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CAFII ALERTS WEEKLY DIGEST: September 9 to September 16, 2022

September 16, 2022

The CAFII Alerts Weekly Digest is intended to provide a curated compendium of news articles, analyses, editorials, and opinion commentary on insurance, regulatory, business/industry/economic, and societal topics of relevance to CAFII Members – drawn from domestic and international industry trade press and mainstream media – to aid in Members' awareness of the spectrum of recently published media content in those areas. Inclusion of a news article, analysis piece, editorial, or opinion column in the Weekly Digest in no way implies CAFII's support or endorsement of the interpretations, analyses, views, and/or opinions therein.

TABLE OF CONTENTS

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REGULATOR/POLICY-MAKER NEWS

Insurance Council Provides Update Re BC Insurance Licences Limited To Specific Products

By Insurance Council of BC Staff, July 14, 2022

https://app.cyberimpact.com/newsletter-view-online?ct=G35-aq6Di7Qf_xjXUkwsCrOmBnRSEXa36djhxblyDIUN2zUqJ7N2hEx-umUoAQPE8Kw7GzmV13ehZj2NyjaaCQ~~

Dear Insurance Council of BC partners and stakeholders:

The following update provides information regarding BC insurance licences limited to the sale or adjusting of one or more specific products.

Background

In March 2021, the Insurance Council of BC ceased issuing individual and agency/firm insurance licences limited to the sale or adjusting of specific products following a legal review of the licensing process involved. Licence holders were advised at that time and information was made available to stakeholders.

What's New

The BC Ministry of Finance is proposing to introduce a new restricted licence framework that would allow corporate entities to apply for a restricted licence that permits employees to sell specific insurance products under the corporate licence. The Insurance Council is working with government to develop a licensing process that would support its implementation.

The Ministry is holding public consultation on the regulations that would govern the proposed restricted licence until October 3, 2022.

Once government regulations and a process for the restricted licence are in place, the Insurance Council will accept applications for this licence. Until then, no new individual or corporate insurance licences limited to the sale or adjusting of specific products are being issued.

Current limited licence holders can still continue to carry out activities within the scope of their licence. However, additions or changes will not be made to these existing licences, nor will they be reinstated if cancelled. Continuation of existing limited licences will be discussed as part of the development of the proposed restricted licence.

Insurance licensure continues to be available through our regular process of licensing. Those wishing to conduct general insurance, life and/or accident & sickness insurance, or insurance adjusting will need to apply for the corresponding licence and meet standard qualification requirements.

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Updates will be provided on our website as more information about the new restricted licence becomes available.

British Columbia Conducts Consultation on Restricted Licence Regime for Incidental Sellers of Insurance

By Stuart S. Carruthers and Andrew S. Cunningham, Stikeman Elliott, August 29, 2022

https://www.stikeman.com/en-ca/kh/insurance-law/british-columbia-conducts-consultation-on-restricted-licence-regime

British Columbia's Ministry of Finance is conducting a consultation on the adoption of its proposed restricted insurance agent licensing regime for incidental sellers of insurance. The proposal is similar to what is already in place in the other three western provinces (and, soon, in New Brunswick) but B.C. is signalling that it may consider including additional industries and additional flexibility in its regime. B.C. businesses that see opportunities in this area should therefore consider submitting comments, which are due on October 3, 2022.

The licensing of restricted insurance agents is provided for in s. 174.1 of B.C.'s Financial Institutions Amendment Act, 2019, which will be proclaimed in force once details of the restricted licence regime have been finalized. As described in the consultation paper, the B.C. consultation is focused on the regulations and rules that will accompany the legislation, and particularly on the following issues:

- The classes of restricted licensees (i.e. the types of business that will be eligible for restricted licenses);
- The classes of insurance that can be sold under a restricted licence; and
- How this new regime will affect existing exemptions under the Insurance Licensing Exemptions Regulation.

Some of the topics raised in the consultation may be included in rules of the Insurance Council of BC or in both regulations and rules. The Insurance Council will be separately consulting regarding proposed rules.

Classes of Restricted Licensees

The B.C. Ministry of Finance is proposing a "restricted licence" regime under which certain classes of business may be granted insurance agent licences that are restricted to classes of insurance that are "incidental to the licensee's ordinary business."

Under the similar regimes in place in Alberta, Saskatchewan, and Manitoba (and planned for New Brunswick), the classes of business for which restricted insurance licences can be issued include:

- Deposit-taking institutions – credit protection, travel and life insurance;
- Transportation companies – travel and cargo insurance;

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- Travel agencies – travel insurance;
- Auto, RV, watercraft and other vehicular and equipment dealerships – credit protection, equipment warranty, and guaranteed asset protection insurance;
- Sales finance companies and mortgage brokers – credit protection insurance;
- Customs brokers and freight forwarders – cargo insurance;
- Funeral services businesses – funeral insurance;
- Car (and other vehicle) rental agencies – rented vehicle insurance; and
- Portable electronics sellers – portable electronics insurance.

