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

Holland Bloorview Kids Rehabilitation Hospital MARCH LA MARCHE OF DIMES DES DIX SOUS CANADA DU CANADA

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PERSONAL INJURY LAWYERS

# Accident Benefits: Overview & Benefit Framework

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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

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**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?

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### 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)

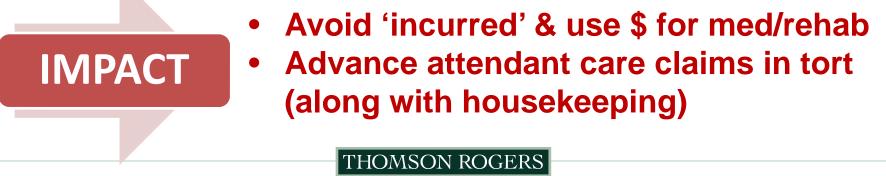


- Horrible for seriously injured
- Horrible for children & students
- Horrible for people without tort claims

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### 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



### 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)



# • Fit requests within a listed category

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# **Narrowed CAT Definition**

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



CAT benefit access delaysConfusion and uncertainty

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# **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)



# LAT (Licence Appeal Tribunal)

- Replaced FSCO
- No more right to sue
- Process overview:
  - Paper review

**IMPACT** 

- Expedited hearings
- Full in person hearings

### Disorganization and confusion Less accountability for conduct

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# The New*ish* "Incurred"

- As of February 1, 2014
- Dollar for dollar 'economic' loss requirement
- Useful Recent Bulletin Attendant Care is a "monthly" calculation



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

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# **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!** 

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# **THANK YOU**

### Please feel free to call or email with questions.

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