

## **AUTOMOBILE INSURANCE COVERAGE FOR NS HOPA SUBSCRIBING MEMBERS**

Insurance coverage provided by NS HOPA and Aviva to NS HOPA Subscribing Members includes automobile liability insurance when a member's officer or employee drives in the course of their work. Changes to Nova Scotia's *Insurance Act* and the regulations under that *Act* came into effect on April 1, 2013, impacting the breadth of this coverage.

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*What insurance is available to respond to liability claims involving employees of NS HOPA Subscribing Members who drive in the course of their work? What differences are there in coverage when the employee drives their own vehicle versus a rental vehicle? Should additional insurance be purchased when employees of NS HOPA Subscribing Members rent vehicles?*

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The coverage provided by the NS HOPA / Aviva policy protects NS HOPA Subscribing Members against liability claims when their officers or employees drive, for the purposes of their work, a vehicle which is not owned or leased by the Subscribing Member.

### **Officers and Employees Driving Their Own Vehicles**

Officers and employees often drive their personal vehicle for work purposes. By law, these vehicles must carry liability insurance of at least \$500,000. Some NS HOPA Subscribing Members encourage or require employees to carry at least \$2,000,000 liability coverage.

In the event that an officer or employee is at fault for an accident, their personal automobile insurance will respond first to any claim brought against them. If they are driving in the course of their work, the NS HOPA / Aviva policy provides insurance that is excess to the owner's personal coverage. This coverage will protect the Subscribing Member from liability to the \$15,000,000 limits of the NS HOPA / Aviva policy. It is important to note that this policy does not protect the officer or employee personally while they are operating a vehicle that they own, or that is owned by anyone in their household. In practical terms, an injured party would usually present their claim against both the officer or employee and their employer. Once the officer's or employee's personal insurance limits were exhausted, NS HOPA / Aviva would respond on behalf of the Subscribing Member only. If the claim is not advanced against the NS HOPA Subscribing Member, the NS HOPA / Aviva policy is not triggered.

Another recent change which affects all automobile owners in the province requires that an owner who is involved in an accident look to their own insurer to arrange and pay for vehicle repairs, even if the other driver is at fault.

## Officers and Employees Driving Rental Vehicles

When an officer or employee of a Subscribing Member drives a rental vehicle in the course of their work, the NS HOPA / Aviva policy provides liability coverage for the officer or employee, as well as the Subscribing Member. In response to the needs of our Subscribing Members, effective March 31, 2014, this coverage will extend to students and volunteers while driving.

Prior to the recent change in the governing legislation and regulations, the rental company's insurer was required to respond first to any liability claim arising from an accident. The NS HOPA / Aviva policy provided excess coverage.

Effective April 1, 2013, the NS HOPA / Aviva policy responds first to any liability claim up to the policy limits of \$15,000,000.

Another important feature of the NS HOPA / Aviva policy is coverage for damage to the rental vehicle itself. Regardless of who is at fault for an accident, NS HOPA / Aviva will reimburse the rental company for the damage, subject to a \$1,000 deductible paid by the Subscribing Member. In the past, NS HOPA / Aviva had the right to recover from the driver of the other vehicle if she or he was responsible for the accident. With the new legislation and regulations, NS HOPA / Aviva will no longer have the right to recover from the "at fault" driver.

When an officer or employee is renting a vehicle for work purposes, the question often arises whether they should purchase any of the additional insurance options offered by the rental company.

## Purchasing Optional Insurance Coverage from the Rental Company

Rental companies do not offer additional liability insurance to respond to injury claims.

Rental companies do offer Personal Accident Insurance, which provides additional death benefits and medical expense coverage for occupants of the vehicle. Most employees driving in the course of their work should already have access to Workers' Compensation benefits, including death benefits and medical expense coverage, in the event of an accident. Some Subscribing Members purchase travel insurance which provides additional benefits for their officers and employees.

The primary consideration is whether to purchase the Damage Waiver insurance offered by the rental company. This coverage absolves the renter of any responsibility for damage to the rental vehicle, with no deductible.

As noted, the NS HOPA / Aviva policy already provides coverage for damage to the vehicle, but subject to a \$1,000 deductible per occurrence. It may prove worthwhile to calculate the number of vehicles rented, and the number of days, in order to determine the additional rental cost that would be paid in order to have this Damage Waiver coverage on all rented vehicles. This cost must be weighed against the risk that, if the coverage is not purchased, the \$1,000 deductible under the NS HOPA / Aviva policy would be payable in the event of an accident. This would include a consideration of the number of accidents that have historically been reported.