While recognizing the importance of consistency among the provinces, the Ministry of Finance is not ruling out the possibility of excluding some of the above, or potentially of adding some or all of the following:

- Storage companies – personal property policies;
- Event companies and ticket sellers – event cancellation policies;
- Leasing companies (personal property and office furniture) – damage protection and product warranty policies;
- Leasing companies (equipment, vehicles, heavy machinery) – vehicle or product warranty policies;
- Educational institutions – travel medical policies for out-of-province students; and
- Tour operators and public carriers (airlines, bus companies, ferry companies) – trip interruption or cancellation policies.

The B.C. regime could end up differing from those of the other provinces in another important respect: the Ministry of Finance has stated that it is willing to consider the possibility of granting restricted licences to B.C. licensees to sell classes of insurance that are not incidental to their businesses. For this to happen, the Ministry would need to be convinced of the benefit to consumers.

Future of Existing ILER Exemptions

The Ministry of Finance is proposing that some existing exemptions under the Insurance Licensing Exemptions Regulation ("ILER") be partially or wholly repealed. If this occurs, companies that have had ILER exemptions for any of the following might need to obtain one of the new restricted licences:

- Product warranty insurance;
- Credit insurance (sold by credit institutions, mortgage brokers and others);
- Vehicle warranty insurance (sold by motor vehicle dealers);
- Travel insurance (sold by travel agents or transportation companies); and
- Funeral services insurance (sold by funeral directors).

An example scenario for a partial repeal would be keeping an exemption for products under a certain value but requiring a restricted licence for coverage above that threshold.

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Classes of Insurance

The Ministry of Finance is proposing to prescribe (permit) certain classes of insurance under the restricted licensing regime (in addition to the classes of licensee discussed above). In so doing, they would be following the lead of the other provinces, but the Ministry of Finance is clear that it may not prescribe exactly the same classes of insurance. Moreover, some classes that are currently exempt under ILER could potentially be permitted under the restricted licence regime.

In addition to the above, the Ministry is considering including the following insurance classes in the restricted licensing regime:

- Personal effects property insurance (storage companies);
- Purchase protection insurance (retailers, credit card companies);
- Marine craft rental insurance (marine craft rental companies);
- Damage protection insurance (personal property and office furniture leasing companies); and
- Event cancellation insurance (event and ticket sales companies).

Consultation Questions

The Ministry of Finance is looking for input from interested parties, including (but not restricted to) industry views on questions such as the following:

- Which businesses should and should not be prescribed as potential licensees?
- Which classes of insurance should and should not be prescribed?
- Which ILER exemptions, if any, should be repealed in favour of offering one of the new restricted insurance agent licences (and should the repeal be full or partial)?
- When (if ever) should exceptions be made to the general expectation that restricted licensees will be restricted to classes of insurance that are incidental to their ordinary business?
- Should there be any licence exemptions for low-value products?
- Should there be a maximum value for insurance policies (or of certain types of insurance policy) sold by restricted insurance agent licensees?
- Would a deferred sales model be advisable for any class of restricted agent (i.e., a model in which insurance could not be offered until a certain number of days after the primary purchase)?; and
- Which rules should apply to the conduct of a restricted licensee's insurance business (e.g. with respect to disclosure, cooling off periods, commissions and fees, etc.)?

Please see the consultation paper for the complete list of questions on which comment is sought.

Next Steps

As noted above, the public consultation is ongoing, with comments due on or before October 3, 2022. The open and flexible approach of the Ministry of Finance indicates that industry submissions could have a significant impact on the eventual shape of the restricted licensing regime.

Back to Table Of Contents

NEWS ABOUT CAFII MEMBERS AND/OR THEIR PARENT COMPANIES

Manulife Confirms Individual Insurance Appointment

By Kate McCaffery, Insurance Portal, September 7, 2022

https://insurance-portal.ca/life/manulife-confirms-individual-insurance-appointment/?utm_source=sendinblue&utm_campaign=daily_complete_202209-13&utm_medium=email

Manulife Canada's president and CEO Naveed Irshad announced on September 6 that the company is officially appointing Paul Savage as head of individual insurance for Manulife Canada. Savage has served in the interim role since January 2022.

Savage thus far has worked with Manulife for more than 13 years. Called a "results-driven leader," Savage is also credited with overseeing the transformation of the company's insurance new business product shelf and the launch of Manulife Par in 2018. Prior to working with that business, he also worked with John Hancock in the United States before moving into the Canadian individual insurance business.

The company says individual insurance continues to play a critical role in the company's success. "We have opportunities in front of us to capitalize on – differentiating ourselves as the leader in the behavioural insurance and affinity spaces, improving the customer and advisor experience, building our high-performing culture and continuing to grow our business and develop innovative ways to make it easier to do business with us," Irshad stated in his announcement about Savage's appointment.

