



Claiming ICBC Benefits for Income Loss and Homemaker Expenses

This Info Sheet provides basic information on Accident Benefits for income loss and homemaker expenses; 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.

For more information on **how to calculate** the ICBC Accident Benefits you may receive, see our **Info Sheet 4, *Calculating ICBC Benefits for Income Loss and Homemaker Expenses***. For some key concepts regarding ICBC Accident Benefits for medical care, see our **Info Sheet 2, *Claiming ICBC Benefits for Medical Care and Rehabilitation – Any Injured Person***.

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 <i>not</i> 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> <hr/> <p>3. Submit your insurance claim application for Accident Benefits within 90 days of the accident. We have this application, and can help you fill it out and submit it on time.</p>
<p>ICBC Accident Benefits for Income Loss Due to Disability</p>	<p>These benefits, referred to by ICBC as Total Temporary Disability (TTD) benefits are paid if an injury caused by a motor vehicle accident prevents you from working.</p> <p>In order to qualify, you must have been employed at the time of your accident or have worked at least six of the 12 months preceding the date of your accident.</p> <p>If you were employed at the time of the accident, ICBC should take an average of your gross earnings for the weeks (and fractions of weeks) you actually worked for one year prior to your accident. If you were not working at the time of the accident, as long as you worked six of the preceding 12 months, ICBC should take the average of the weeks (and fraction of weeks) you actually worked.</p> <p>Example: you worked 6.5 months (28 weeks) in the preceding year, and your gross earnings were \$300 per week.</p> <p>ICBC should calculate your average gross weekly earnings by using this formula:</p> <p>28 weeks x \$300/week ÷ 28 weeks = \$300 average gross weekly earnings.</p> <p>ICBC <i>should not</i> use this formula:</p> <p>28 weeks x \$300/week ÷ 52 weeks = \$161.54 average gross weekly earnings.</p> <p>The proper calculation results in a higher benefit because it averages the weeks you worked, and does not take into consideration the portion of the year you did not work. ICBC does not have a legal basis for calculating your entitlement to benefits in any other way. If the calculation is not done correctly, a student or anyone else who has not worked full-time in the year before the accident will either not be entitled to these benefits or will receive a very small amount.</p>
<p>Must Be Totally Disabled within 20 Days of the Accident</p>	<p>You must be totally disabled within the first 20 days from the date of the accident in order to be eligible for TTDs. You are entitled to TTDs if you “cannot perform any substantial requirement” of your job. You are not required to be unable to do each and every part of your job. If you try to return to work after 20 days but realize you cannot, you are still legally entitled to TTDs so long as during the 20 days from the date of the accident you could not do significant parts of your job.</p> <p>Example: a waiter returns to work but cannot lift heavy trays, a bookkeeper returns to work but cannot sit the necessary consecutive hours, or a plumber can’t carry his toolbox, and the return to work eventually fails.</p> <p>NOTE: <i>There is no commonly agreed upon definition of “disabled” and ICBC’s definition is not shared by other benefit providers. You must pay particular attention to specific definitions.</i></p>

<p>Seven-Day Waiting Period for Benefits</p>	<p>There is a seven-day waiting period before receiving TTD benefits. This means that your eligibility begins on the eighth day of your disability, and you are not compensated for those first seven days. The waiting period is further extended if you are entitled to Employment Insurance (EI) sickness benefits, which are paid within 14 to 28 days.</p> <p>You should apply for EI sickness benefits immediately after the accident even if you are not sure you are entitled to them so you can begin receiving either EI or ICBC benefits as quickly as possible.</p> <p>For more information on EI sickness benefits, please refer to our Info Sheet 5, Other Types of Coverage – When to Collect.</p> <p>You can also be required to use up your “sick time” through work before receiving TTDs.</p>
<p>Accident Benefits Regardless of Fault</p>	<p>ICBC Accident Benefits are no-fault benefits. Even if you caused the accident, you are entitled to TTDs as long as you meet ICBC’s definition of disabled. The definition is that you “cannot perform any substantial requirement” of your job.</p>
<p>TTDs and Entitlement to Workers Compensation or Employment Insurance Benefits</p>	<p>If you are entitled to benefits under the <i>Workers Compensation Act (WCA)</i> or the <i>Employment Insurance Act</i> (either regular or sickness benefits), ICBC is entitled to reduce your TTDs by the amount of that entitlement.</p> <p>If your entitlement from either source exceeds \$300 per week, ICBC does not have to pay you any TTD benefits.</p> <p>Also, if you elect to pursue benefits under the WCA, you will not be entitled to any ICBC benefits.</p> <p>For more information on Accident Benefits and WCA benefits, see our Info Sheet 14, ICBC and WorkSafe Coverage – Workers in Motor Vehicle Accidents.</p>

How Much ICBC Will Pay

As long as you do not have income loss coverage from other benefits, ICBC will pay you up to 75% of your average gross weekly earnings in the past year before the accident, to a maximum of \$300 per week. Any additional income loss not covered by ICBC or other benefits may be recovered by innocent victims through a Personal Injury Claim.

TTDs are not taxable and continue for either the duration of your disability or 104 weeks, whichever is less. ICBC calculates your average gross weekly earnings by adding up all of the weeks (and fractions of weeks) you actually worked in the year preceding your accident. Even if you were not employed at the time of the accident, as long as you worked at least six of the preceding 12 months there is no penalty for not working. The calculation of your gross weekly earnings should take into account only the time you actually worked.

