



Claiming ICBC Benefits for Medical Care and Rehabilitation

– Any Injured Person –

This Info Sheet provides basic information on Accident Benefits for medical care and rehabilitation; it is not meant to be a substitute for legal advice.

It expands on information contained in the brochure *After the Car Accident, Who Pays for What?*, found on our website.

When you buy vehicle insurance, you become entitled to ICBC Accident Benefits for medical care and loss of income, as part of your insurance policy. The following information explains **key concepts** of how your ICBC coverage works, in general, and describes more specifically the **medical care and rehabilitation** benefits that you are entitled to, along with their restrictions.

Also included is a chart that summarizes ICBC’s policies in contrast to the law.

For further information, please see our **Info Sheet 3, *Claiming ICBC Accident Benefits for Income Loss and Homemaker Expenses.***

KEY CONCEPTS

ICBC Accident Benefits are secondary benefits.	This means that if you have insurance with any other private/group extended health or government program, you must collect benefits from those sources first. This is because ICBC is a secondary insurer . If you have access to other benefits, your ICBC Accident Benefits will be reduced by the amount you receive from those other sources.
ICBC Accident Benefits for medical care are not subject to fault.	Therefore, you can collect these benefits if you were the innocent victim or the at-fault driver or if no one was at fault. No one is at fault in the rare case where an accident was unavoidable. For more information, please see our Info Sheet 11, <i>No-Fault Accidents.</i>
Personal Injury Claims	A Personal Injury Claim can be made in addition to any other claim you make for benefits if you are an innocent victim of a motor vehicle accident. For more details see our Info Sheet 1, <i>Making a Personal Injury Claim – Innocent Victims of Accidents.</i>
Eligibility for ICBC Benefits	To be eligible for ICBC Accident Benefits for medical care you must first meet ICBC’s definition of “insured” and then you can make a claim.

<p>Eligibility for ICBC Benefits: Ensure You Meet ICBC’s Definition of “Insured”</p>	<p>The initial requirement for ICBC Accident Benefits is that you meet one of the following definitions of “insured”:</p>	<ul style="list-style-type: none"> ▪ an owner of a vehicle; ▪ a member of a vehicle owner’s household; ▪ an occupant of a vehicle licensed in B.C., or licensed elsewhere but driven by a person with a B.C.’s driver’s license; ▪ a pedestrian or cyclist hit by a vehicle; ▪ a victim of a hit and run; or ▪ a resident of B.C. who holds a valid driver’s license, or a member of his/her household.
<p>Eligibility for ICBC Benefits: Some Exemptions from Coverage</p>	<p>You may become ineligible for ICBC Accident Benefits if, at the time of the accident, you were:</p>	<ul style="list-style-type: none"> ▪ driving without a valid driver’s license or knowingly letting someone drive your car who did not possess a valid driver’s license; ▪ attempting to commit suicide by crashing your car; ▪ street racing; ▪ committing a criminal offence while using your vehicle; or ▪ if you are eligible for <i>WorkSafe</i> benefits.
<p>Reporting your claim</p>	<p>1. Report your accident to ICBC promptly, generally within 36 hours, by using their toll free Dial-a-claim number: 1-800-910-4222.</p> <p>Please note:</p> <ul style="list-style-type: none"> ▪ You are not required to report or discuss anything other than the fact that an accident happened, who you are, and who else was involved in the accident, (if you know their names). ▪ You do not have to answer any questions regarding who was at fault for the accident, what injuries you suffered, or your medical history. ▪ ICBC will instruct you to meet with an adjuster either by phone or in person but this is not mandatory or advised. ▪ You do not have to attend that meeting. In fact, we recommend that you do not meet or speak with an adjuster, as ICBC will either take a written statement from you or will try to get you to sign a statement prepared by them, both of which will be used against you. ▪ Also, they will ask you to sign authorizations that give them access to your entire private medical history without the normal restriction of “two years prior and relevant to the injury.” ▪ Relevant to the injury means, as an example, that ICBC is entitled to know if you had treatment for a sore neck in the two years before the accident, but only if you injured your neck in the accident. 	