"I'm confident that Paul's leadership, combined with the expertise and dedication across our teams, will be a winning combination," he adds.

COVID-19 PANDEMIC RESILIENCE AND RECOVERY NEWS

'The End Is In Sight': COVID-19 Deaths At Lowest Levels Since March 2020, WHO Says

By Teresa Wright, Global News, September 14, 2022

https://globalnews.ca/news/9128359/COVID-19-deaths-lowest-september-2022-who/

The number of reported deaths worldwide from COVID-19 was the lowest last week since March 2020 – a positive sign that the end of the pandemic that has killed at least six million people is in view, the World Health Organization says.

Globally, the number of new weekly deaths decreased by 22 per cent during the week of September 5 to 11 compared to the previous week, with just under 11,000 fatalities reported, according to WHO data.

The number of new weekly cases also decreased by 28 per cent last week, with more than 3.1 million new cases reported.

While WHO cautions these case numbers are an "underestimate" due to testing strategies by many countries that result in lower overall detections, the current downward trends are cause for optimism.

"We have never been in a better position to end the pandemic. We're not there yet, but the end is in sight," WHO director-general Tedros Adhanom Ghebreyesus said on Wednesday, September 14 during a briefing in Geneva.

However, now is not the time for countries to let their guard down, Tedros warned.

"A marathon runner does not stop when the finish line comes into view. She runs harder with all the energy she has left. So must we," he said.

"Now is the time to run harder and make sure we cross the line and reap the rewards of all our hard work."

While cases have been decreasing across the country in the last few weeks, the virus continues to infect and kill Canadians. The latest available data from the Public Health Agency of Canada (PHAC) shows that there were 18,366 new cases of COVID-19 in Canada during the week of August 28 to September 3 and 238 new deaths.

That represents a 12 per cent drop in new cases and a nine per cent decrease in fatalities from the previous week in Canada.

Meanwhile, this week the UN agency is releasing six policy briefs that outline key actions which it believes all governments must take to lower the number of COVID-19 cases further worldwide and bring an end to the pandemic.

These policy briefs are an "urgent call for governments to take a hard look at their policies and strengthen them" not only to fight COVID-19, but also to protect against future pathogens with pandemic potential, Tedros said.

The advice includes calls for countries to invest in vaccinating 100 per cent those most at risk of severe illness or death, including health workers and seniors, and to strive for 70 per cent vaccine coverage for the overall population. It also calls for continued testing and sequencing for SARS-CoV-2 and more integrated surveillance and testing services for other respiratory diseases, including influenza.

WHO is also urging countries to continue to plan for future surges of cases and to maintain infection prevention and control measures to protect health workers and non-COVID-19 patients in health facilities.

And while case numbers are declining, countries will continue to experience waves of COVID-19 infections as the virus continues to mutate and find new ways of evading immunity, said Dr. Maria Van Kerkhove, an infectious disease epidemiologist and WHO's technical lead for COVID-19.

"But those future waves of infection do not need to translate into future waves of death, because we have tools that can prevent infections and prevent transmissions" she said, pointing to COVID-19 vaccines and antivirals such as Paxlovid, both of which prevent severe disease and death.

Tedros vowed that WHO would continue to work to provide tools, information, and support as the virus continues to circulate, including helping low-income countries access and manufacture vaccines and bringing the world's experts together to share the latest scientific knowledge, monitor trends, analyze evidence, and advise the world.

"That's what we will continue to do until the pandemic is truly over," Tedros said.

Inflation Continues To Fuel Travel Insurance Concerns

By Alain Thériault, Insurance Portal, September 14, 2022

According to Sylvain Charbonneau, president and CEO of Blue Cross Canassurance, geopolitical and economic conditions have taken precedence over the COVID-19 pandemic in disrupting the travel industry during the spring and summer of 2022. However, Charbonneau says that the situation is changing rapidly.

He says that inflation was seen as more of a barrier to travel in the early summer, when the Bank of Canada announced that the inflation rate had reached 8.1% in June 2022, compared to 7.7% in May 2022. The pace slowed this summer, with the inflation rate edging downward to 7.6% in July 2022. Canada's central bank was about to reveal the August 2022 inflation rate at the time of writing. The Bank of Canada measures inflation by the change in the total consumer price index.

Back to Table Of Contents

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Sylvain Charbonneau says that inflation could have an impact on people's ability to travel. "A recent survey shows that those who are not planning to travel in the next year view the cost of travel and the increase in the cost of living as the most important barrier, coming before the health measures related to COVID-19," he adds.

Increase In Premiums

François Morin, CEO of SecuriGlobe – a travel insurance broker acquired from La Capitale by Blue Cross Canassurance in July 2021 – commented on the effects of inflation on the cost of travel insurance. He says that the cost of travel insurance has increased since the pandemic began. He says he has observed that the average increase in the price of travel insurance from his providers has been in the 5% to 10% range.