Example: Using the same example as above, if you worked 6.5 months (28 weeks) in the preceding year, and your gross earnings were \$300 per week, ICBC should calculate your average gross weekly earnings by using this formula:

$$28 \text{ weeks} \times \$300/\text{week} \div 28 \text{ weeks} = \$300 \text{ average gross weekly earnings.}$$

If you had received a raise to \$400 per week at the 14th week, then the formula would look like this:

$$(14 \text{ weeks} \times \$300/\text{week}) + (14 \text{ weeks} \times \$400/\text{week}) \div 28 \text{ weeks} = \$350 \text{ average gross weekly earnings.}$$

In this case, ICBC would only pay you up to \$300 per week (unless you have a private/group income loss plan – see below).

ICBC *should not* use this formula:

$$(14 \text{ weeks} \times \$300/\text{week}) + (14 \text{ weeks} \times \$400/\text{week}) \div 52 \text{ weeks} = \$188.46 \text{ average gross weekly earnings.}$$

ICBC May Top Up Your Other Income Loss Benefit Coverage

Even if you have other income loss coverage, such as CPP disability benefits, or private/group plan benefits, you may still receive TTDs. ICBC will top you up to 75% of your **gross weekly earnings**, to a maximum of \$300 per week, if your other coverage is paying you less than that.

This means that a person with some private coverage for income loss can get a greater payment than someone without.

For more information see our **Info Sheet 3, *Calculating ICBC Benefits for Income Loss and Homemaker Expenses.***

<p>TTDs beyond 104 Weeks</p>	<p>If you are unable to return to work after 104 weeks, you are entitled to ICBC Accident Benefits as long as your disability continues or until you turn 65, whichever comes first.</p> <p>If you require these additional benefits, you will likely be required by ICBC to apply for Canada Pension Plan (CPP) disability benefits, and if you receive them, your ICBC Accident Benefits will be reduced by that amount. This means that ICBC will subtract the amount of CPP benefits you receive from what it pays you. ICBC is not entitled to subtract CPP payments received until after 104 weeks.</p> <p>For more information on CPP disability benefits see our Info Sheet 5, <i>Other Types of Coverage – When to Collect.</i></p>
<p>Disability Benefits for Homemakers</p>	<p>If you are a homemaker who takes care of your household, ICBC may pay you up to \$145 per week to cover homemaker expenses. To be eligible, your injury must substantially or continuously stop you from “regularly performing most of the... household tasks”. This coverage pays for you to hire someone to come into your home to clean.</p> <p>Although the law states that coverage will not pay for a family member to do the work, the Court has ruled that as long as your family member did not reside with you before the accident and comes specifically to help because of the accident, ICBC must pay (Watson v. ICBC, [1992] B.C.J. No. 2721).</p> <p>If you were a worker and a homemaker at the time of the accident, you are eligible for both TTDs and the homemaker benefit. ICBC can renew your eligibility for the homemaker benefit every year. As with TTDs, your eligibility begins on the eighth day of your disability, and you are not compensated for those first seven days.</p>

Summary of Discrepancies Table

This table, beginning on page 7, sets out the income loss 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.

* *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

INCOME LOSS, ss.80(1), (2), and 86; and HOMEMAKER BENEFITS, s.84

CATEGORY	ICBC POLICY	LEGAL POSITION
Disability benefits for employed persons	1. If eligible, benefits available within four weeks of receiving proof of claim, and then every four weeks thereafter	1. DEPENDS . ICBC will not pay any disability benefits unless you have first exhausted all your other benefit options.
	2. Must be totally disabled within 20 days of the accident.	2. TRUE (s.80[1]).
	3. Must be disabled for seven days of disability, and you will not receive any benefits for those first seven days	3. TRUE (s.85[1] and [2]).
	4. If eligible, will receive benefits for duration of disability or 104 weeks, whichever is shorter	4. TRUE (s.80[1]).
	5. Will be topped up to either 75% of the average weekly income earned in the previous 12 months, or to a maximum of \$300 per week, whichever is less. If benefits received through Employment Insurance exceed \$300 per week, no TTDs will be paid.	5. TRUE . If you are entitled to other benefits, ICBC must “top you up” to 75%, or a maximum of \$300 per week. ICBC will not pay you anything if are entitled to benefits under the <i>Workers Compensation Act</i> or <i>Employment Insurance Act</i> if those benefits exceed \$300 (ss. 82 and 83). <i>NOTE: If you were employed at the time of the accident, your entitlement to benefits for income loss due to disability, also referred to as Total Temporary Disability benefits (TTDs), should be calculated by taking 75% of your average gross weekly earnings (s.80[1b][iii]). If you were not employed at the time of the accident, you must have worked at least six of the 12 months preceding the date of your accident in order to be entitled to TTDs (s.78 “employed person”).</i>

INCOME LOSS, ss.80(1), (2), and 86; and HOMEMAKER BENEFITS, s.84

CATEGORY	ICBC POLICY	LEGAL POSITION
Disability benefits for homemakers	1. Must be disabled for seven days or more	1. TRUE (ss.84[1] and 85). The injury must substantially and continuously disable a homemaker from regularly performing most of the household tasks (s.84[1]).
	2. Benefits are not payable for first seven days of disability	2. TRUE (s.85).
	3. Will receive benefits for duration of disability or 104 weeks, whichever is shorter	3. TRUE (s.84[1]).
	4. Purpose is to cover the reasonable cost of having someone perform household tasks on the insured's behalf	4. TRUE (s.84[1]).
	5. Will not cover more than \$145/week	5. TRUE (s.84[1] and s.2 of Schedule 3).
	6. Will not cover tasks performed by a family member	6. FALSE . The courts have determined that as long as the family member did not previously live with the injured person and comes specifically to help with the housekeeping, ICBC must pay (Watson v. ICBC, [1992] B.C.J. No. 2721). <i>NOTE: If you were employed at the time of the accident you are entitled to both TTDs and homemaker benefits.</i>