

CHAPTER 8

Paying the Bills

In this chapter, you will:

- Discover who can help you pay bills and how to appeal for more resources.
- Find out about the different possibilities for managing the survivor's finances.

Paying the Bills

A brain injury may change your family's income and monthly expenses. Changes will depend on many things. Were you insured? Will you be able to take care of yourself? Do you require special devices to get around, to talk, or to take care of yourself? Are you eligible for a disability pension? Will you need to find a new place to live? Do you need help going back to school or work?

Finding out who pays for what and taking care of your money in the early stages of recovery can be overwhelming. It is good to have an advocate to do these things for you, but it can be an extra burden for family members. Businesses and government agencies try to be

friendly and open, but for someone unfamiliar with insurance and health care it can be stressful and confusing. Knowing something about your choices can make paying the bills less stressful.

In this chapter we review possible places where you can find financial assistance. We also talk about things you can do if you think you are unable to handle your own money. Please note that this information is not meant to replace talking with lawyers, financial planners, or other experts in these areas.

Help With Paying the Bills

Insurance Coverage

You **may** be eligible for insurance coverage. The most common policies are:

- The Workers' Compensation Board, which covers persons injured at work.
- Canada Pension Plan Disability Pension, which may provide a disability pension for those with a work history.
- Private disability insurance from the survivor's workplace.
- Private disability income plan carried by the survivor.

- Home or other policy where the person was injured. For example, school boards have insurance to cover injuries that occur during school events.

First consult the insurance representative concerned about the benefits of your policy. In order to receive benefits, some sort of application is necessary. Often health professionals must fill out forms on your behalf. Some benefits are very clearly spelled out in a policy. Other benefits are less clear cut. More documentation will be necessary to show the need for unusual or expensive items that could possibly be covered by insurance.

It can be extremely helpful to consult a lawyer experienced in the area of brain injury and insurance regarding the interpretation of insurance policies, especially private policies, in order to ensure that you receive all the benefits you are entitled to.

Motor Vehicle Accident Claims Fund

Many brain injuries are caused by motor vehicle accidents. All drivers in Alberta are supposed to have insurance in case they cause an accident. However, some drivers do not have insurance, and they usually don't have the money to pay

for the damages and injuries they have caused. Sometimes the guilty driver flees the scene of the accident, and the victim doesn't know who to sue. In other cases, individuals may be involved in a single vehicle accident, like a rollover, where no other vehicle is involved.

The Motor Vehicle Accident Claims Act ensures that these types of victims can access funds to cover costs associated with their injuries. You can apply to the Fund to pay your actual expenses, up to a maximum of \$95,000, for hospitals, medical treatment, ambulance services, certain appliances, and rehabilitation. If Alberta Health or your insurance plan cover only a portion of your medical costs, the no-fault benefits from the Fund may pay for the rest of these expenses.

You have to have been injured in a motor vehicle accident in Alberta to qualify. For more information, call the Fund at (780) 427-8255 (toll free by dialing 310-0000 first).

Social Assistance

If you or your family no longer has an adequate income, social assistance may be able to help. If your brain injury is considered permanent and severe and leaves you unable to work, you may

be eligible for AISH (Assured Income for the Severely Handicapped). To find out if you are eligible for AISH, call 310-0000 and ask to be connected to the nearest AISH office. You will need to bring your complete personal, financial, and medical information when you meet with an AISH intake worker.

If you are not eligible for AISH, but you need an income, or income supplement, you may apply for SFI (Supports For Independence). This helps you pay for basic needs such as food, clothing, and a place to live. Call 310-0000 to find out where the nearest office is, and bring complete personal and financial information.

People who live on a First Nations reserve must apply for social assistance with their band office.

If you do not qualify for social assistance, you may still be able to receive extended health benefits intended to cover certain medical expenses for lower income families. You can phone 310-0000 to find out how to apply for extended health benefits.

Asking someone else to pay for things is not easy. It may be helpful to follow these guidelines:

- Learn what the insurance plan or program covers.
- Be assertive when asking for what you want. Under the stress of having to ask for help, some people will avoid asking for what they need. They risk not getting it. Others grow angry when they are uncomfortable. Growing angry can harm your relationship with your worker or representative, so it is important to stay calm and polite at all times.
- Look to professionals to help you make your requests. Many times a representative cannot agree to pay for something without a letter from a professional.
- When making telephone calls or office visits, use an advocate whenever possible.