On the other hand, he says he is not concerned about the effect of inflation on Snowbirds' travel intentions. "Snowbirds are resilient to the increase in the Consumer Price Index (CPI). They will make sacrifices to go," Morin says.

Medical Cost Inflation

Sylvain Charbonneau says that the cost of travel insurance has been affected by rising medical costs. "We had not adjusted our premiums during the pandemic; we recently did so. The increase was approximately 5% to 7% last April. Many insurers have adjusted their premiums or may do so. There has been a bit of catching up, as medical costs have continued to rise overall, especially in the U.S.," says Charbonneau.

He does not attribute the increase in travel insurance premiums to COVID-19 cases. He says they have not had a significant impact on Blue Cross Canassurance's experience. "We haven't seen a great deal of COVID-19 cases among our clients," says Charbonneau. When we do, they haven't resulted in lengthy hospital stays," he adds. "The adjustment in premiums is more related to the economic context that has affected the medical costs we cover in our contracts."

Not Too Close To The Ukraine

As for the geopolitical context, Sylvain Charbonneau mentions that the war in Ukraine is contributing to a decrease in travel intentions to Europe, mainly to Eastern Europe. "We are also seeing a greater tendency for clients to go to the United States. Interest in travelling to Asia and Europe has decreased. As they restart travelling, clients are going abroad, but a little less far, and not too close to Ukraine," says Charbonneau.

Patrick Charbonneau, director of travel insurance at Optimum Reinsurance, notes that "the current forecast is good" for snowbirds' travel intentions, but that "Canadians who want to travel are still thinking about it." Among the issues that are causing hesitancy, Charbonneau cites:

- The rising cost of flights and travel packages;
- The rising cost of gas;
- The cost of car rental "which is now exorbitant," he says;

 Back to Table Of Contents

- Inflation in general;
- Problems at Canadian airports (flight delays and cancellations);
- The risk of another wave of COVID-19 in fall 2022.

"These impacts will favour an increase in automobile travel at the expense of air travel, even if the price of gas is high," he says.

Patrick Charbonneau also says that he believes that travel to the United States will make a strong comeback, at the expense of "the new trend of some Snowbirds spending their winters in Europe (Spain, Portugal)," he says.

"Another trend will be to travel more north-south than east-west," adds Patrick Charbonneau. The pandemic has favoured travel close to the insured's place of residence, he says. This is to make it easier to return home if problems arise, such as catching COVID-19 or seeing flights come to a complete halt, he says.

Read Story (Subscription Required): https://insurance-portal.ca/society/inflation-continues-to-fuel-travel-insurance-concerns/?utm_source=sendinblue&utm_campaign=daily_complete_202209-15&utm_medium=email

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New Refund Requirements For Cancelled Flights Take Effect

By Megan DeLaire, CTV News, September 8, 2022

https://www.ctvnews.ca/canada/new-refund-requirements-for-cancelled-flights-take-effect-1.6059076

New refund requirements for commercial flight delays and cancellations are now in effect across Canada.

As of September 8, airlines are now obligated to provide passengers with refunds for flights cancelled or delayed due to reasons outside the airlines’ control. The new federal requirements under the Air Passenger Protection Regulations (APPR) will now apply to all flights from and within Canada, including connecting flights.

Under the new requirements, if a passenger’s flight is cancelled or delayed by three hours or more for reasons outside of an airline’s control, the airline must offer the passenger a reservation on a flight operated by the airline or one of their partners within 48 hours of the departure time on the passenger’s original ticket.

If the airline can’t meet that requirement, it must offer the passenger either a refund or alternative travel arrangements, free of charge. For large airlines, this could mean having to rebook the passenger on the next available flight of any airline, including competitors.

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Passengers are free to choose a refund at any time after the 48-hour window and before being provided a confirmed reservation on an alternate flight. Airlines must pay refunds within 30 days, and any airline that does not follow the new regulations could face a fine of up to $25,000 per incident.

Under the previous APPR rules, airlines were required to rebook affected passengers, free of charge, on the next available flight operated by them or a partner airline. There was no requirement that the flight depart within 48 hours of the original flight, and airlines were only required to provide refunds or offer alternate travel arrangements for disruptions that were within their control.

However, after Canadian airlines denied refunds for flights cancelled due to COVID-19, Minister of Transport Marc Garneau gave the Canadian Transportation Agency the authority to establish new guidelines on December 18, 2020.

While the Canadian Transportation Agency positions the new guidelines as offering increased passenger protection, Gabor Lukacs, an advocate for Canadian air passengers and the president of the non-profit Air Passenger Rights, said they actually do a disservice to airline passengers.

“It’s a sham. It’s smoke and mirrors,” Lukacs told CTVNews.ca in an interview over the phone on Wednesday, September 7. “The government is telling people they’re getting new rights while, in reality, the government is giving passengers a watered down version of the rights they already have under the law.”

