



Financial Services
Commission
of Ontario



Commission des
services financiers
de l'Ontario

Ontario

Service Providers

2017 Annual Information Return

Results Summary Report

December 2018



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Executive Summary

Introduction

The Financial Services Commission of Ontario (FSCO) is a regulatory agency established by the *Financial Services Commission of Ontario Act, 1997* and accountable to the Minister of Finance. FSCO's legislative mandate is to provide regulatory services that protect the public interest and enhance public confidence in the sectors it regulates. FSCO oversees insurance, pension plans, mortgage brokering, credit unions and caisses populaires, co-operative corporations, loan and trust companies, and health service providers that invoice auto insurers for statutory accident benefits claims.

This report summarizes the findings from the Annual Information Return (AIR) for 4,366 licensed service providers.¹ The 2017 Service Providers AIR Results Summary Report details the key AIR results and provides a profile of the licensed sector based on the responses.

All service providers holding a licence with FSCO at December 31, 2017, were required to file the AIR and pay the annual regulatory fee by March 31, 2018.

About the AIR

[Ontario Regulation 90/14](#) of the *Insurance Act*, requires licensees to use the AIR to provide the Superintendent with information about the service provider's business in connection with statutory accident benefits, including information related to the service provider's business systems and practices, and matters of integrity in the management of the service provider's operations.

The AIR data supports FSCO's compliance and monitoring activities, and helps identify changes in risk and suitability.

Key findings

- **98 per cent of service providers** reported that they do not present claimants with blank or incomplete forms to sign.
- **95 per cent of service providers** reported having conducted a review of their policies and procedures within a year of the reporting period.
- **99 per cent of service providers** reported that they are aware they must verify claimant identification.

¹ AIR filings received by August 7, 2018



AIR filing compliance

The 2017 AIR filing compliance rate for service providers increased by eight per cent from the previous year, with 91 per cent filing their AIR and paying the annual regulatory fee by the March 31 deadline.

Service providers who did not file their AIR by the March 31 deadline faced possible licence suspension or revocation, and/or an administrative monetary penalty of \$1,000.

While there has been a significant improvement in filing compliance, FSCO continues to pursue full sector compliance through communications and enforcement. Licensees received an initial launch notification and email reminders to submit the AIR. FSCO also appreciates the outreach efforts of industry associations to promote compliance.

Detailed findings

The following are the 2017 AIR findings for key areas of concern.

Suitability

In the 2017 AIR, **two per cent of service providers reported events that directly impacted suitability to remain licensed.**

The number of principal representatives that reported complaints had been made to a regulatory body in Canada against them or their business was doubled from the previous year. Beginning in 2017, service providers were also required to report suspension, refusal or revocation of licences for individuals on their Health Claims for Auto Insurance (HCAI) roster.

In order to protect consumers, FSCO continuously assesses service providers' suitability to remain licensed in Ontario. Suitability requirements apply to both licensed businesses and to individuals providing goods and services on their behalf. The data provided through the AIR updates the information gathered through FSCO's initial licensing application screening and supplements information from other sources, such as complaints.

When suitability-related events such as bankruptcies, regulatory actions or fraud-related charges are reported in the AIR, FSCO reviews to determine if follow-up action is warranted. This could include an on-site examination or a licensing suitability review.

FSCO expects businesses to have controls in place to mitigate suitability issues, such as procedures to identify changes in suitability for individuals with decision-making powers over



the licensed service provider, or who are authorized by the business to provide goods or services on behalf of the business.

As set out in [O. Reg. 349/13: Service Providers - Principal Representatives](#), principal representatives must take reasonable steps to ensure that the service provider is complying with the *Insurance Act*, including:

- ensuring that the management of the licensee's operations are carried on with integrity and honesty
- dealing with any contravention of the *Act* by the licensee and/or those authorized to provide goods or services on their behalf
- ensuring that a supervisory system is in place to ensure licensing standards are met

Policies and procedures related to Statutory Accident Benefit Schedule (SABS) billings

In the 2017 AIR, **more than 95 per cent of service providers** reported the best practice of conducting a review of their policies and procedures within a year of the reporting period. This builds on the 90 per cent of service providers who, in the 2016 AIR, reported having policies and procedures in place as required by law.

Under Section 17 of [Ontario Regulation 90/14](#), all licensed service providers are required to establish and implement policies and procedures related to SABS billings.

The service provider is expected to be able to demonstrate compliance with this requirement. However, FSCO's on-site examinations frequently find that policies and procedures are not established or, more commonly, are not complete. In order for service providers to be found compliant, FSCO expects that their businesses' policies and procedures:

- **address each aspect of Ontario Regulation 90/14**
- are designed to avoid submitting misleading information to an insurer by themselves and others
- specifically address SABS claims billing and business practices (for example, while standards of practice developed by regulatory colleges or industry associations may address some aspects of SABS billing, these should be supplemented as needed)
- are "appropriate to the nature and volume" of the service provider's business related to SABS billings (for example, FSCO's expectations for a high-volume business with multiple providers would differ from those for an individual practitioner)

As a best practice, service providers should conduct an internal review of procedures at least annually to ensure all practices continue to meet regulatory requirements and guidelines.