What if You Are Not Satisfied

If you feel you are not getting the benefits that you are entitled to, you may file an appeal. When you appeal, keep in mind that you may not get what you ask for. This may lead to disagreements. General points on handling a disagreement are discussed in

Chapter 11. It may be helpful to think about them here.

Remember, insurance companies only provide the benefits stated in their policy. They do not have to pay for things because they will make your life easier, even if it is a medical necessity, unless those benefits are described in the policy.

The Workers' Compensation Board (WCB) has an Office of the Appeals Advisors that can help the survivor and the family appeal decisions. This service is free. The Appeals Advisor does not have the power to reverse a decision but will be able to help you with the appeal process. You can contact the Office of the Appeals Advisors at (780) 498-8640. Outside of the Edmonton area, dial 1-866-922-9221 (toll free) and then enter 498-8640.

The Workers' Compensation Board has a review process when appealing decisions. There are four steps in the process:

STEP ONE: Contact your case manager

If a person who has a direct interest in a claim does not understand or agree with a decision on a claim, they should contact the adjudicator or case manager who made the decision and ask for a full explanation.

If there is further disagreement with a claims decision, the decision should be discussed with the adjudicator's or case manager's supervisor.

If the worker still has concerns about the decision, a request for review can be submitted to WCB.

STEP TWO: Request a review by the Decision Review Body

A person who has a direct interest in a claim and who has already undertaken step one has two options:

- Complete a "Request for Review" form or
- Submit a written request for review of one or more WCB decisions on claim files or employer account files to their case manager.

A "Request for Review" form or written request must be submitted to the WCB within one year from the date of a Customer Services decision.

STEP THREE: Supervisory Review

When the WCB receives the forms, a request for review is considered first by the Customer Service supervisor. If the decision cannot be changed, the request for review is forwarded

to the Decision Review Body.

STEP FOUR: Consideration by Decision Review Body

Once the Decision Review Body receives the written request for review, a review specialist will be assigned to conduct the review. After reviewing the request and file, the review specialist will write or call the applicant to discuss the decision and advise the most appropriate way to deal with the request and the next steps.

Because every case is different, the Decision Review Body has developed a variety of approaches to deal with reviews. These range from informal and timely approaches for quick resolution of simple issues, to more in-depth and formal approaches for more complex issues. The review specialist will determine the most suitable approach.

If the review results are not satisfactory, the next step is to contact the Appeals Commission.

Workers can receive help with their claims-related reviews and appeals by contacting the Office of the Appeals Advisor (dial 310-0000).

If you have questions regarding the Canada Pension Plan Disability Benefits or any of the programs and services offered by the federal government, you can call the toll free line at 1 800 O Canada (1.800.622.6232).

Private insurance companies may have an appeal process to follow if you are not satisfied with their decision so you will need to find out what that process is.

You may not feel comfortable handling the appeal process on your own. In this situation, you may look to someone else to help you present your case. Your local Alberta Brain Injury Network office (see Resources) may be able to help you find an advocate. Call your Regional Health Authority and ask if they have anyone who could provide guidance for you. Rehabilitation Practitioners have lots of knowledge in this area and can be great advocates when available.

Family Matters

Helping the Survivor Handle Money

Sometimes a survivor is no longer able to make good decisions for themselves. This is called incompetence. If the family believes this is the

case it may decide that someone else should make choices for the survivor. There are several ways to do this.

Power of Attorney

A general Power of Attorney gives a person other than the survivor complete control over the survivor's property and finances. The survivor must have the capacity to grant this power. In legal terms, capacity means that the survivor is aware of what they own, knows who they are responsible for, and can decide who they trust. The survivor appoints an attorney to make the survivor's financial decisions and manage their property. In the event of the survivor's death, Enduring Power of Attorney ends. The attorney must then account to the personal representative of the deceased survivor's estate.