Lukacs explained that in many jurisdictions outside of Canada, including in the United States, the European Union, Israel, and Turkey, airlines are required by law to provide refunds in the original form of payment for cancelled flights whether the reason for the cancellation was within the airline’s control or not. That's without the stipulation that the airline has 48 hours to re-book a passenger onto another of its own or a partner airline’s flights.

He said that expectation is also codified in the Canada Transportation Act and the Air Transportation Regulations, as well as in some provinces’ legislation. However, Lukacs said, the new requirements under the APPR give a false appearance of legality to airlines denying requests for a refund within 48 hours of the time a cancelled flight was scheduled to depart.

“The government is giving more opportunities for airlines to say they don’t have to refund passengers in some cases,” Lukacs said.

For example, under the new APPR requirements, a passenger whose travel plans are dependent on them arriving at their destination within a 24-hour window isn’t owed a refund for a flight cancelled outside an airline’s control, as long as the airline offers them an alternative flight within 48 hours. If they decide not to accept the alternative flight because it won’t get them to their destination in time, new APPR requirements do not spell out a requirement to refund them.

“That seems to be a big loophole to try to allow airlines to have some kind of appearance of legality for pocketing the money of people who decide not to travel when their flight is cancelled,” Lukacs said.

He said anyone who finds themselves in such a position could consider taking legal action against the airline involved, citing a different set of regulations, such as the Canada Transportation Act or the Air Transportation Regulations, as well as existing case law.

"If it were me, I would sue the airline in small claims court on the basis of the case law, because it's not a good faith performance of the contract to offer a flight in 47 hours," he said.

New Airline Passenger Protection Regulations Will Lead To Higher Ticket Prices And Reduced Flights, Airline Watchers Predict

'What The Government Is Doing Is Regifting Passengers A Watered-Down Version Of Rights They Already Enjoy,' Says Air Passenger Rights Advocate Gabor Lukacs.

By Josh Rubin, Toronto Star, September 9, 2022

If a good compromise is something that nobody's happy with, the latest regulation aimed at protecting Canadian air travellers must be great.

As of Thursday, September 8, the Airline Passenger Protection Regulations (APPR) include a new section saying airlines must offer refunds for cancelled flights, even if the cancellation is outside the airline's control. That refund obligation only kicks in if airlines don't rebook a passenger on another flight leaving within 48 hours of the original schedule.

But passengers' rights advocates, airlines, and industry analysts all slammed that tweak to the APPR, which was unveiled by the Canadian Transportation Agency in June. Among the complaints? The change could lead to higher travel costs and fewer routes; it's nothing more than window-dressing from a government desperate to be seen as helping consumers amidst travel chaos; it's actually making it harder for passengers to get refunds than it already was.

"It's incredibly disappointing," said Gabor Lukacs, founder and president of Air Passenger Rights, a consumer advocacy group for airline passengers. Lukacs argued that passengers already had a right to refunds, even if it wasn't enshrined in the APPR.

"What the government is doing is regifting passengers a watered-down version of rights they already enjoy. This will make it more difficult for passengers to get refunds if they're offered alternate transportation within 48 hours," Lukacs said. "The airlines will try to argue that … if it's Friday and they offer you a ticket for Sunday, then they can just keep your money if you choose not to fly."

In a press release, federal transport minister Omar Alghabra said the change to the APPR closes a "gap" in passenger rights which was revealed by the global COVID-19 pandemic.

"Our government is working with air industry partners to help ease airport congestion to keep travellers moving, and we will continue to protect the interests of passengers when travel doesn't go according to plan," Alghabra said.

Long-time air industry observer Fred Lazar, a professor at York University's Schulich School of Business, called the change "remarkably stupid," and predicted it will lead to higher prices for airplane tickets, and reduced options for people flying from smaller cities and towns.

"They're not just going to eat the cost. They'll pass it on. They could do a deal with insurers and then build the cost of the premium into their ticket prices. And then come winter time, we'll start to see surcharges for certain destinations where weather is consistently an issue," said Lazar, adding that some airlines might decide certain routes are no longer worth the risk of having to issue a flight full of refunds.

"Planes are 90 per cent full these days. So good luck rebooking 200 or 300 people within 48 hours. Some routes just aren't going to be worth the risk of having to pay out. And it's going to be smaller cities that probably get their flights cut first," said Lazar.

The change to APPR, Lazar suggested, is more about political optics than anything else.

"This is nothing more than the government saying 'we have to do something,' and then not actually thinking it through," Lazar said.

Airlines, meanwhile, say the change is unfair, that they're being singled out as the cause of travel disruptions which they don't have any control over at all.

"There are a whole lot of disruptions that have nothing to do with the airlines, but it's the airlines that are being told 'you are the only ones responsible,'" said an exasperated Jeff Morrison, president of the National Airlines Council of Canada (NACC), an industry association.

"I think it's government responding to public demands for something to be done and for someone to be held accountable. And so they did what they have always done, which is to essentially point the fingers at the airlines. And … that's an overly-simplistic view of air travel," said Morrison.

