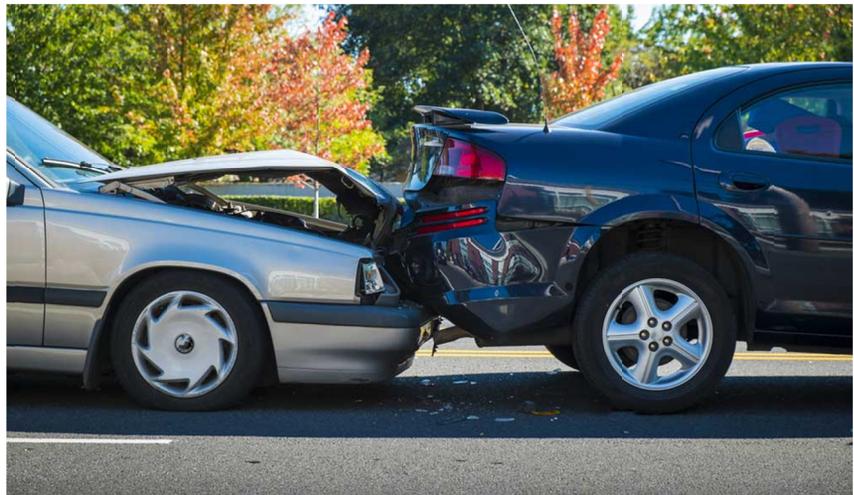




London Health Sciences Centre  
Trauma Program

# What You Should Know After a Motor Vehicle Collision

---



*A guide to obtaining insurance benefits and compensation if you have been injured in a motor vehicle accident in Ontario.*

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



## Understanding Automobile Insurance in Ontario

In Ontario, automobile insurance is regulated by the Financial Services Commission of Ontario (FSCO), a regulatory agency of the Ministry of Finance.

FSCO's website provides consumers with up to date information on:

- News related to auto insurance (i.e. changes, warnings)
- Understanding auto insurance (i.e. what do the coverages mean)
- **What to do after an auto accident and the claims process** (i.e. what to expect if you've been injured, applying for accident benefits, exclusions, etc.)

For more information go to:

FSCO's website: [www.fSCO.gov.on.ca](http://www.fSCO.gov.on.ca)

FSCO's webpage re: auto insurance: [www.fSCO.gov.on.ca/en/auto/Pages/default.aspx](http://www.fSCO.gov.on.ca/en/auto/Pages/default.aspx)

## Am I entitled to benefits after a car accident?

Anyone injured in a motor vehicle accident is entitled to "*Accident Benefits*".

Accident benefits are available whether you were:

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

In most cases, even if the accident was your fault, you are still entitled to receive accident benefits. You do not have to have your own motor vehicle insurance to receive accident benefits.

### **Exclusions:**

Insurance companies are allowed to deny payment to certain individuals (i.e. driver without a valid driver's license). See the FSCO website for the full list of exclusions.

## Why are accident benefits important?

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

- **Income Replacement Benefits** - To partially cover the costs for some of the income you have lost as a result of your inability to return to work due to your injuries.
- **Attendant Care Benefits** - To pay for “hands on” care to you during your recovery once home.
- **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.
- **Medical Benefits** - To pay for your medical expenses incurred when you are injured.
- **Rehabilitation Benefits** - To pay for your rehabilitation expenses incurred when you are injured.

There are additional benefits that may be available including: visitation expenses (e.g. travel to visit injured loved one), housekeeping/home maintenance expenses, lost education expenses, non-earner benefits, dependent care benefits, and damage to clothing expenses.

Note: The availability of the above benefits will vary based on the severity of your injury and whether optional insurance benefits are available to you.

## When and How do I obtain accident benefits?

**Within 7 days of the motor vehicle collision**, you **must** call the appropriate motor vehicle insurer and tell them you want to report your collision and apply for *Accident Benefits*. The sooner you call the better, as you may require therapy, equipment, assistive devices, transportation home or other medical services upon discharge from the hospital. Otherwise, you may have to pay for the equipment on your own and be reimbursed by insurance at a later date. If you do not call the insurer *within 7 days*, you *may* not get your benefits right away.

