

SUBROGATION CHECKLIST

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1. Enquire whether the Plaintiff has received benefits or services paid for by a third party.
2. If so, determine whether this third party has a right to subrogate or assignment by contract or law?
 - a. If not, there is no need to protect the claim.
 - b. If there is a right to subrogate, consider the following to determine whether the subject incident gives rise to a viable subrogated claim:
 - i. In what jurisdiction did the incident occur?
 - ii. Is this a non-motor vehicle case, a motor vehicle case, or a quasi motor vehicle case?
 - iii. If a quasi motor vehicle case,
 1. Is the subrogating entity OHIP?
 2. Is the non-motor vehicle Defendant a named insured under a motor vehicle liability policy?
3. If there is a viable subrogated claim or assignment,
 - a. Flag the file and/or billing sheet.
 - b. Provide an explanation to the client.
 - c. Obtain an initial payment summary and, in the case of a subrogated claim, instructions to protect the account.
4. When conducting a file review,
 - a. Determine whether there are any new subrogated claims or assignments to protect.
 - b. Obtain an updated payment summary.
 - c. If OHIP is the subrogating entity, send updated liability reports, medical-legal reports, and pleadings.
5. Prior to any settlement negotiations,
 - a. Obtain updated payment summaries.
 - b. Consider whether the private insurance exemption applies, such that the Plaintiff's past loss claims would not be reduced by the value of the benefits received.
6. Prior to finalizing settlement,
 - a. Consider whether a reduced subrogated claim and/or assignment ought to be negotiated.
 - b. Obtain written instructions from both the Plaintiff and any subrogating entity.