WestJet spokesperson Andrew Gibbons said other organizations deserve to share in the blame for travel chaos.

"While we accept our responsibilities to our guests and for commercial decisions we take, the traveller experience of the last few months has demonstrated that service failures are complicated, can be caused by many parties, and all providers of services to our guests should have the same scrutiny and responsibility under regulations that WestJet does," Gibbons said.

A spokesperson for Air Canada referred a request for comment to the NACC.

Read Story (Subscription Required): https://www.thestar.com/business/2022/09/09/new-airline-passenger-protection-regulations-will-lead-to-higher-ticket-prices-and-reduced-flights-airline-watchers-predict.html?li_source=LI&li_medium=thestar_business

Air Canada Ordered To Pay Passengers $2,000 For Flight Cancellation Caused By Crew Shortage

Crew Shortages Are Generally Within An Airline's Control, Canada's Transport Regulator Says

By Sophia Harris, CBC News, September 15, 2022

https://www.cbc.ca/news/business/air-canada-cta-compensation-1.6583231

A recent ruling by Canada's transport regulator in favour of two Air Canada passengers whose flight was delayed is the latest development in the ongoing battle over whether airlines must compensate passengers for flight disruptions caused by crew shortages.

In a decision published on August 25, the Canadian Transportation Agency (CTA) ordered Air Canada to compensate passenger Lisa Crawford and her son $1,000 each following a flight cancellation that delayed their August 2021 trip from their home city of Fort St. John, B.C. to Halifax by almost 16 hours.

According to the CTA, Air Canada initially told Crawford the flight cancellation was caused by a crew shortage linked to COVID-19, and was safety-related — so she wasn't eligible for compensation.

The airline's response prompted Crawford to take her case to the CTA, a quasi-judicial tribunal.

"Staffing and other aspects of operations are the employer's responsibility to manage," said Crawford in an email to CBC News.

The CTA agreed, stating in its decision that Air Canada failed to provide evidence "establishing that the crew shortage was unavoidable despite proper planning," so Crawford and her son must be compensated.

Under Canada's Air Passenger Protection Regulations (APPR), airlines only have to pay compensation — up to $1,000 per passenger — if a flight cancellation or delay is within the airline's control and not required for safety reasons.

"I was thrilled with the CTA's finding," said Crawford, though she and others question if the case will carry much weight.

That's because WestJet recently filed a request to appeal a similar CTA ruling in July where WestJet was ordered to compensate a passenger for a flight delay involving a crew shortage. The airline argues that the CTA's decision was flawed, because it was based on a misinterpretation of Canada's air passenger rules.

"Given the ongoing disagreement on how the regulations are to be interpreted and/or applied, I believe the real outcome for my case, and likely many others, remains to be seen," said Crawford.

Back to Table Of Contents

Court Battles Raise Questions

According to the CTA, it has received 13,743 air passenger complaints since May 1, of which 87 per cent are related to flight disruptions.

The CTA's ruling in the WestJet case, issued on July 8, was supposed to help clear the air on some of those compensation disputes.

In that case, WestJet initially denied passenger Owen Lareau of Ottawa compensation for a cancelled flight, stating that it "was impacted due to flight crew member availability and required for safety purposes."

In its decision, the CTA clarified that staffing issues typically warrant compensation because, in general, they are an airline's responsibility and can't be categorized as a safety matter.

The agency also ordered WestJet to pay Lareau $1,000.

"Training and staffing are within airline control and therefore crew shortages are within airline control, unless there's compelling evidence" to the contrary, said CTA spokesperson Tom Oommen in an interview. "It's a high threshold."

But in a motion filed in the Federal Court of Appeal on August 10, WestJet argued that, according to the APPR, the CTA can't presume crew shortages warrant compensation and then put the onus on airlines to disprove it.

Consumer advocate and lawyer John Lawford said that WestJet is offering a narrow reading of the rules, and that the CTA ruling in July set out to clarify them.

"[The airline is] saying, 'That's nice, the actual wording of the regulations is all we will follow and we're going to court.' "

WestJet, the CTA, and passenger Lareau have each declined to comment on the case.

Former Air Canada executive John Gradek said that he believes some airlines will continue to deny compensation for flight disruptions caused by crew shortages — unless a court lays down the law.

"They're going to continue down this path until they're told otherwise," said Gradek, a lecturer and program co-ordinator for the aviation management program at McGill University.

"They'll keep trying to get away without paying, because it is a very serious expense."

'Minister Should Be Spanking These Guys'

CBC News asked Air Canada if, like WestJet, it planned to appeal the CTA's ruling that it must pay Crawford and her son compensation.

Spokesperson Peter Fitzpatrick replied that the airline was unable to comment as it's still reviewing the ruling.

But Air Canada is already taking part in a legal battle that calls into question Canada's compensation regulations. The airline is one of more than a dozen applicants, including the International Air Transport Association, which filed a motion in 2019 to appeal the APPR.

