

Children & Youth with Brain Injuries: Practical Strategies | June 7, 2018

Holland Bloorview
Kids Rehabilitation Hospital

 MARCH
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DU CANADA

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Accident Benefits: Overview & Benefit Framework

Presented by:

DEANNA S. GILBERT, *Partner*

1-888-223-0448 (toll free)

416-868-3205 (tel) | 416-868-3134 (fax)

dgilbert@thomsonrogers.com

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ACCIDENT BENEFITS: OVERVIEW

What are accident benefits?

- “Automobile” accidents
- Types of benefits/compensation
- No Fault

Examples of how/when accident benefits may be available

- Standard motor vehicle accident
- Pedestrians
- Snowmobile accidents
- Rare cases

REVIEW OF CHANGES:

Reduced Accident Benefits & Some New Rules

Narrowed CAT Definition

Increased Tort Deductible

The LAT (Licence Appeal Tribunal)

The Newish “Incurred”

MIG (Minor Injury Guideline) Overhaul On Its Way?

Reduced ABs (as of June 1, 2016)

- Non-CAT total limits - new reduced total of \$65,000 (down from previously reduced \$86,000 total)
- Non-Earner benefits to be limited to 2 years only (with 4 week waiting period, rather than 6 month)
- CAT Total Limits – now reduced total of \$1,000,000 (down from \$2,000,000 total)

IMPACT

- **Horrible for seriously injured**
- **Horrible for children & students**
- **Horrible for people without tort claims**

New AB Rules (as of June 1, 2016)

- “Freedom 65”:
 - \$65,000 can be used for med/rehab or AC (no longer a \$50,000 med/rehab max and a \$36,000 AC max)
 - still a \$3,000 per month AC cap (now for 5 years)
- Non-CAT Duration—5 years (not 10 years) or until age 28 for minors

IMPACT

- **Avoid ‘incurred’ & use \$ for med/rehab**
- **Advance attendant care claims in tort (along with housekeeping)**

New AB Rules (as of June 1, 2016)

- For other goods and services (see: med s.15(1)(h) and rehab s.16(2)(l)):
 - Must be goods/services the 'insurer agrees are essential' (i.e. insurer can veto any creative requests outside enumerated provisions)



IMPACT

- **Fit requests within a listed category**

Narrowed CAT Definition

- Introduction of new tests
- No more GCS test
- For accidents on or after June 1, 2016



IMPACT

- **CAT benefit access delays**
- **Confusion and uncertainty**

Increased Tort Deductible

- As of August 1, 2015 (...retrospective debate ongoing)
- Indexed for inflation
- New 2018 deductibles of:
 - \$37,983.33
 - \$18,991.67 (for FLA claims)
- New 2018 'vanishing' deductible limit of:
 - \$126,610.07
 - \$63,304.51 (for FLA claims)

IMPACT

Reduced compensation

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LAT (Licence Appeal Tribunal)

- Replaced FSCO
- No more right to sue
- Process overview:
 - Paper review
 - Expedited hearings
 - Full in person hearings

IMPACT

**Disorganization and confusion
Less accountability for conduct**

The *Newish* “Incurred”

- As of February 1, 2014
- Dollar for dollar ‘economic’ loss requirement
- Useful Recent Bulletin – Attendant Care is a “monthly” calculation



IMPACT

**Outsource attendant care.
Have friends or family provide
and log attendant care to be
compensated in tort.**

CONCLUSIONS RE CHANGES:

Extensive Changes Are Here

Reduced CAT Limit Problems/Stress

Narrowed CAT Definition Confusion

MIG Expansion Controversy

Collaboration and Coordination Even More Crucial

Be Innovative to Establish CAT!

THANK YOU

Please feel free to call or email with questions.

DEANNA GILBERT, *Partner*

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dgilbert@thomsonrogers.com



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TF: 1.888.223.0448 T: 416.868.3100 www.thomsonrogers.com