As the law and its interpretation by the Courts frequently change, you will need to contact a lawyer, or the Office of the Public Trustee to ensure that you have the most current information about Enduring Power of Attorney. You may find the publication "Enduring Powers of Attorney Booklet" helpful. You can order it from the Office of the Public Trustee by dialing 310-0000.

Sometimes, after a brain injury, the survivor does not have the capacity to grant Power of Attorney. In that case, trusteeship or guardianship are the only choices.

Trusteeship

An **Informal Trusteeship** is when the survivor gives permission for a cheque to be sent to a relative, friend, or advocate, who will then use that money to ensure that all of the survivor's bills are paid. In many cases this is a convenient method for a survivor who needs a limited amount of help. However, this puts the survivor at risk of theft or fraud, and puts the Informal Trustee at risk of allegations of theft or fraud.

Therefore, it is advisable to consult a lawyer who is familiar with trusteeship issues when establishing even an informal trusteeship and to draw up a written agreement amongst all the parties involved.

A **Trusteeship Order** is when the court appoints a trustee to manage the survivor's finances and property. The financial guardian's duties include:

- setting up a budget;

- deciding whether the survivor has enough to live on;
- applying for services or investing money to increase income if needed;
- presenting records of money handling to the Courts regularly; and
- presenting records of the survivor's assets and liabilities.

This is a very secure form of trusteeship.

It also requires the trustee to keep very accurate records and appear every six years for a review of the Court Order and to file accounts with the Clerk of the Court every two years. The disadvantage of a Court appointment, however, is that it puts limits on the survivor's rights.

Because of the amount of work involved, sometimes someone outside the family will be asked to be the financial guardian. The Office of the Public Trustee can be the financial guardian if there is no one available to be the trustee. Call 310-0000 for more information on Public Trusteeship.

There are also some other options. A trust company is usually chosen if the survivor owns a lot of money or property. The company will charge the survivor's estate to pay for their services. All trustees are allowed to charge for their services and it is a polite gesture to offer to pay your trustee a small amount, depending on what you can afford, even though they may decline to accept it.

To apply for trusteeship you will need to consult a lawyer. The lawyer will inform you of your options and tell you the costs involved. Because the law and its interpretation by the Courts frequently change, a lawyer is the best person to consult regarding the most current laws about trusteeship.

Guardianship

Under the Dependent Adults Act, one or more family members can become guardians of the survivor. A **Guardianship Order** is when the Court appoints a guardian to make personal decisions for the survivor. A guardian can make all the personal decisions, or just some if the survivor can make some decisions for him/herself. A guardian also often acts as an informal trustee or a formal

trustee, although this may not be necessarily the case.

A guardianship order is usually intended to continue for the rest of the dependent adult's life. But since, in the case of brain injury, the survivor may regain many of their skills, the necessity of guardianship may need to be re-evaluated periodically.

A Court decides who will be a guardian and what their duties will be. If you wish to apply to be a guardian you need to follow these general steps:

- Get a copy of the application form for guardianship from a lawyer, the Queen's Printer, or the Office of the Public Guardian and complete it.
- Speak to the doctor caring for the survivor, and request that the doctor write an opinion letter as to the survivor's competence.
- Submit the forms and other documents you have gathered to the Court of Queen's Bench.

Applying for guardianship takes time, and

there is a lot of paperwork. However, it is not a difficult process if there is no disagreement about who should be guardian. The forms have been designed so that anyone can complete them, but many people prefer to work with a lawyer. There are also costs involved in filing for guardianship and for the Court order. If you hire a lawyer, you will have to pay the lawyer's fees as well. You can get these fees back by charging the fees to the survivor's estate.

If you become a guardian, you need to decide what will happen in the event of your death. You can specify a replacement guardian in your will.

If the survivor is a parent with children under 18, provisions may need to be made for the care of those children in the event of the death of the other parent. It is possible for the other parent to specify in a will that a person other than the survivor should serve as guardian for children under 18. Such a provision would be subject to a legal challenge by the survivor.

Finally, because the law and its interpretation by the Courts frequently change, you will

need to consult a lawyer, or the Office of the Public Guardian (310-0000) to ensure that your information about Guardianship is accurate and up-to-date.