In that case, which is still before the Federal Court of Appeal, the applicants argue that the regulations are "invalid" for international flights because they differ from the Montreal Convention, a treaty adopted by many countries — including Canada — which establishes airline liability for flight disruptions.

"I suspect that before Christmas, we will find out from the Federal Court of Appeal if the entire APPR regime gets tossed or not," said Lawford, executive director of the Public Interest Advocacy Centre.

Lawford said that federal Transport Minister Omar Alghabra should assist passengers with compensation claims by sending a stern message to airlines that they must abide by the compensation rules set out by the CTA.

"The minister should be spanking these guys, these airlines, and saying, 'How dare you, how dare you screw up my regulations,'" said Lawford.

Since August, Alghabra has repeatedly issued public warnings to airlines that they must follow the rules.

"Passengers have rights and they need to be respected," he said in a statement just last week. "We will continue to protect the interests of passengers when travel doesn't go according to plan."

But, so far, the warnings haven't curtailed the flood of air passenger complaints pouring in to the CTA; it currently faces a backlog of more than 23,000 grievances.

Court Upholds $5,750 Fine For B.C. Woman Who Refused COVID-19 Test At Border

By Andrew Weichel, CTV News, September 15, 2022

https://bc.ctvnews.ca/court-upholds-5-750-fine-for-b-c-woman-who-refused-COVID-19-test-at-border-1.6070158

The B.C. Supreme Court has rejected a woman's bid to overturn a $5,750 fine she received after refusing to undergo a COVID-19 test at the border.

The court heard that Nora Donahue declined the PCR test while crossing into Canada from the U.S. last September, which resulted in her being ticketed under the Quarantine Act.

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"She believes that it was wrong for the government to require her to take a PCR test, and that the rules established pursuant to the Quarantine Act violated her constitutional rights," Justice H. William Veenstra wrote in his decision, which was posted online this week.

At the time Donahue was fined, travellers were required to provide proof of a negative PCR test before entering the country. Some who were tested still faced thousands of dollars in fines because they used the wrong kind of test.

The court heard that Donahue filed a dispute against her ticket in October 2021, but didn't attend the subsequent hearing in Surrey provincial court in January 2022, and that the fine was upheld.

Undeterred, she made another attempt to contest the ticket in April 2022, filing an application in provincial court in which she cited "lack of informed consent, personal health privacy violation, constitutional violation" as her defence. Donahue also argued that she had been out of the country for months prior to her hearing and was never properly notified of the date.

That application was rejected.

Finally, Donahue brought the case to B.C. Supreme Court through a civil claim against the province's attorney general and the Insurance Corporation of British Columbia. Part of ICBC's role is to collect fines on behalf of the government.

The defendants argued that Donahue's case amounted to a "collateral attack" on the decision of another court, something that could only appropriately be challenged by way of a judicial review.

Veenstra agreed and dismissed the claim.

"While an unfortunate result for the plaintiff, it seems clear that this is a classic case of an action making a collateral attack on a valid decision of a court with authority," he wrote.

The possibility of Donahue challenging the fine through a judicial review is "a matter for which she should seek advice from appropriate sources," Veenstra added.

The judge also ordered Donahue to pay the defendants' costs.

OTHER CAFII MEMBER-RELEVANT INDUSTRY/BUSINESS/SOCIETAL NEWS

Canada's Life And Health Insurers Paid Record Amount Of Benefits In 2021

Also, Annuity And Seg Fund Premiums Increased 21%

By Investment Executive Staff, September 15, 2022

Insurers pay record amount of benefits in 2021 | Investment Executive

Reflecting the second year of the COVID-19 pandemic, Canada's life and health insurers paid more benefits to more people than ever before in 2021.

Specifically, insurers paid over $113 billion in life and health benefits last year, up 17% from 2020 and nearly $10 billion above pre-pandemic levels, the Canadian Life and Health Insurance Association (CLHIA) said in its annual statistics report published on Thursday, September 15.

In the report, CLHIA CEO Stephen Frank described 2021 as "a year of recovery."

"Insurers have been proud partners in this, helping employers and their employees get back on their feet by providing workplace benefits that are flexible and relevant to attract and keep top talent and help people plan for retirement," Frank said in the report.

Over half ($58 billion) of the benefits paid represented annuity claims. The record amount compared to about $46 billion in the previous year, an increase of 26%.

Health insurance benefits totalled nearly $41 billion — also a record and up by about $4 billion from the previous year.

Life insurance benefits were similar to the previous year, at $14 billion. That figure included $580 million in claims related to mental health — up by 75% since 2019 and up by 45% since 2020, the report said.

Total premiums collected by insurers in 2021 rose to $139 billion, up from $123 billion or 13% compared to the previous year.

The increase was led by premiums for annuities and segregated funds, up about 21%, the report said.