Communicating policies and procedures to all staff and providers involved in SABS billings is another best business practice to avoid facilitating non-compliant practices.

Identity verification

In 2017, **99 per cent of service providers reported knowing they must verify the identity** of SABS claimants. In 2016, 97 per cent of service providers had procedures in place to verify the identity of SABS claimants.

The service provider must verify that goods and services are being provided to the person who was involved in the motor vehicle accident. As indicated in Section 5 of [Ontario Regulation 90/14](#), service providers are required to take all reasonable steps to verify identity, creating accountability for the business.

Despite a strong reporting of the awareness of this requirement, FSCO continues to find during on-site examinations that a significant number of service providers are unable to demonstrate that they have a process in place to verify SABS claimant identities. For example, a checkbox on forms could demonstrate that procedures were followed at initial intake and on an ongoing basis.

Claimant signatures on the OCF-18 and OCF-23

For Ontario Claims Forms (OCFs), **98 per cent of service providers reported that they do not present claimants with blank or incomplete forms to sign**. Further, more than 96 per cent of service providers reported that claimant forms are signed by claimants and required providers prior to being submitted through HCAI.

The 2017 AIR results indicate an increased awareness of the importance of appropriate completion of forms and submission practices. In 2016, 15 per cent of service providers reported non-compliant practices related to claimant signatures.

Preventing the practice of having a person who claims statutory accident benefits sign a claim form before it has been fully completed by the service provider is important for fraud prevention. It is a violation under [Ontario Regulation 7/00 Unfair or Deceptive Acts or Practices](#) to require, request or permit claimants to sign OCF-18 and/or OCF-23 before it is completed by the service provider.

Where the service provider requires additional time to complete a form, it can be signed by the claimant at the next visit, and submitted once completed and signed.



HCAI provider roster

Up one per cent from the previous year, **98 per cent of licensees reported maintaining an up-to-date HCAI provider roster.**

Licensees are expected to safeguard the credentials of health practitioners by ensuring that only currently employed and authorized providers are active in the HCAI roster. This business control is important to FSCO and was a focus of FSCO's initial desk review program. Unfortunately, the awareness and practices of providers are frequently found to be non-aligned, when examined.

Both clinics and practitioners must ensure that providers who are no longer employed or working with the clinic have been end-dated in HCAI. The HCAI Enrolment section of [FSCO's Superintendent's Guideline No. 02/18](#) outlines service providers' responsibilities regarding the HCAI roster.

HCAI access controls

The 2017 AIR results indicate that the number of people with access to submit invoices and/or treatment plans in HCAI varies by business model and volume. Regardless of business size and type, maintaining control of access to HCAI is an important anti-fraud measure.

The policies and procedures required under [Ontario Regulation 90/14](#) must be designed to avoid the preparation or submission of false, misleading or deceptive forms by the service provider or any other person. The principal representative must ensure that procedures for HCAI include:

- not sharing passwords
- using the tools provided by HCAI to assign appropriate user roles and levels of authorization
- deactivating profiles when a user leaves the business

Use of HCAI monthly financial statement report for periodic reviews

Of the almost 74 per cent of service providers who indicated that they were aware of HCAI's monthly financial statement report, **more than 80 per cent found the report useful.**

Service providers are required to conduct periodic reviews of SABS forms, plans and billings under [O. Reg 90/14 Section 12](#). HCAI's monthly financial statement report can help service



providers manage HCAI treatment and billing information. It describes everything invoiced by the service provider in the previous month and can be used to verify that the previous month's invoices are accurate.

While use of the monthly financial statement for the periodic review is not a regulatory requirement, service providers are encouraged to use existing tools like this report to ensure accuracy in the businesses' billings.

More details about the report are available on [HCAI's website](#).

Security and integrity of records

More than 98 per cent of service providers reported they ensure their paper and electronic records are secure and cannot not be falsified.

The requirement to ensure that records are secure, under section 14 of [Ontario Regulation 90/14](#), is of particular importance to avoid facilitating fraud and to reduce the risk of cyber security breaches. This includes ensuring that physical and electronic records are not accessible to unauthorized individuals. FSCO reminds service providers to follow best practices when it comes to cyber security policies, such as those outlined in [FSCO's cyber security message](#).

Sector profile for service providers

This section provides an overview of key licensee characteristics based on the data reported in the AIR. This data informs FSCO's oversight, prioritization and program development for on-site examinations and desk reviews.

