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## Kinnected: Bodily Litigation

### ICBC No Fault Benefits - Providing Early Access to Treatment Providers

*Sanjeeta K. Johal, Associate Lawyer, Whitelaw Twining Law Corporation*  
[www.WTinjury.com](http://www.WTinjury.com)

Under Part 7 of the Insurance (Vehicle) Regulations, certain no-fault benefits are available to individuals involved in a motor vehicle accident regardless of who is liable for the accident. These benefits are wide-ranging and include access to treatment services provided by kinesiologists.

To qualify for no-fault benefits, you must be an “insured” pursuant to the Regulations. An insured is defined as:

1. an owner of a vehicle;
2. a member of a vehicle owner’s household;
3. an occupant of a vehicle licensed in British Columbia or an occupant of a vehicle not required to be licensed in British Columbia but driven by someone who possesses a valid BC driver’s licence;
4. a cyclist or pedestrian who collides with a vehicle described in an owner’s certificate;
5. a resident of British Columbia who is entitled to bring an action for injury or death as a result of an uninsured motorist or a hit-and-run accident;
6. the personal representative of a deceased insured; or
7. a resident of British Columbia who holds a valid driver’s licence and members of his or her household.

In general, there are three types of no-fault benefits available: medical / rehabilitative benefits, disability benefits, and death benefits.

### Medical and Rehabilitative Benefits

ICBC is required to pay “all reasonable expenses the insured incurred as a result of the injury for necessary medical, surgical, dental, hospital, ambulance, professional nursing services, physical therapy, chiropractic treatment, occupational therapy, speech therapy, or for a prosthesis or orthosis”.

Treatment services provided by kinesiologists (e.g. active rehabilitation) qualify as medical / rehabilitative benefits under Part 7 of the Regulations. In other words, injured individuals can access treatment by a kinesiologist regardless of whether they were liable for the accident.



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In order to access funding for medical / rehabilitative benefits, individuals must take the following steps:

1. promptly give ICBC notice of the accident;
2. provide ICBC with a written report or statement of the accident no later than 30 days from the date of the accident;
3. provide ICBC with a completed Application for Benefits within 90 days of the accident; and
4. provide ICBC with a note from their family physician recommending the treatment.

### **Disability Benefits**

If you were employed at the time of the accident, and your injuries prevent you from engaging in employment within twenty days of the date of the accident, ICBC will pay you the lesser of \$300.00 per week or 75% of your average gross weekly earnings in the twelve months immediately preceding the date of the accident. These benefits will be paid for either the duration of the disability from employment or for 104 weeks, whichever is the shorter period.

To qualify for disability benefits, you must either be employed or actively working at the time of the accident, or be employed or actively working for any six months during the twelve months immediately preceding the date of the accident.

Because no-fault benefits are secondary benefits, you must apply for employment insurance (i.e. E.I. Sickness Disability Benefits) or any short-term disability benefits to which you have access. This includes any disability plans that may be available to you through your employment or through a spouse.

### **Summary**

No-fault benefits can be vital to those involved in motor vehicle accidents as they provide access to critical treatment professionals at an early stage to assist in recovery. This is particularly beneficial for those who have been held liable for a motor vehicle accident, as these individuals will not receive any other reimbursement for treatment expenses or compensation from ICBC. Even for those with bodily injury claims, particularly those who do not have the financial means to fund treatment on their own, no-fault benefits can be essential because compensation for "special damages" (i.e. out of pocket expenses incurred in relation to treatment) is not provided until the conclusion of their claim.