A ban on the deferred sales charge (DSC) structure in segregated funds is expected in 2023, to align with the DSC ban on investment funds implemented this past June.

Insurance regulators are also consulting on a potential ban on upfront commissions for segregated funds.

Pattern Of Year-Over-Year Canadian Life Insurance Application Declines Reverses Course

By Kate McCaffery, Insurance Portal, September 8, 2022

Massachusetts-based MIB Group Inc. released its Canadian MIB Life Index figures showing that Canadian life insurance application activity increased 3.3 per cent year-over-year in August, compared to August 2021, reversing a pattern of year-over-year declines that began in July 2021.

Year-to-date application activity through August 2022 remains down 9.3 per cent when compared to 2021 application activity. Month-over-month, however, activity saw a 17.1 per cent jump when compared to July 2022.

MIB says it saw flat year-over-year activity for ages 31-50 and growth across all other age bands. Applications for those up to age 30 grew the most at 6.9 per cent.

By face amount, they say August saw year-over-year declines for amounts up to and including $250,000 and growth for all other face amounts, including in the double digits for face amounts over $500,000.

"All product types saw increased activity in August, the majority of growth was seen for universal life," they write. "When examining activity patterns where a product type was submitted to MIB, universal life was up 56.1 per cent, year-over-year; whole life was up 9.1 per cent; and term life was flat at 1.3 per cent." The group adds that about 29 per cent of the total life index volume for Canada in August did not include a product type.

Read Story (Subscription Required): https://insurance-portal.ca/life/pattern-of-year-over-year-application-declines-reverses-course/?utm_source=sendinblue&utm_campaign=daily_complete_202209-14&utm_medium=email

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Individual Critical Illness Insurance: The Main Products Available In Canada

By Alain Thériault, Insurance Portal, September 13, 2022

Critical Protection, Life Advance, Health Priorities, Live Well, Transition, Lifecheque...all of these names convey the purpose of the critical illness insurance product: to pay a benefit to insureds who contract a major illness, to help them recover...and even take on new projects!

InsuranceINTEL provides a comparison chart of 17 products from 16 suppliers, to let you focus on the features that matter most to your customers. Here are the answers to some frequently asked questions.

At What Age Can I Insure Myself Or A Loved One?

Most insurers are willing to issue a CI policy to people between the ages of 18 and 65, the comparison chart shows.

Some insurers offer an expanded window at younger ages, depending on the type of coverage or premium selected. For example, IA Financial Group offers its Term 100 product with a 10-year premium payment option to individuals ages 0 to 65. Ivari provides access to its T10 coverage to people ages 15 days to 65. Equitable Life Insurance and Sun Life offer coverage from ages 30 days to 65, under certain conditions.

Some insurers offer specific limits for children: from ages 0 to 25 years at Desjardins Insurance, and from 13 days to 17 years at both Beneva (products of La Capitale and SSQ Insurance) and UV Insurance.

How Much Coverage Can I Get?

Limits on the amount of CI insurance that a client can purchase vary considerably between insurers, especially regarding the maximum. Many insurers offer a $2 million limit: iA raises the limit to $2.5 million, while Canada Life and Desjardins push it to $3 million.

The minimum amount of insurance available in the market ranges from $10,000 to $25,000, depending on the insurer or type of coverage. Minimum and maximum ages or amounts of insurance may vary depending on premium or coverage options.

Over A Lifetime, It's Too Expensive. Are There Other Options?

All 16 insurers offer some form of coverage with a guaranteed premium and long duration. T65 and T75 term insurance guarantee a level payment until the specified age. T100 is lifetime coverage, often offered with an accelerated premium payment period (e.g. in 10, 15 or 20 years). These options are sound but expensive.

A young breadwinner may opt for shorter term coverage, which is more affordable. T10 and T20 coverage are the most common options available. Many insurers also offer Term 15 and Term 25. Some insurers offer longer terms.

Can Term Coverage Be Converted?

Clients that have purchased term coverage can convert it to a longer term product at a later date. Note that the RBC Insurance product lets policyholders aged 55 to 65 convert the product to a long-term care policy. This is worth noting because there is only one stand-alone long-term care product left on the market: Sun Retirement Health Assist.

Read Story (Subscription Required): [Individual critical illness insurance: The main products available in Canada - Insurance Portal (insurance-portal.ca)]

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UPCOMING WEBINARS AND EVENTS

Web Seminar: Digital Insurance Advances in Tech Demo Day Fall 2022

Dates: Tuesday, October 11, 2022
Time: 2:00 – 3:00 p.m. EDT

Leaders in the insurance community are always looking for innovative ways to help their firms speed innovation, increase customer engagement and remain competitive

The Digital Insurance Advances in Tech Demo event puts the spotlight on some of the latest software and technologies in the industry, which are helping transform the industry.

Join this webinar to learn about trailblazing innovations that will help you build your tech strategy through a series of short demos that showcases what these software and technology companies are doing to advance the industry. Includes a live Q&A.

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