

## The Health Care Costs Recovery Act And Your BC Personal Injury Claim

*March 26th, 2009*

Very important legislation is coming into force in April 1, 2009 that applies to many BC Personal Injury Claims. The new legislation is the Health Care Costs Recovery Act (*and the Health Care Costs Recovery Regulation*) and all BC Personal Injury Lawyers and people advancing their own BC Personal Injury Claims need to be familiar with this new law.

In a nutshell this act applies to all BC Injury Claims except for claims where the defendant is insured with ICBC, litigation under the Tobacco Damages and Health Care Costs Recovery Act and WCB Claims. If you are advancing a BC Personal Injury Claim after April 1 and are covered by MSP you must advance a claim for the cost of past and future health care services.

Section 3 of the act requires that people with applicable claims, whether or not they have a lawyer, must “*include a health care services claim in that legal proceeding*”

Section 4 requires Notice to the Government after you start your lawsuit in BC Supreme Court. This applies whether or not you have a lawyer for your BC Personal Injury Claim. Specifically this section states that the government must be notified of applicable claims “*within 21 days after commencing a legal proceeding referred to in section 3(1), written notice of the legal proceeding must be given to the government*”.

Section 5 of the act is perhaps the most important which states that “*a legal proceeding referred to in section 3(1) must not be discontinued or dismissed by consent unless the consent of the minister is filed with the court.*”

This Act requires people with applicable BC Personal Injury Claims to advance a claim on behalf of the Government for recovery of their past and future health care costs and to not settle a claim without the governments permission first.

In addition to the above the Act has some unique sections requiring co-operation with the government and giving the government significant power to intervene in current lawsuits. This law will change the way BC Personal Injury Claims are prosecuted and advanced by lawyers and non-lawyers and it is vital that people become quickly familiar with this new law.

One of the biggest concerns I have as a BC Personal Injury Lawyer is that this Act will create a lot of red tape in the settlement of BC personal injury claims. I have developed a pro-active practice of notifying the government of applicable claims even before the legislation requires to minimize the red tape that will now be involved with claim settlement. If you are advancing an applicable claim, with or without a lawyer, I suggest you do the same because the Governments involvement in the settlement process will undoubtedly add delay to the settlement of many BC personal injury claims.

If you have an active BC Personal Injury Claim that is not settled by April 1, 2009 or if you advance a Claim after April 1, 2009 you need to comply with this new law. If you have a lawyer you should make sure that your Injury Claim Lawyer is familiar with this new law as it may apply to your claim. Lastly, if you are advancing your own Injury Claim and have questions about how this will effect your claim seek legal advice promptly because this act imposes significant obligations that must be complied with.

