



Patient Education

What you should know

when you have been injured in a motor vehicle accident

This booklet provides information about insurance benefits and other compensation that may be available to you when you have been involved in a motor vehicle accident in Ontario.

This booklet is for informational purposes only and is not intended to be a substitute for legal advice.



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Am I entitled to benefits after a car accident?

YES. If you are injured in a motor vehicle accident, you are entitled to “Accident Benefits”. Accident benefits are available whether you were:

- driving,
- a passenger, or
- a pedestrian hit by a motor vehicle or other insurable vehicle.

Even if the accident was your fault, you are still entitled to receive accident benefits. Even if you do not have your own motor vehicle insurance, you are entitled to receive accident benefits.

Why are accident benefits important?

Accident benefits can help cover the cost of your therapy, caring for you in hospital and at home, resources that will help with your recovery, and other needs while in hospital and at home

Some of the following benefits may be available to you depending upon your motor vehicle insurance coverage and your eligibility:

- **Medical and Rehabilitation Benefits** – to pay for your medical treatment, therapy, medication and required equipment, housing and transportation.
 - **Attendant Care Benefits** – To pay for “hands on” care to you during your recovery.
 - **Income Replacement Benefits** – To pay costs for some of the income you have lost as a result of your inability to return to work due to your injuries. The amount of coverage is a limited or capped benefit.
 - **Caregiver Benefits** – To pay costs to you for being unable to care for your children or other dependents. The amount of coverage is a limited or capped benefit.
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- **Visitation Expenses** – To reimburse immediate family members for visitation expenses including travel, parking, meals and accommodations.
- **Housekeeping/Home Maintenance Expenses** – To assist with costs because of your inability to do your present and future housekeeping and maintenance chores.
- **Services of a Case Manager** – To pay for a rehabilitation coordinator help assist with your recovery. (This benefit is only available in “catastrophic impairment” cases, see page 6).

There are also additional benefits that may be available including: services of a case manager, lost education expenses, non-earner benefits, dependent care benefits, and damage to clothing expenses. In cases of death, death and funeral benefits are available.

Receipts

Keep all of your receipts related to your treatments. The receipts help to prove to the insurance company what accident-related expenses you or your family have paid.

When and how do I obtain accident benefits?

Within 7 days of the motor vehicle accident, you must call your motor vehicle insurer stating that you want to apply for accident benefits. The sooner you call the better. You may need therapy, equipment, assistive devices, or other medical services when you leave the hospital. If you call the insurer early, benefits can be coordinated so that you will have what you need when you get home.

Either you or someone close to you should call the first insurer that applies to you based on the order of the list below (starting from the top):

- the insurer of your motor vehicle
- the insurer of the motor vehicle under which you are insured
- the insurer of the motor vehicle in which you were an occupant
- the insurer of the motor vehicle that struck you if you were a pedestrian or cyclist
- the insurer of any other motor vehicle involved in the accident
- the Motor Vehicle Accident Claims Fund
(in Canada, call 1-800-268-7188)

When you call the insurer, tell them that you want to start an accident benefits claim. The insurer will ask you for some basic information including the following:

- name and age of the injured person;
- the nature of the injuries;
- your insurance policy number and motor vehicle information; and
- basic details about the accident

Some people may wish to consult a personal injury lawyer to advise them about their claim.

If you do not call the insurer within 7 days, the insurer has the right to delay providing you with benefits.

An application for accident benefits will need to be completed. A copy of the application can be obtained from your social worker at the hospital, the insurance company or a personal injury lawyer, if you choose to contact one.

Categories of injuries

There are two categories of injuries that insurance companies use. Depending on your injuries, you are either classified as "**non-catastrophic**" or "**catastrophic**". There are major differences in the amount of accident benefits that are available depending on how you are categorized. The maximums that are available increase significantly in cases of "catastrophic impairment". Cases of "catastrophic impairment" generally involve serious head injuries, loss of use of a limb or limbs, paralysis, complete loss of vision and certain other serious injuries.

What happens next?

The insurance company will assign an accident benefits adjuster to your file whose focus will be on your injuries and health care needs. A separate adjuster will be assigned to deal with motor vehicle damages, if appropriate. The adjuster will advise you regarding the application package and required information. If you decide to retain a personal injury lawyer, his or her office will deal directly with the adjuster and can assist you in completing the application.