Discretionary Trusts

Discretionary trusts may be of interest to families who want to leave money in their will to a survivor who receives social assistance. Generally speaking, any additional income that you provide to the survivor will decrease the amount of social assistance the survivor receives. You may want to provide a better quality of life for the survivor, but find that you are prevented from doing so because of the restriction of social assistance. In this situation, a discretionary trust may be set up in the wills of the people who would like to provide extra funds to the survivor. With a discretionary trust, money is given to a trustee who dispenses the money to provide an improved quality of life for the survivor. You should consult a lawyer to ensure that the discretionary trust in the will is properly drafted.

Survivor Matters

Case Managers

A case manager is a professional who helps people find the services they need. A case

manager could find you a place to stay. They could help you get financial assistance. They can make sure you get a referral to the right health professional. A case manager can sometimes help with financial or legal matters. Unfortunately, there are not many case managers available for this sort of work. Your local Alberta Brain Injury Network office (see Resources) may be able to help you find a case manager. Sometimes community social workers will act as case managers. However, there are situations where knowledge of the law or of finances is very important. In these cases you should think about hiring a lawyer or a financial planner.

Rehabilitation Practitioners (persons with degrees or diplomas in Rehabilitation Studies) are often good choices for a case manager, since they usually know something about the areas in which a person with a brain injury requires assistance.

Lawyers

Lawyers know about laws, how Courts work, and how to make a legal case. They can be very helpful when you need someone to represent you. Lawyers can be very strong advocates. A lawyer could be of help in the following situations:

- arranging power of attorney;
- seeking guardianship;
- writing a will;
- setting up a trust fund;
- learning about legal rights or insurance inside and outside of the province;
- learning about insurance coverage and obligations; and
- bringing suit against someone. In some cases where the brain injury has occurred through the fault of another person (particularly, where adequate insurance coverage is not available), it may be necessary to consider taking legal action for compensation. A lawyer should be consulted in order to decide if it is worth your while to go to Court.

Choosing a lawyer can be difficult. There are several steps you can take to make sure you get the right one:

- Ask your local brain injury association to recommend a good lawyer who is familiar with brain injury.

- Contact the Law Society of Alberta at 1-800-661-1095. It has lists of lawyers who work in certain areas. Lawyers themselves ask to be placed on certain lists based on their particular area of practice. Names on the list are given out on a rotational basis so that each name is given out an equal number of times. Since most lawyers have one or more areas of specialty, most are on several lists.
- Choose a lawyer and arrange a meeting. Most lawyers will talk with you for half an hour at no charge. They will tell you how they can help. Ask about legal fees in the first phone call or meeting.
- Ask if you can speak to a satisfied client.

Once you have chosen the lawyer you will work with, here are some other things to keep in mind:

- Find out how much experience the lawyer has had working with brain injury. If the lawyer has not had any experience, you may consider choosing another lawyer.
- Make sure you get everything in writing, before you commit to working with a particular lawyer. This should include all

fees, all services to be performed, all percentages to be paid to the lawyer, and what happens if you lose your court case.

- Make sure that your lawyer uses an experienced financial forecaster if you are required to determine how much money you will need to live on for the rest of your life.
- Tape-record all of your meetings with your lawyer. You may also consider bringing an advocate with you to the meetings.
- Verify main points at the end of each meeting.

Financial Planners

A financial planner helps people decide how to manage their money. There is no legal standard as to the qualifications necessary to call yourself a financial planner. Banks, insurance companies, and brokerage firms all hire people with different backgrounds to do this job. Some planners offer advice for a fee and sell products, others only sell products. Some things you can do when choosing a financial planner include:

- Contact the Canadian Association of Financial Planners at 1-800-346-2237. They have a list of qualified financial planners.
- Talk to a chartered accountant. They may be able to help or may be able to suggest someone who can help.
- Ensure that the financial planner that you use is familiar with brain injury and any benefits that apply to your situation.
- Visit some financial planners. Ask what their qualifications are. Ask them about their experience in the area that you need help with. Be clear about the kind of advice you need.
- Ask to speak to a satisfied client.
- Get everything in writing before you commit to working with a particular financial planner. This should include all fees and all services to be performed.

Credit Counseling

You can get free credit counseling through a Government of Alberta sponsored service for those having difficulty paying bills, or managing finances. Call 310-0000 for more information.

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