

# Helping family members of injured Ontario motorists

## ACCIDENT BENEFITS INFORMATION KIT FOR FAMILY MEMBERS

Did you know that if a family member, or someone you care about was injured in a car accident YOU may have access to counselling, treatment and other benefits WITHOUT tapping into your loved one's benefit limits?



PERSONAL INJURY LITIGATORS SINCE 1935.





**Real life counsel.**

## Background

Since 1935, Thomson Rogers LLP has been helping seriously injured motorists get the treatment and care they need to recover from their injuries and to receive compensation for their losses. We understand that it is not only the injured party that may require assistance, as often it is loved ones that face significant challenges in helping the accident victim.

As a family member of the accident victim, you may qualify for benefits without tapping into the injured person's benefits. Family members, even though they were not injured or involved in the accident themselves, can and should open up their own accident benefit claims to have an insurance company fund the assistance they require.

In Ontario, no-fault accident benefits are available from an insurance company to anyone injured in a motor vehicle accident whether they were driving, a passenger, a motorcyclist, a pedestrian or a cyclist hit by a car, etc.

Opening your own accident benefit claim may help you get the help you need without taking funds out of your loved one's benefit limits.



## How to open up an accident benefit claim if you were not injured in an accident



### Who can start an accident benefits claim?

Spouses and family members of injured person can start their own accident benefits claim.

To initiate a claim, you must submit the following two documents to the appropriate insurance company:

- Application for Accident Benefits (OCF-1)
- Disability Certificate (OCF-3)

If your psychological or emotional state impacts your ability to work then you may qualify for an income replacement benefit. In this case, you will also need to submit an Employer's Confirmation Form (OCF-2).

These forms are available on the Thomson Rogers LLP website at <https://trlaw.com/ocf>

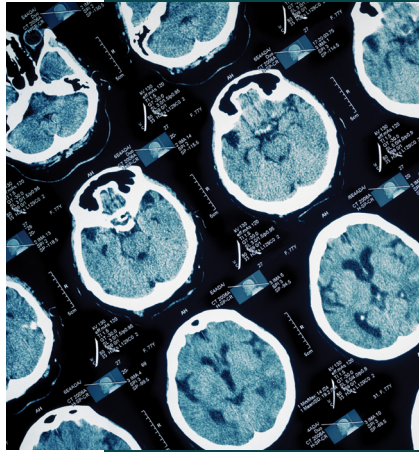
### Completing the Application for Accident Benefits

The Application for Accident Benefits (OCF-1) is meant to help the insurer gather basic information about your identity and your circumstances, including employment.

The application requires a description of the accident. As the individual applying was either not in the accident or not injured in the accident, they should clearly state so in this section. A simple example would be, "My husband suffered a significant brain injury in a motor vehicle accident on January 15, 2024 and his injuries have had profound psychological impacts on me even though I was not myself in the accident."

On the forms, you will have to disclose any group health plans that may be available to you as the Ontario no-fault insurance system requires you to first try to access any group health insurance before asking the no-fault insurer to pay any benefits.









## The importance of a properly completed Disability Certificate OCF-3

To successfully start your own accident benefit claim you will need a treatment provider (ideally your family physician) to diagnose your need for assistance and complete a Disability Certificate (OCF-3).

The most common diagnosis that family members suffer from is an “Adjustment Disorder”. An Adjustment Disorder is defined as “a group of symptoms, such as stress, feeling sad or hopeless, and physical symptoms that can occur after you go through a stressful life event”.

There are other psychological conditions that may be considered such as Depression or Post-Traumatic Stress Disorder. However, an Adjustment Disorder is often the diagnosis most appropriate as it expressly highlights the ‘adjustment’ you are dealing with caused by the injuries to your loved one.

If your condition impacts your ability to work, your physician must answer the questions on the Disability Certificate about your inability to work in order to potentially qualify you for income replacement benefits.

Within the Disability Certificate there will be a question about whether you have suffered a “complete inability to carry on a normal life”. If your condition is debilitating, then the physician should answer ‘yes’ so that you may qualify for a non-earner benefit (if you are not employed).

If your doctor confirms that your condition impacts your ability to work, then you must also submit an Employer’s Confirmation Form (OCF-2).





## **The Employer's Confirmation Form OCF-2**

If your condition impacts your ability to work then you should have your employer complete an OCF-2 stating your employment status and income.

### **Which insurer do I advance my accident benefit claim to?**

If you have car insurance then you should advance your accident benefit claim to your own car insurer.