<p>Reporting your claim, continued</p>	<p>2. As required, submit a statement to ICBC within 30 days of the accident. However, if you see us first, we will help you carefully prepare that statement and send it to ICBC on your behalf.</p> <p>3. Submit your insurance claim application for Accident Benefits within 90 days of the accident. You are required to give more details on this form and you should consult a lawyer. We have this application, and can help you fill it out and submit it on time.</p>
<p>Pre-existing sickness or disease</p>	<p>Your entitlement to ICBC Accident Benefits for medical care may be denied if you had a pre-existing sickness or disease. You should consult with a lawyer if ICBC denies your claim for this reason. The fact that you have a pre-existing medical condition is not relevant to your claim for ICBC Accident Benefits unless the pre-existing condition disabled you from working at the time of the accident.</p>

ICBC BENEFITS, THE SPECIFICS

You are entitled to medical and rehabilitation benefits from ICBC even if you caused the accident.

<p>Definitions: Rehabilitation</p>	<p>as defined by the Insurance (Vehicle) Regulation means “the restoration, in the shortest practical time, of an injured person to the highest level of gainful employment of self-sufficiency that, allowing for the permanent effects of his injuries, is, with medical and vocational assistance, reasonably achievable by him”.</p> <p>Medical and rehabilitation benefits are classified as either Mandatory or Permissive.</p>
<p>Mandatory benefits</p>	<p>include all reasonable expenses incurred (as a result of the injury) for necessary medical, surgical, dental, hospital, ambulance, professional nursing services, physical therapies, chiropractic treatment, occupational therapy, speech therapy, or for prosthesis or orthosis.</p> <p>Your medical team should decide what is necessary, not ICBC.</p>
<p>Permissive benefits</p>	<p>include any treatments that promote rehabilitation, as long as ICBC’s advisor deems them reasonable. Permissive benefits may include things such as vocational training, reimbursement for the cost of attendant care, and funds to alter your motor vehicle or residence for accessibility. Example: massage therapy is considered a permissive benefit.</p>
<p>\$150,000 limit to compensation</p>	<p>There is a \$150,000 limit to compensation for medical and rehabilitation expenses only. (The limit does not apply to ICBC Accident Benefits for income loss.) In cases of serious injury, the \$150,000 limit will be inadequate, and you can only recover losses beyond that limit if you can pursue a Personal Injury Claim. You should contact a lawyer to assess your options.</p> <p>A Court of law can award you far more through a Personal Injury Claim than what is available to you through ICBC Accident Benefits.</p>

ICBC internal policies restrict payment of reasonable and necessary medical expenses

ICBC is required to pay all medical expenses that are reasonable and necessary. Unfortunately, ICBC has developed policies, i.e. “rules”, which limit your coverage and are not set out in law. For example, one of the typical rules involves a restriction on massage therapy. Treatments are not paid for unless taken shortly after the accident, only a limited number are allowed, and ICBC does not pay the full cost. These restrictions have no legal force and ICBC ought to pay for therapy ordered by your doctor.

ICBC has discretion to pay all your medical and rehabilitation expenses regardless of their internal policies that restrict your benefits. In fact, some ICBC adjusters pay claims throughout recovery, while others hold back until the injured person settles or goes to court. There is no discernible rationale behind these different decisions by ICBC adjusters. It appears that ICBC sometimes arbitrarily restricts benefits rightfully owed to people injured in a motor vehicle accident.

Summary of Discrepancies Table

This table, beginning on page 5, sets out the medical and rehabilitation benefits ICBC says it will pay for according to its policies*. For each Category, ICBC’s policy is contrasted with the Legal Position. As the Legal Position shows, many of ICBC’s policies do not represent the law.

ICBC arbitrarily restricts your benefits. If you have a **Personal Injury Claim** the restriction may not matter as your lawyer may recover 100% of your medical and rehabilitation expenses.

For more information on Personal Injury Claims, see our **Info Sheet 1, *Making a Personal Injury Claim – Innocent Victims of Accidents***. If you only have an at-fault ICBC Accident Benefits claim for medical care, you may be unfairly treated by ICBC, as your coverage will be determined by ICBC policies. You can sue ICBC if this happens.

* *Note: Because these policies change from time-to-time, please check with a lawyer to determine current ICBC policies.*

A Summary of Discrepancies ICBC’s Policies and the Legal Position

MANDATORY BENEFITS Insurance (Vehicle) Regulation, s.88(1)