## Summary

The NS HOPA / Aviva policy provides automobile liability coverage when a Subscribing Member's officer or employee drives, for work purposes, a vehicle not owned or leased by the Subscribing Member. When the vehicle is owned by the officer or employee, that person's personal automobile insurance responds first before coverage under the NS HOPA / Aviva policy is triggered. When the vehicle is a rental, the NS HOPA / Aviva policy responds first to any claim. The NS HOPA / Aviva policy also provides coverage for damage to the rental vehicle itself, subject to a \$1,000 deductible. You may wish to consider whether it is worthwhile to purchase Damage Waiver insurance from the rental company in order to avoid paying a deductible in the event of an accident.

Attached for your ease of reference are detailed flowcharts, setting out the various claims that may arise from an automobile accident and providing guidance as to which insurer should be put on notice in the event of an accident.

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

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## RENTAL VEHICLE FLOWCHART

WHO IS CLAIMING	WHAT IS CLAIMED	WHICH INSURER MAY RESPOND
<b>Employee – Driving</b>	Treatment and Income Loss →	WCB
	Injury <sup>2</sup> →	WCB / Other Vehicle’s Insurer
	Possessions →	Other Vehicle’s Insurer
<b>Employee – Passenger</b>	Treatment and Income Loss →	WCB
	Injury <sup>2</sup> →	WCB / Other Vehicle’s Insurer
	Possessions →	NS HOPA / Other Vehicle’s Insurer
<b>Student – Passenger</b>	Treatment Costs <sup>1</sup> →	Rental Company’s Insurer
	Injury <sup>2</sup> / Possessions →	NS HOPA / Other Vehicle’s Insurer
<b>Pedestrian</b>	Treatment Costs <sup>1</sup> →	Rental Company’s Insurer
	Injury <sup>2</sup> / Possessions →	NS HOPA
<b>Rental Company</b>	Vehicle Damage →	NS HOPA
<b>Occupants of the Other Vehicle</b>	Treatment Costs <sup>1</sup> →	Other Vehicle’s Insurer
	Injury <sup>2</sup> →	NS HOPA / Other Vehicle’s Insurer
	Vehicle Damage →	Other Vehicle’s Insurer
	Possessions →	NS HOPA / Other Vehicle’s Insurer

<sup>1</sup>Specific out-of-pocket expenses prescribed by statute

<sup>2</sup>Pain and suffering, future losses, other treatment costs

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## EMPLOYEE OWNED VEHICLE FLOWCHART

WHO IS CLAIMING	WHAT IS CLAIMED	WHICH INSURER MAY RESPOND
<b>Employee – Driving</b>	Treatment and Income Loss →	WCB
	Injury <sup>2</sup> →	WCB / Other Vehicle’s Insurer
	Vehicle Damage / Possessions →	Driving Employee’s Insurer
<b>Employee – Passenger</b>	Treatment and Income Loss →	WCB
	Injury <sup>2</sup> →	WCB Driving Employee’s Insurer; NS HOPA Excess Other Vehicle’s Insurer
	Possessions →	Driving Employee’s Insurer / Other Vehicle’s Insurer
<b>Student – Passenger</b>	Treatment Costs <sup>1</sup> →	Driving Employee’s Insurer
	Injury <sup>2</sup> / Possessions →	Driving Employee’s Insurer; NS HOPA excess Other Vehicle’s Insurer
<b>Pedestrian</b>	Treatment Costs <sup>1</sup> →	Driving Employee’s Insurer
	Injury <sup>2</sup> / Possessions →	Driving Employee’s Insurer; NS HOPA as Excess
<b>Occupants of the Other Vehicle</b>	Treatment Costs <sup>1</sup> →	Other Vehicle’s Insurer
	Injury <sup>2</sup> / Possessions →	Driving Employee’s Insurer; NS HOPA Excess Other Vehicle’s Insurer
	Vehicle Damage →	Other Vehicle’s Insurer

<sup>1</sup>Specific out-of-pocket expenses prescribed by statute

<sup>2</sup>Pain and suffering, future losses, other treatment costs

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