Unlike the injured person's claim, your accident benefits claim cannot be advanced to the insurer of any other vehicles involved in the accident (unless you were also in the accident). If you do not have car insurance, then these claims are advanced to the Motor Vehicle Accident Claims Fund. In some circumstances access to this Fund may not be available, such as for non-residents.

### **What happens when I start my own accident benefit claim?**

If the OCF-3 Disability Certificate confirms a psychological injury then you should be eligible for non-catastrophic accident benefits.

More specifically, you should be eligible for up to \$65,000 in medical and rehabilitation benefits and/or attendant care benefits.

If your condition impacts your ability to return to work, you will be eligible

for income replacement benefits of up to 70% of your gross income from before the accident (to a maximum of \$400 per week).

These benefit amounts may be greater if you purchased optional benefits from your car insurer.

### **How will my insurer respond to my claim?**

Most insurers appreciate that entire family units are impacted by serious accidents involving their loved ones. Accordingly, insurers are often sympathetic in their approach to claims by family members and agree to fund the treatment required.

### **What happens when my accident benefit claim is opened?**

Once your accident benefits claim is opened, you will be able to ask treatment providers, like psychologists or social workers, to submit treatment and assessment plans to the insurer for approval to provide treatment to you at the insurer's expense.

You may be able to access physical treatment services such as massage therapy, chiropractic treatment, physiotherapy, etc., if your condition is causing physical issues.

### **Will my accident benefits claim have a consequence to my loved one's claims?**

No, in fact your own accident benefit claim may help support your loved one's claim as:

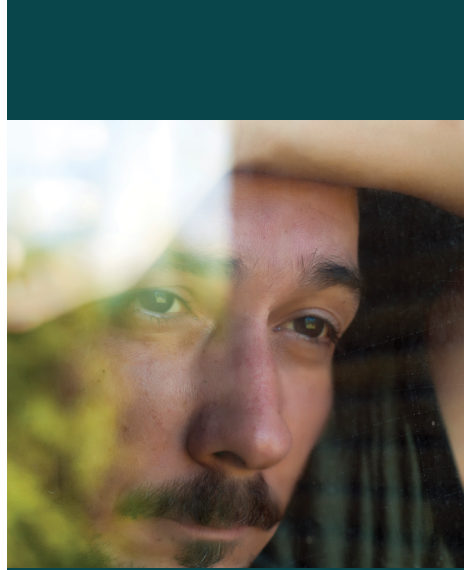
- Your loved one may be distraught over the impact the accident is having on you. Seeing you have your own accident benefit claim and being able to access your own treatment at the insurer's expense may prove to be a source of relief for them.
- In the lawsuit advanced against at-fault motorists, the Defendants will better understand the ramifications of the accident by appreciating that the family members have started their own accident benefit claims to access needed treatment.

It should be noted that family members can participate as claimants in lawsuits against at-fault drivers in serious cases.

### **What can the insurance company do to challenge my claim?**

The insurer can try to elicit more information to better understand your claim. They can do so in a number of ways such as requesting an Examination Under Oath; a Statutory Declaration; or request a host of medical documents to understand your situation.

You will have an obligation to cooperate with the insurer but you may wish to speak with a qualified personal injury lawyer about the scope of their requests in order to make sure that they are being reasonable.









Thomson Rogers LLP

## How can Thomson Rogers LLP help you?

It is important to understand that starting your own accident benefit claim means that you may be able to access your own treatment without encroaching on your loved one's benefits.

With 90 years of experience helping victims of accidents, Thomson Rogers LLP has the advocacy skills to help you and your loved ones receive the benefits you deserve.

**If you have more questions about this information kit, please contact the personal injury lawyers at Thomson Rogers LLP at 416-868-3100, toll free 1-888-223-0448, or by e-mail at [info@trlaw.com](mailto:info@trlaw.com).**



To access the Auto Insurance Claim Forms (OCF Forms), please visit:

<https://trlaw.com/ocf>

Legal assistance in other languages.

Many of our clients speak languages other than English. We are pleased to offer the services of an interpreter in your language.



Thomson Rogers LLP has garnered a reputation for taking on the most complex and challenging litigation matters and delivering results.

Capitalize on the experience and perspective of our lawyers. Seasoned advocates and savvy negotiators who have the expertise to help you secure the compensation and support you deserve.

Many of our lawyers are:

- Certified Specialists in Civil Litigation
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- Listed in Best Lawyers in Canada™

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390 Bay Street, Suite 3100, Toronto, ON M5H 1W2  
TF: 1.888.223.0448 T: 416.868.3100 F: 416.868.3134  
[trlaw.com](http://trlaw.com)