

# **SEF 44 Family Protection Endorsement - A Refresher And An Update**



Sandra L. Corbett  
Parlee McLaws LLP  
1500 Manulife Place  
10180 – 101 Street  
Edmonton, Alberta T5J 4K1  
(780) 423-8592  
[scorbett@parlee.com](mailto:scorbett@parlee.com)

**FAMILY PROTECTION ENDORSEMENT**  
**SEF No. 44**

The Family Protection Endorsement is an endorsement designed to provide insurance protection to named insureds and their families. It is intended to provide coverage for injuries or death arising from motor vehicle accidents, in circumstances where the wrongdoer is either not insured or is not adequately insured. It is optional coverage for which a premium is paid in addition to the premium paid for coverage purchased under the standard automobile coverage. The essence of the endorsement is that the insured protects himself from the risk of being injured by an inadequately insured motorist.

**1. WHO IS COVERED?**

Section 2 of the Endorsement (the “Insuring Agreement”) sets out that “eligible claimants” are covered. “Eligible claimants” are defined in Section 1(c), as follows:

The term “eligible claimant” means:

- i) the insured person sustaining bodily injury;
- ii) any other person who, in the jurisdiction in which the accident occurred, is entitled to maintain an action against the inadequately insured motorist for damages because of the death of an insured person or because of bodily injury to an insured person.

**Any Other Person:**

Corporations are not “eligible claimants”. ***Johnston v. State Farm Mutual Automobile Insurance Co.***<sup>1</sup> The scheme of the coverage provided by the Family Protection Endorsement is to provide insurance protection to only natural persons, their immediate families, and – within limits – dependant members of their extended families. Extension of coverage to a corporation that claims derivative damages in respect of injury to an employee or shareholder would be contrary to the Endorsement.

---

<sup>1</sup> ***Johnston v. State Farm Mutual Automobile Insurance Co.*** [1994] N.B.J. No. 507 (N.B.Q.B.)

Worker's Compensation Boards may not subrogate for amounts payable under an S.E.F. 44 Endorsement.<sup>2</sup>

Government insurers paying no-fault benefits also may not subrogate against an S.E.F. insurer for recovery of those benefits, and further, are not "eligible claimants" under the Endorsement.<sup>3</sup>

**Insured Person:**

Section 1(f) goes on to define "insured person", as follows:

- i) The named insured and his or her spouse if residing in the same dwelling premises and any dependent relative of either, while
  - (1) an occupant of the described automobile, a newly acquired automobile or a temporary substitute automobile as defined in the general provisions, definitions and exclusions of the policy,
  - (2) an occupant of any other automobile but excluding the person who leases such other automobile for a period in excess of 30 days or who owns such other automobile unless underinsured motorist insurance is in force in respect of such other automobile, or
  - (3) not an occupant of an automobile who is struck by an automobile;
- ii) If the named insured is a corporation, an unincorporated association or partnership, any officer, employee or partner of the named insured for whose regular use the described automobile is provided (which individual shall be considered the "named insured" for the purpose of Definition 1(b), and his or her spouse if residing in the same dwelling premises, and any dependant relative of either, while
  - (1) an occupant of the described automobile, a newly acquired automobile or a temporary substitute automobile as defined in the general provisions, definitions and exclusions of the policy,
  - (2) an occupant of an automobile other than the automobile referred to in (ii)(1) above leased by the named insured for a period in excess of 30

---

<sup>2</sup> *Peters v. Alberta (Workers' Compensation Board)* [1990] A.J. No. 524 (Alta. C.A.); *MacNeill v. Co-operators General Insurance Co.* [2003] P.E.I.J. No. 30 (P.E.I.S.C.-A.D.)

<sup>3</sup> *Reimer v. Wawanesa Mutual Insurance Co.* [1999] S.J. No. 150 (Sask. C.A.)