Principal representative

The principal representative of a licensed service provider is required to ensure that the business and persons authorized to provide goods and services on its behalf, comply with the *Insurance Act*, and that business operations are carried out with integrity and honesty. This includes:

- making recommendations to the licensee regarding changes in business practices and management, as needed
- ensuring a system of supervision is in place to meet all legal requirements
- providing attestations (such as AIR responses) on the licensee's behalf about the business and compliance with the *Insurance Act*



In 2017, as in 2016, 82 per cent of principal representatives were regulated health professionals, with many holding more than one health profession registration. The most common professional registrations, held among over 70 per cent of principal representatives, were:

- chiropractors
- physiotherapists
- massage therapists
- psychology professionals

For businesses where the principal representative was not a regulated health professional, more than 80 per cent had one or more regulated health professionals on staff. Others offered goods and services provided by non-regulated providers, such as case management and vocational rehabilitation counselling.

Business structure

The proportion of licensed service providers by business structure in 2017 was similar to the previous year:

- incorporated businesses (58 per cent)
- sole proprietorships (37 per cent)
- general or limited partnerships (5 per cent)

Proportion of SABS claimants by business type

The number of unique SABS claimants (along with the number of locations) is used to calculate the annual regulatory fee.² The claimant numbers reported by the sector provide FSCO with information about the scale of the SABS business for each service provider, showing the volume of claimants for the business. Since a claimant may undergo assessment or treatment by multiple service providers, there is no direct correlation between the number of claimants reported by all service providers and the overall number of claimants receiving services.

- While corporations made up 58 per cent of all licensed service providers, their volume of claimants represented 83 per cent of the total claimants.

² A claimant is included in the AIR calculation for each year in which a payment was received.



- Partnership service providers made up five per cent of licensed service providers, while claimants treated or assessed by partnerships represented nine per cent of the total.
- Sole proprietorships made up 37 per cent of all licensed service providers, but claimants they treated or assessed made up only eight per cent of the total.

Business services

Licensees provide a variety of goods and services to SABS claimants. More than 90 per cent of licensees provide claimant treatment. Other services include conducting independent medical examinations on behalf of insurers, providing specialized assessments, or supplying therapeutic equipment, with many licensees providing more than one type of business service.

Business service delivery

How services are delivered to SABS claimants varies by the licensee's business model and the nature of the services provided. Licensees reported delivering services in the following ways:

- 81 per cent had clients come to their business location
- 11 per cent had service providers going to the client
- 5 per cent reported a balance of both

A small percentage report other business models including conducting business and providing services by telephone or electronically.

Region

More than half of service providers licensed by FSCO were located outside the City of Toronto and Toronto Suburban regions. As the following chart demonstrates, the proportion of licensed service providers by region has been relatively stable.

Proportion of licensed service providers by region

	Central Ontario	Eastern Ontario	Northern Ontario	Toronto City	Toronto Suburban	Southwestern Ontario
2017	22%	11%	5%	23%	22%	17%
2016	22%	11%	5%	23%	22%	17%
2015	22%	11%	5%	24%	20%	18%



Preferred Provider Networks

In 2017, **five per cent of service providers (226 licensees) reported participation in Preferred Provider Networks (PPNs).**

The proportion of service providers reporting participation in PPNs has remained steady at five per cent since service provider licensing started.

Preferred providers are insurer-selected health care providers who deliver programs of care to claimants with injuries resulting from a motor vehicle accident. PPNs are generally characterized by at least one of the following:

- A contractual relationship between the insurer and the health practitioner, often including pre-arranged fees for service.
- Claimant participation in the PPN resulting from insurer referral.
- Treatment plans pre-approved by the insurer or a cap set by the insurer on the cost or number of weeks of treatment, subject to the minimum requirements set out in the SABS.

FSCO's [Bulletin A-08/06](#) provides best practices for service providers in the use of PPNs, such as disclosure and written consent regarding the claimant's right to choose a service provider. The bulletin reminds health professionals of their continued fiduciary duty to patients and of the need to disclose conflict of interest, including that use of the PPN is voluntary.

Conclusion

A high level of service providers reported awareness of regulatory requirements for SABS billing and business practices, particularly the following requirements:

- Claimants cannot be offered blank or incomplete forms to sign and that required signatures must be obtained before forms are submitted through HCAI.
- Policies and procedures must be in place for SABS billing and business practices, in order to avoid the submission of misleading information and prevent the business from facilitating such activities by others.
- The HCAI provider roster must be up-to-date.

Service providers must be able to demonstrate compliance with regulations when asked to do so. Service providers can explore FSCO's website for resources and information to ensure they are complying with the law, and can expect continued regulatory support for compliance through the communication of requirements, including in published reports and, as appropriate, enforcement.

Thank you to the service provider licensees for their diligence in the AIR filing process.