

What to Do if You Have Been Injured in an Accident

No one wants to be in an accident. Beyond the physical pain you may endure, you have property damage and loss of income. For serious accidents, your ability to continue to work may be in jeopardy and you may have to suffer through a long recovery period which may still result in long-term medical issues and loss of income potentially jeopardizing both you and your family's quality of life.

For these reasons, many people who have been involved in serious accidents pursue legal action. This guidebook seeks to provide an overview what you should do if you've been involved in an accident. It explains New York's no-fault law and provides you with some information on whether you should consider hiring an attorney and filing a lawsuit in an effort to recover for your losses.

As you read through this guidebook, feel free to contact our firm if you have any questions.



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Call now for your free consultation.

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This guidebook is for informational purposes. Since individual situations and legal issues vary, it is important to contact an attorney to discuss your specific legal situation.

Get Medical Attention

Your health should be your first concern. If you feel any pain or discomfort, you should visit an emergency room to be examined as soon as possible. You may have suffered internal injuries not immediately apparent, and not treating these injuries may cause further damage.

The severity of your injuries, how long you waited to pursue medical attention, and your course of treatment are all considered by the insurance company in deciding to settle your case or take it trial. Only certain severe injuries resulting from a motor vehicle accident, such as broken bones, are always compensated.

You are not required to hire an attorney to pursue a claim against an insurance company for your injuries, but an attorney is often better positioned to negotiate the best settlement on your behalf, as they have the knowledge necessary to convince insurance companies to compensate you.

Before hiring an attorney, ask whether they handle soft-tissue cases – not involving loss of limb, or broken bones, for example. You want an attorney who will aggressively pursue your claim.

No-Fault Insurance

Every automobile owner in New York State is required to carry No-Fault insurance on their vehicle. If you were the driver, contact your carrier or the owner's carrier and let them know you were in an accident. Passengers should verify who owns the vehicle, their insurer, and their policy number and contact the claims department to let them know you were injured in an accident involving their insured. You will be sent a form to complete asking about the accident and your medical treatment. Complete it and return it immediately.

What is No-Fault?

No-Fault insurance is part of the vehicle owner's policy that pays an injured person's medical bills as soon as treatment begins, before any decision regarding who caused the accident. Any medical office or hospital that does not know which insurer to bill will likely send you their bill. Send all bills to the No-Fault claims examiner.

What Does No-Fault cover?

Normally, No-Fault covers treatment for about two months. It will cover visits to physicians such as chiropractors, orthopedists, neurologists, the emergency room, and testing such as MRI and CT scans. It also allows a small amount daily to cover

other expenses, such as transportation to and from medical appointments.

Act quickly

You must apply for No-Fault coverage within thirty days of the accident. You, a physician, or your attorney, may fill it out for you.

Find a doctor you can trust

Who treats you is very important. You want well respected physicians who work well with you or your attorney, providing necessary treatment and reports needed to negotiate with the insurance companies. Typically, injured persons seek a pain management physician, who may refer you to specialists if needed.

Tell your doctors if you feel any numbness, tingling or weakness in any of your limbs. This may mean a problem in your spine.

You will likely be prescribed physical therapy 2-3x per week. Keep track of what was prescribed, what is performed on you, and how long you feel relief after each treatment. Keep your appointments.

Typically, No-Fault insurers have a doctor they hire examine you after two months of treatment, to determine if they will keep paying for your treatment. Failure to attend will result in your No-Fault benefits being stopped. You may appeal this decision, but an attorney can tell you there are risks involved.

No insurance?

If you find the vehicle you occupied was not insured, apply for No-Fault benefits to your own motor vehicle insurer, if you have insurance, otherwise apply to the Motor Vehicle Accident Indemnification Corp.

Additional treatment

If you need more treatment and lose No-Fault coverage, you can submit your bills to your own No-Fault or health insurer, or ask your doctor to treat you on "lien", where they wait until you have recovered money, to be paid. Weigh the benefits of continued treatment with the risk of running up a bill. If you continue to experience pain or difficulty in your daily activities, you should try to continue to treat somewhat.



Do You Need an Attorney?

Not all motor vehicle accidents result in a lawsuit being filed. You can file a "claim" against an insurance company on your own, and try negotiating a settlement with an adjuster. An attorney can also do this for you. Insurers will require you to sign authorizations allowing them to review your medical records, to determine the extent of your injuries. They will ask for proof of any expenses you claim you experienced as a direct result of being injured by their insured. If you are unable to reach an agreement with the insurance company, you will want to file a lawsuit.

You will often be much better off having a seasoned attorney move the case along and negotiate a settlement for you. They understand the "threshold law" in New York State regarding when an injured person is entitled to an award, and how to best portray your circumstances. Attorneys in New York work on a "contingency basis", meaning they cannot charge you a fee for their services unless they recover a monetary award for you. You will be responsible for any costs associated with bringing a lawsuit, but attorneys often advance those fees as the case proceeds, and recoups them from any settlement they recover. Lawsuits are only necessary if you or your attorney cannot reach a settlement on your claim.

Typical items sought to be recovered in a claim or lawsuit include lost wages for time you couldn't work due to your injuries-not covered by "sick days" at work, "special damages" you incur- such as out-of-pocket expenses for things like pain medication or medical supplies, any "unreimbursed medical expenses", meaning things insurance companies do not cover. Having an attorney may increase your chances of settling, because adjusters often negotiate groups of settlements with attorneys.

