

EXAM 6 – CANADA, FALL 2019

3. (2 points)

a. (0.5 point)

Describe the current mandatory Ontario automobile injury compensation system.

b. (0.75 point)

According to the Marshall report, explain how the Ontario automobile injury compensation system is flawed.

c. (0.75 point)

According to the Marshall report, briefly describe three actions the government can take to improve the system.

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SAMPLE ANSWERS AND EXAMINER'S REPORT

QUESTION 3	
TOTAL POINT VALUE: 2	LEARNING OBJECTIVE(S): A2
SAMPLE ANSWERS	
Part a: 0.5 point	
<u>Sample 1</u> <ul style="list-style-type: none">• Accident benefits: benefits paid regardless of fault• Bodily injury: allows for injured party to sue driver at-fault	
<u>Sample 2</u> <ul style="list-style-type: none">• Program delivered through private sector• Government decides how to deliver it	
Part b: 0.75 point	
<u>Sample 1</u> <ul style="list-style-type: none">• Ontario has devised a guaranteed safety net for victims of auto accidents and outsourced it to insurance companies without giving them the authority to decide how to deliver it• The legislation is at once very broad and open to a wide latitude of interpretation and at the same time regulations are very prescriptive as to how insurance companies can deliver the product• This creates an opening for disputes as to interpretation on the one hand and restrictions on efficiency on the other	
<u>Sample 2</u> <ul style="list-style-type: none">• Insurers are focusing on cost control instead of proper care. Victims don't recover and final costs are higher, not lower• Lawyers earn a contingent fee, so they are trying to maximize awards instead of getting proper care for victims• Victims seek to maximize entitlements, instead of the care they actually need	
<u>Sample 3</u> <ul style="list-style-type: none">• Producers are paid on volume of treatment, not results• Lawyer: contingent fee is a percentage of settlement, lawyer seeks to maximize settlement rather than address medical care need• Victims focus on maximizing entitlement rather than addressing their medical care need	
Part c: 0.75 point	
<u>Sample 1</u> <ul style="list-style-type: none">• Give more regulatory freedom to insurers so that they can compete on price and service• Change the catastrophic compensation system• Focus on care not cash	
<u>Sample 2</u> <ul style="list-style-type: none">• Fix structural flaws by appointing an arm's-length regulator that has power to enact policies and procedures	

SAMPLE ANSWERS AND EXAMINER'S REPORT

- Change compensation system for catastrophic injuries since lawyers are taking too big of chunk
- Make contingent fee more transparent and simplify benefit, so less need for lawyers

EXAMINER'S REPORT

Candidates were expected to have a basic understanding of the current mandatory Ontario automobile injury compensation system, be able to explain why the current system is flawed, and describe actions the government can take to improve the system as explained in the Marshall report.

Part a

Candidates were expected to have a basic understanding of the current mandatory Ontario automobile injury compensation system.

Common errors included:

- Only stating one part of the two part system, for example, stating "no-fault accident benefit" without mentioning the tort for BI
- Stating "AB and BI" without providing further explanations

Part b

Candidates were expected to be able to explain why the current system is flawed.

Common errors included:

- Not providing a full explanation of why the system is flawed, for example, simply stating "cash not care" or "lawyer fee" without providing enough explanations
- Stating "premiums are too high" without relating to how the system is flawed

Part c

Candidates were expected to understand the actions the government can take to improve the current system.

Common errors included:

- Not providing a full explanation of why the system is flawed, for example, simply stating "fix structure flaws" without providing enough explanations