CATEGORY	ICBC POLICY	LEGAL POSITION
Medical, surgical, dental, hospital	<ol style="list-style-type: none"> As recommended by a physician Need must arise from a motor vehicle accident 	<ol style="list-style-type: none"> TRUE. Reasonable and necessary mandatory benefits are determined by a physician and must be paid for by ICBC. (s.88[1]). TRUE (s.88[1]).
Ambulance	<ol style="list-style-type: none"> Invoice can be provided to ICBC for direct payment 	<ol style="list-style-type: none"> TRUE. ICBC must cover this expense as a mandatory benefit (s. 88[1]).
Professional nursing services	<ol style="list-style-type: none"> Will not provide additional nursing staff while insured is in the hospital 	<ol style="list-style-type: none"> FALSE. If your doctor deems it reasonable and necessary then ICBC may be required to cover it as a mandatory benefit. (s.88[1])
Physical therapy	<ol style="list-style-type: none"> To receive more than 12 treatments, a physician must certify in writing that such treatments are necessary Insured is still responsible for the user fee for each visit These treatments can be claimed as special damages with documentation 	<ol style="list-style-type: none"> TRUE. However, this requirement for certification in writing applies only to this and not to other mandatory benefits (s.88[8]). FALSE. ICBC is supposed to pay the MSP rate. However, there is no MSP rate and the service is no longer covered. ICBC arbitrarily sets its own rates and only covers \$25.20, for an initial visit and \$17.65 for subsequent visits. The usual cost for one treatment is around \$60, and injured people pay the difference. TRUE. These out-of-pocket expenses can be claimed as special damages in a Personal Injury Claim made by an innocent victim.

A Summary of Discrepancies, ICBC’s Policies and the Legal Position, *continued*

MANDATORY BENEFITS Insurance (Vehicle) Regulation, s.88(1), *continued*

CATEGORY	ICBC POLICY	LEGAL POSITION
Chiropractic treatments	<p>1. The insured person is responsible for the service charges for each visit, although, these can be claimed as special damages with documentation</p>	<p>1. FALSE. ICBC is supposed to pay the MSP rate. However, there is no MSP rate and the service is no longer covered. ICBC arbitrarily sets its own rates and only covers \$22.27 for an initial visit and \$17.35 for subsequent visits. The usual cost for one treatment is around \$40–\$60, and injured people to have to pay the difference. These expenses can be claimed as special damages in a Personal Injury Claim made by an innocent victim.</p> <p><i>NOTE: ICBC has instituted a new chiropractic program. The entire cost of chiropractic treatment is paid in a lump sum directly to the chiropractor. This means your chiropractor could be paid \$900 whether you were treated three times or 12 times, possibly providing an incentive to treat you the fewest number of times to make a profit.</i></p>
Occupational therapy (OT)	<p>1. Services are retained by ICBC and the insured</p> <p>2. Occasionally conflicts arise as to confidentiality and duty of allegiance</p> <p>3. The OT will sometimes act as case manager as well</p>	<p>1. DEPENDS. ICBC often does not retain an occupational therapist. Acheson Whitley Sweeney Foley will obtain this service for you if needed and recommended by your medical team.</p> <p>2. DEPENDS. The problem here is that ICBC-hired OTs are restricted in what they can recommend by ICBC rules and regulations. An independent OT recommends all the rehab and support you need.</p> <p>3. DEPENDS. This is the role the OT assumes when he/she becomes responsible for coordinating care with the assistance of your doctor. If the OT is hired by ICBC, more often than not they will take direction from the adjuster as to what care is made available to you. An independent OT takes direction from your doctor.</p>
Speech therapy	<p>1. Referral can be made by physician, occupational therapist or legal counsel</p> <p>2. Therapy must be authorized by ICBC in advance of services being provided</p>	<p>1. TRUE</p> <p>2. FALSE. Because speech therapy is a mandatory benefit, written approval by a physician is not needed but may assist.</p>

A Summary of Discrepancies, ICBC’s Policies and the Legal Position, *continued*
PERMISSIVE BENEFITS Insurance (Vehicle) Regulation, s.88(2)

CATEGORY	ICBC POLICY	LEGAL POSITION
Massage therapy	1. Massage therapy is considered a permissive benefit not specifically listed but included in the “other” category in s. 88(2)(f).	1. DEPENDS . The law is not clear whether massage therapy should be considered a mandatory benefit instead of a permissive benefit. However, if it is permissive, ICBC still has to pay if your doctor orders it.
	2. With a referral from a family doctor, ICBC will pay for a maximum of 12 visits within the first eight weeks from the date of the accident.	2. FALSE . ICBC does not have the legal right to restrict this benefit to 12 treatments within the first eight weeks. If your doctor orders it, ICBC ought to permit it. Massage therapy can be a very important component of any active rehabilitation program that may continue for months after the accident.
	3. Will only pay \$23 per visit.	3. ICBC arbitrarily sets its own rates and only covers \$23 per visit. The usual cost for one treatment is around \$60, and injured people pay the difference. These expenses can be claimed as special damages in the Personal Injury Claim of an innocent victim.
Homemaking assistance <i>(See also note at lower right regarding Homemakers Benefits.)</i>	1. Recommendation must be made by a physician or occupational therapist	1. TRUE . Before incurring this expense an insured must get written approval from ICBC or else this expense will not be covered (s.88[3]).
	2. Number of hours of assistance is based on extent of injuries	2. TRUE . ICBC has sole discretion to limit coverage (s.88[2f]).
	3. Will not pay for services provided by family members	3. DEPENDS . As this benefit is permissive and ICBC has sole discretion, ICBC can refuse to pay for homemaking assistance if it is performed by a family member (s.88[2f]). <i>NOTE: this benefit is not the same as the Homemakers benefit, and you are not limited to the \$145 maximum amount.</i>

