendations to the Corporation to address the issue. They can be reached at 204-982-9130, 1-800-665-0531 (toll free) or by email to [ombudsman@ombudsman.mb.ca](mailto:ombudsman@ombudsman.mb.ca).



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