

INSURANCE COVERAGE WHEN STUDENTS ARE TRAVELLING IN VEHICLES DRIVEN BY EMPLOYEES OF NS HOPA SUBSCRIBING MEMBERS

From time to time students on placement with an NS HOPA Subscribing Member, and while in the course of their studies, travel in a vehicle driven by an NS HOPA Subscribing Member's employee; for example, when they travel with their instructors or preceptors between facilities or home visits.

Several questions have been asked about the insurance coverage in the event of an accident.

1. Employees have asked whether their automobile insurance will be impacted if they are in an accident while transporting a student.
2. NS HOPA Subscribing Members have inquired about the insurance coverage available to compensate a student who has been injured.
3. What coverage is provided under the non-owned automobile section of the NS HOPA and Aviva liability insurance policy?

This bulletin will answer these questions, and look at the sources of insurance to compensate the student and the circumstances under which an NS HOPA Subscribing Member may have coverage under the NS HOPA / Aviva insurance policy.

What insurance is available to a student travelling in the course of their studies in a vehicle driven by an NS HOPA Subscribing Member's employee? Does the liability insurance provided through NS HOPA / Aviva provide compensation if the student is injured through the fault of the NS HOPA Subscribing Member's employee?

By law, any vehicle on the road must be insured. When an employee uses their own vehicle to transport themselves and a student, their own automobile insurance policy will respond to provide Section B benefits regardless of whether they are at fault for the accident. If they are at fault for the accident, their automobile insurance policy will also be called upon to pay the claims of injured third parties.

If the employee is driving a rental vehicle, Section B benefits would be provided by the rental company's insurance policy. If the employee was at fault for the accident, the liability claim of the student passenger and any other injured party would be covered under the NS HOPA Subscribing Member's non-owned automobile coverage through NS HOPA / Aviva.

Potential Sources of Compensation for the Student

Students are not employees of the NS HOPA Subscribing Members and therefore they are not covered by Workers' Compensation. There are three potential sources of compensation for a student injured while in the course of their studies and in a vehicle driven by an employee of an NS HOPA Subscribing Member:

1. Accident Benefits (Section B)

Accident Benefits are paid under the automobile insurance on the vehicle in which the student was travelling. If the vehicle is rented, the rental company's insurance policy responds. If the vehicle is owned by an NS HOPA Subscribing Member's employee, it is the insurance policy on the employee's vehicle which responds.

- Accident Benefits are available regardless of who is at fault for the accident.
- The NS HOPA / Aviva policy does not provide Accident Benefits coverage.

Accident Benefits reimburse for out-of-pocket treatment expenses and income loss. Coverage includes physiotherapy and prescriptions, a portion of funeral costs and a small death benefit, and a limited amount of income replacement. There are maximum limits on the amounts paid and they will be reduced by the amount of the student's private coverage, if applicable.

2. Third Party Liability Insurance, Including NS HOPA / Aviva Policy

A student may be entitled to compensation from the "at fault" driver. This may be the NS HOPA Subscribing Member's employee, the driver of the other vehicle, or a combination of the two. If the NS HOPA Subscribing Member's employee is responsible for the accident and they are driving their own vehicle, their own automobile insurance policy will respond to the student's claim.

Liability insurance pays claims for pain and suffering, treatment costs, and income loss beyond that covered by Accident Benefits, including future treatment costs and income loss.

3. Private Medical or Disability Coverage

Coverage that the student may have available, whether through a parent, the student's educational institution, or coverage that the student purchased on their own.

NS HOPA / Aviva Non Owned Auto Coverage

If the employee is travelling in the course of their duties for the NS HOPA Subscribing Member and the employee is at fault for the accident, there are two circumstances in which the liability coverage provided by NS HOPA / Aviva policy would respond:

1. The employee is required by law to carry, at a minimum, \$500,000 liability coverage. If the employee's vehicle coverage is not sufficient to pay the claim of the student passenger and

anyone else who might have a claim, the NS HOPA / Aviva policy would be triggered if the student brought a claim against the NS HOPA Subscribing Member, up to the policy limits of \$15,000,000.

2. If the employee is driving a rental vehicle, the NS HOPA / Aviva policy would respond to the student's claim, and any other injured party's claim, up to the policy limits.

Summary

Students on placement with an NS HOPA Subscribing Member are not employees and are not covered by Worker's Compensation. If, in the course of their studies, they are injured while a passenger in an NS HOPA Subscribing Member employee's vehicle, by law their recourse is against the insurance carried by the "at fault" driver. That may be the NS HOPA Subscribing Member's employee or the other driver. If the employee is at fault and driving their own vehicle, and if their own automobile insurance is not sufficient to pay all claims, the NS HOPA / Aviva policy will cover the shortfall up to the policy limit on behalf of the Subscribing Member. If the NS HOPA Subscribing Member's employee is at fault and driving a rental vehicle the NS HOPA / Aviva policy will respond to the student's claim.

If the other driver is at fault, NS HOPA's policy does not respond to any shortfall. The minimum liability coverage in Nova Scotia is \$500,000. The likelihood that there would be insufficient insurance is low. However, in an accident with serious or multiple persons injured, \$500,000 may not be sufficient to pay all losses.

Some NS HOPA Subscribing Members have reported that employees have raised a concern over the fact that an accident would be charged to them and affect their future insurance premium. This cannot be avoided if they drive their own vehicle and are responsible for the accident.

If you have questions, or would like additional information please contact:

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