A Summary of Discrepancies, ICBC’s Policies and the Legal Position, *continued*

PERMISSIVE BENEFITS Insurance (Vehicle) Regulation, s.88(2), *continued*

CATEGORY	ICBC POLICY	LEGAL POSITION
<p>Wheelchair, crutches, canes, medically prescribed bed, bowel and bladder equipment; aids for communication, dressing, eating, grooming and hygiene; transfer equipment; and a ventilator</p>	<p>1. Need must arise from a motor vehicle accident</p> <p>2. Rental fees will be reimbursed</p> <p>3. Purchase is covered if need is permanent</p>	<p>1. TRUE (s.88[2]).</p> <p>2. Actually, reimbursement of rental fees is not mentioned in the law but it makes sense. (s.88[2d]).</p> <p>3. DEPENDS. ICBC is only required to cover the cost of a wheelchair (s.88[2d]). Crutches and canes might be covered by ICBC’s catch-all discretion for other costs it agrees to pay (s.88[2f]).</p> <p>However, ICBC should cover costs incurred from time-to-time for the purchase and reasonable repair, adjustment or replacement of wheelchairs as well as a medically prescribed bed (for other than hospital use); bowel and bladder equipment; aids for communication, dressing, eating, grooming, and hygiene; transfer equipment, and a ventilator (s.88[2d]).</p>
<p>Specially equipped vehicle</p>	<p>1. Provided on a one-time basis</p> <p>2. Make and model are up to ICBC</p> <p>3. Insurance, repairs and upkeep are not covered by ICBC</p>	<p>1. TRUE (s.88[2a]).</p> <p>2. TRUE (s.88[2a]).</p> <p>3. DEPENDS. ICBC is not liable to insure, repair, replace or maintain a motor vehicle acquired under permissive benefits except in the course of an approved repair resulting from a subsequent claim for insured loss or damage to the vehicle (s.88[4]).</p> <p><i>NOTE: a Personal Injury Claim allows you to choose the make and model of the vehicle with the assistance of your medical experts, and ensures that you will be fully reimbursed.</i></p>

A Summary of Discrepancies, ICBC’s Policies and the Legal Position, *continued*

PERMISSIVE BENEFITS Insurance (Vehicle) Regulation, s.88(2), *continued*

CATEGORY	ICBC POLICY	LEGAL POSITION
Alteration to residence	<p>1. Provided on a one-time basis</p> <p>2. Style and cost are up to ICBC</p> <p>3. Limited to ramps, one lift, and necessary bathroom alterations</p>	<p>1. TRUE (s.88[2b]).</p> <p>2. TRUE (s.88[2b]).</p> <p>3. TRUE (s.88[2b]). Kitchen alterations are also provided if insured lives alone or is a homemaker. <i>NOTE: a Personal Injury Claim allows you to choose the style and cost with the assistance of your medical experts, and ensures that you will be fully reimbursed.</i></p>
Attendant care (or in-home care not to exceed 12 hrs/day)	<p>1. Choice is based on recommendations of professional team and subject to availability</p>	<p>1. FALSE. There is no restriction on in-home care for attendant care. If attendant care is necessary, reimbursement is based on the lesser of: (1) the monthly cost of an appropriate long-term care facility, or (2) the cost of attendant care the level and type of which to be determined using the same standards applied under other long term care government programs (s.88[2c]).</p>
Vocational or educational retraining	<p>1. The purpose is not to allow the insured to make a career change but to address the post-injury skill and abilities</p>	<p>1. TRUE (s.88[2e]). Vocational funds should be consistent with your pre-injury occupation and post-injury skills and abilities. Funds are also meant to return you to your pre-injury status, or as close as possible, and/or to improve your post-injury earning capacity and level of independence.</p>