

After the Car Accident,  
**WHO PAYS**  
For What?

Putting the pieces  
together  
after a motor vehicle  
injury



How to get the care  
and financial assistance  
you need in British Columbia.

# Putting the pieces together after a motor vehicle injury



Getting the proper medical care and income benefits after a car accident is challenging. Every decision is important and you have to act fast.

This guide is designed for injured people, families and professionals.

It is not a substitute for legal advice, but we hope it will provide the information you need to move forward.

## Things to know right away

### Key terms

The Insurance Corporation of BC (ICBC) Accident Benefits for medical care and income loss are referred to as:

- ▶ ICBC Accident Benefits,
- ▶ Part 7 Accident Benefits, and
- ▶ No-Fault Benefits.

### These terms all mean the same thing

because ICBC covers everyone in an accident regardless of fault.

A copy of the regulations setting out these benefits is available on our website at [www.awslaw.ca](http://www.awslaw.ca).



### Where to get medical help

Speak to your doctor immediately about treatment and rehabilitation.

*'Can I get medical advice from ICBC?'*

No. ICBC adjusters are not medical professionals.

## 'The Illuminator'

Wherever you see this little character, it means we offer an Info Sheet which sheds more light on the subject. A full list of Info Sheets is on the back of this brochure, and all are available on our website: [www.awslaw.ca](http://www.awslaw.ca).



## Factors to consider after an accident

If you have been involved in a car accident, the following factors will affect the medical and income benefits you will receive:

- ▶ If you were the **innocent victim** or the **at-fault driver**;
- ▶ If your claim has been designated a **Low-Velocity Impact (LVI)**;
- ▶ If you were **driving for work**;
- ▶ If you were a **pedestrian, a cyclist, or an infant** (i.e., anyone under 19);
- ▶ If you or the other driver were **out of province**;
- ▶ If you were **self-employed**;
- ▶ If you have **undeclared income**;
- ▶ If you were a **homemaker**; and
- ▶ If you were told you were in a "**no-fault**" accident, or "act of God".



See our Info Sheets to help you better understand your rights.

## Pitfalls in reporting your claim

Reporting is complicated and outside the scope of this brochure, and there are three important things to keep in mind.

1. **Anything you say to ICBC** about the accident can be used against you.
2. ICBC uses medical authorizations you sign to access your medical history, whether or not it is relevant. **You have the right** to restrict their authorization to "relevant medical history".
3. **There are deadlines** regarding your ICBC Accident Benefits for medical care and income loss, other benefits, and Personal Injury Claims.



You do not have to face these challenges alone. See our Info Sheets for more information.

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## Claims of innocent victims

A **Personal Injury Claim** is a claim against someone who has wrongfully hurt you in a car accident. A Personal Injury Claim allows you, as a victim, to be compensated by the insurance of the at-fault driver.

You are entitled to recover 100% of your medical expenses, as well as compensation for some or all of the following:

- ▶ Pain & suffering,
- ▶ Past income loss,
- ▶ Future income loss,
- ▶ Out-of-pocket costs for medical care, and
- ▶ Future cost of care.

If you are found partially at fault, your final compensation will be reduced by a certain percentage.



See our Info Sheets for more information.



## ICBC coverage

- ▶ **Innocent victims** have a claim for both personal injury and ICBC Accident Benefits for medical care and income loss.
- ▶ **At-fault drivers** only have a claim for ICBC Accident Benefits for medical care and income loss.
- ▶ Innocent victims with a Personal Injury Claim can receive **100% of their losses**, so a Personal Injury Claim is better.
- ▶ Claimants with only an ICBC Accident Benefits for medical care and income loss claim are **partially compensated**.
- ▶ An at-fault driver does not have a Personal Injury Claim.
- ▶ A private/group extended medical or income benefit plan **may be better** than ICBC's plan.



See our Info Sheets for more information.

## Accident benefits are for any injured person regardless of fault

Innocent victims as well as at-fault drivers will be entitled to the following, if eligible:

- ▶ Private/group extended medical care or income loss benefits through your employment;
- ▶ Employment Insurance (EI) sickness benefits, and in some cases regular EI benefits;
- ▶ Provincial disability income assistance benefits;
- ▶ *WorkSafeBC* benefits;
- ▶ ICBC Accident Benefits for medical care and income loss; and
- ▶ Canada Pension Plan (CPP) disability benefits.