## Which insurer should I call for accident benefits?

To obtain Accident Benefits either you or your family member should call *the first insurer that applies to you* from 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 a passenger
- 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

When you call the insurer, tell them that you want to start an Accident Benefits claim. The insurer will ask you some basic information, including:

- Name and age of the injured person
- Nature of the injuries
- Insurance policy number and motor vehicle information
- Basic details about the incident

Details that you provide to your insurer around the incident could have an impact on your right to specific claims. You have the option of consulting a personal injury lawyer before getting into specific details with the insurance representative. Most personal injury lawyers would recommend this type of consultation.

## What happens after I speak to the insurer?

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. Your insurer will send you *an application for Accident Benefits OCF 1*. The adjuster will be your main contact at the insurance company and will provide you with a claim number for your file. If you decide to get a personal injury lawyer, his or her office will deal directly with the adjuster and can help you complete the applications.

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.

While in hospital, a *Disability Certificate OCF 3* should be started outlining all your injuries. This first few sections need to be completed by yourself or your substitute, if you are not able, and then given to your health care practitioner at the hospital to be completed and sent in to either your insurer or your personal injury lawyer (if you have chosen one). Please speak to the hospital social worker about the OCF 3 and ensure you return the form prior to discharge.



## What are my rights to obtain compensation from at-fault persons?

A personal injury lawyer can provide you information about your rights and those of your family to obtain compensation from anyone potentially responsible for the incident. These claims are over and above any accident benefits you may be entitled to receive. There are deadlines from the date of motor vehicle collision to when you can start a lawsuit.

### Choosing a personal injury lawyer

Accessing the benefits that you are entitled to and protecting your rights against an at-fault party can be very complicated. You and your family may want to ask a personal injury lawyer for assistance. Most lawyers who specialize in personal injury claims will meet with you, free of charge and without obligation, for the initial consultation.

Finding the right lawyer to represent both your current and 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 of your rights.

London Health Sciences Centre Trauma Program does not endorse any law firms. Below are some suggestions on how you can find the right personal injury lawyer for your situation.

**Law Society of Upper Canada Lawyer Referral Service:** This service will provide you the name of a lawyer or paralegal within or near your community, who will provide a free consultation of up to 30 minutes to help you determine your rights and options.

Ph: 1-800-268-8326

[www.lawsocietyreferralservice.ca](http://www.lawsocietyreferralservice.ca)

**Ontario Brain Injury Association of London Directory of Services** includes lists of legal and financial service providers with brain injury experience.

[www.braininjurylondon.on.ca](http://www.braininjurylondon.on.ca)

**Personal Referral** – Ask your friends/family of any personal Injury lawyer they may recommend.

## **How to 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?
- Will the law firm provide a free initial consultation?
- Does the lawyer return calls within 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”?  
(i.e. no fees collected by the lawyer until a settlement made.)
- Did the lawyer ask for a “retainer” up front?
- Will the lawyer come to you at the hospital or in your home?
- Did 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?

## **Seeking the assistance of a Rehabilitation Company**

There are various rehabilitation companies within the area that utilize interdisciplinary teams to facilitate with your discharge home. These services are paid through your insurance provider. Your rehabilitation company will assist with your discharge home, transportation, coordination of appointments, equipment in the home, and facilitate the various rehabilitation therapists needed after your discharge. Your insurance company or personal injury lawyer may be able to suggest a company to you. As well, London Health Sciences Centre Trauma Program does not endorse any certain company, but can provide you with a list of local rehabilitation companies available. Please speak with the hospital social worker. Determining the need of a rehabilitation company early on during your hospitalization is important as proper discharge planning can take a few days, and the rehabilitation company may require a few days to set up your equipment, services, respite stay and/or transportation.

## Key Information to Remember:

Date of Incident	
Location of Incident	
Investigating Police Office Name & Badge #	
Insurance Company	
Insurance Company Phone #	
Claim #:	
Policy #:	
Adjuster's Name	
Adjuster's Phone #:	
Law Firm	
Lawyer's Name	
Lawyer's Phone #:	
Rehab Company	
Rehab Company Phone #:	
<b>Other Important Names/#s</b>	

This patient education handout was largely based on, with permission, the following documents:

Hamilton Health Sciences' document "*What you need to know when you have been injured in a motor vehicle accident*", 2007, revised 2010.

Health Sciences North document "*What you should know when you have been injured in a motor vehicle accident*", 2016.



London Health Sciences Centre

Trauma Program