Within 30 days of getting an application for Accident Benefits, you must send the completed application to the accident benefit insurer. If the form is not filled out and sent in, you will not get any compensation. You may not get certain benefits like attendant care benefits before the date you submit the application.

The application for accident benefits will include a disability certificate. Wherever possible, give the insurer an accident benefit application and a completed disability certificate as soon as possible in order that benefits can start being paid.

Other insurance benefits/private health plans

You should apply for Accident Benefits even if you have a health plan that may cover some of your medical expenses and/or income loss. Private health plans are often more limited than Accident Benefits in the types of coverage and amounts available to be paid.

If you are eligible for medical or disability benefits through a private or work-related health plan, that health plan will be the first insurance company in line to pay for certain expenses before the Accident Benefits insurer. However, you should apply to both insurance companies to get coverage for all your needs.

Do I have the right to sue at-fault persons?

A personal injury lawyer can give you information about your rights and those of your family to obtain compensation from anyone potentially responsible for the accident. These claims are over and above any accident benefits you may be entitled to receive.

In a claim, family members may recover income they have lost while caring for you, as well as other out-of-pocket expenses that have not otherwise been reimbursed.

In some cases claims against at-fault persons will include claims for:

- future income loss or loss of opportunity that you suffer as a result of your injuries; and
- future medical and rehabilitation expenses.

In almost all cases you only have two years from the date of a motor vehicle accident to start a lawsuit. A personal injury lawyer can give you information about the deadlines that apply in your case.

Choosing a personal injury lawyer

You or your family member may wish to consult a personal injury lawyer following a serious personal injury. Finding the right lawyer to represent both your current and your future needs is an important decision, especially if your injuries are permanent or you need long term rehabilitation. Seeking compensation and applying for Accident Benefits is a complicated process with specific time lines. The decisions that you are being asked to make are happening at a very difficult time of your life. It is important that you are fully aware of all your rights.

Hamilton Health Sciences does not recommend any particular law firm. We recommend you contact more than one law firm before making your final choice. You may call the **Law Society of Upper Canada Lawyer Referral Service** and be referred to a lawyer within your community with the appropriate expertise for an up to 30 minute free consultation 1-800-268-8326 or 416-947-3330.

Here are a list of questions to help you decide whether a personal injury lawyer is right for you and your family:

- Does the law firm specialize in personal injury law?
 - Is the law firm familiar with local resources in your community?
 - Do you know someone who will recommend a personal injury law firm?
 - Will the law firm provide a free initial consultation?
 - Does your lawyer return your calls in a short period of time?
 - Did the lawyer fully inform you about legal fees?
 - Did you confirm that the lawyer operates on a “contingency basis?” This means that no fees are collected by the lawyer until the victim makes a settlement.
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- Did the lawyer ask for a “retainer” up front? Most personal injury lawyers do not ask victims to pay for any costs until the matter is settled.
- Will the lawyer come to you at the hospital or in your home?
- Does the lawyer explain your rights, the legal process and the role of the lawyer in simple, clear language?
- Has the lawyer informed you about the strict time limitations and deadlines that must be met in order to avoid delays or disqualification from obtaining compensation and accident benefits?
- Is the lawyer helping you to fill out forms and applications?
- Do you understand the lawyer and do you feel listened to and supported after meeting with the lawyer?

What help can I get in the hospital?

Social workers at Hamilton Health Sciences are trained to help patients injured in motor vehicle accidents with insurance matters. Ask to see a social worker to help you fill out the forms and certificates that you will need to make a claim.

Key facts

Background	
Date of accident:	
Injured person's full name:	
Injured person's date of birth:	
Insurance information	
Insurance company:	
Insurance company's telephone number:	
Insurance policy number:	
Accident benefit adjuster:	
Accident benefit adjuster's telephone number:	
Accident benefit claim number:	
Accident investigating details	
Location of accident:	
Investigating Police Officer name:	
Police Officer's badge number:	
Police Officer's telephone number:	
Personal injury lawyer information	
Law firms name:	
Lawyer's name:	
Lawyer's telephone number:	