## Steps to take

1. Generally you should **apply for your benefits in the order listed above**. This is because ICBC Accident Benefits for medical care and income loss are secondary benefits, and ICBC is not required to pay you if you have coverage elsewhere.
2. If you have a private/group extended medical or income benefit plan, obtain a copy of that plan from your employer and **apply for your benefits**.
3. Apply for EI sickness benefits if your ICBC adjuster tells you it is necessary or if the EI payment will be larger than your ICBC coverage for income loss.
4. Apply for ICBC Accident Benefits for medical care and income loss.
5. Apply for CPP disability benefits once you meet CPP's definition of "disabled".



See our Info Sheets for more information.

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## ICBC Accident Benefits for medical care and rehabilitation

If you are not otherwise covered, ICBC will provide the following **mandatory and permissive** Accident Benefits for medical care and rehabilitation.

**Mandatory benefits** ICBC is obligated to pay for: medical, surgical, dental, professional nursing, physical therapy, chiropractic treatment, occupational therapy, speech therapy, hospital, ambulance, and prosthesis or orthosis.

**Permissive benefits** ICBC *may* pay for on certain conditions: massage therapy, counseling, special footwear, motor vehicle and residential modifications, attendant care, supplies and equipment, communication aids, vocational rehab, work-site job modification, computers, mobility equipment, clothing, and miscellaneous items.

Sometimes ICBC develops its own policy about what they will pay. **These internal policies are not binding on you.** See our Info Sheets for more information.

## ICBC Accident Benefits for income loss

ICBC does not pay any **Accident Benefits for income loss** until you have exhausted all other income loss benefits.

If you are getting less than 75% of your gross weekly income from another insurer, ICBC must top you up to either 75% or to a maximum of \$300 per week.

Also, ICBC has discretion to pay full income loss for innocent victims in their Personal Injury Claim. You can ask for this.



Every situation is unique and results in a slightly different calculation. See our Info Sheets for examples.

## What you need to know

Once eligible for **ICBC Accident Benefits for medical care**, there is a maximum of \$150,000 for medical and rehabilitation expenses. ICBC Accident Benefits for income loss and homemaker expenses are over and above that limit.

**In order to be covered** for ICBC's permissive medical accident benefits, you need ICBC's medical advisor to agree they are reasonable. Obtain the adjustor's permission in writing before incurring these costs.

## Homemakers and Caregivers

If you were a homemaker at the time of the accident, you may be entitled to up to \$145 per week in **ICBC's Homemaker Benefits**.

You might also receive both ICBC income loss accident benefits and homemaker benefits if you were employed at the time of the accident.



Securing these benefits helps caregivers, but **caregivers have independent rights** as well. See our Info Sheets for more information.



## Info sheets

For more information on topics covered throughout this brochure, visit our website at [www.awslaw.ca](http://www.awslaw.ca) to read the following downloadable Info Sheets:



- INFO 1** Making a Personal Injury Claim – Innocent Victims of Accidents
- INFO 2** Claiming ICBC Benefits for Medical Care and Rehabilitation – Any Injured Person
- INFO 3** Claiming ICBC Benefits for Income Loss and Homemaker Expenses
- INFO 4** Calculating ICBC Benefits for Income Loss and Homemaker Expenses
- INFO 5** Other Types of Coverage – When to Collect
- INFO 6** ICBC’s Low-Velocity Impact Policy – What It Is and How to Defeat It
- INFO 7** ICBC Coverage and Out-of-Province Drivers
- INFO 8** Underinsured Motorist Protection – Why You Need It
- INFO 9** Claiming ICBC Benefits for Income Loss for Self-Employed and Service Industry Workers
- INFO 10** Subrogation – Paying Back Benefits to Insurers
- INFO 11** No-Fault Accidents
- INFO 12** Claiming Benefits for Pedestrians Injured in Accidents
- INFO 13** Claiming Benefits for Accidents Involving Cyclists
- INFO 14** ICBC and *WorkSafe* Coverage – Workers in Motor Vehicle Accidents
- INFO 15** Claim Deadlines
- INFO 16** Claiming Benefits for Infants Injured in Accidents – Anyone Under 19
- INFO 17** Compensation for Caregivers