As a service to our clients and friends, we have assembled some general information and instructions we’d like to share with you, about those times in which an attorney may not be not necessary to help you make and resolve a claim for injury arising from a motor vehicle accident — properly called a “collision.”

When You Have an Accident — Do You Always Need an Attorney?

When Do You NOT Need an Attorney?

Let’s start by saying that if you DO have any questions or if you DO encounter any problems regarding any kind of claim — you should ALWAYS consult with an experienced and reputable attorney.

But many times that’s not the case. Attorney fees cost you typically one-third of the amount recovered, plus the expenses of handling the case — and those expenses generally run from at least several hundred dollars to several thousand dollars.

These, together, can substantially reduce the net amount of compensation you end up with, even if an attorney could negotiate a higher gross amount of compensation.

So, it may be worth your while to handle the claims yourself — to get the most compensation into your pocket.

Now, let’s be clear here: if your injury is serious or if you anticipate a permanent injury-related effect, the case becomes much more complicated and you most definitely will need to speak with an attorney.

This is because if you sustained a serious injury, one that required immediate medical treatment and needed follow up medical treatment, a completely different issues arise when it comes to proving loss and getting compensation.

Here, an attorney can be of significant help in resolving these issues in your favor.

An attorney can also relieve a lot of your stress in making the claim, and most attorneys have very efficient systems for collecting and sending medical records, bills, substantiating lost income, and securing other documents sought by the insurance companies.

If You Decide to Go Forward Yourself

Some general factors to consider, when evaluating whether the net compensation to you is going to be worth the expense and effort to hire a lawyer, include:

• If the police are not called.
• If the police are called and report that there is no injury.
• If the police are called and report the information exchange report recites in the top paragraph that a “collision report will not be prepared.”
• If there is no need to go to an emergency room.
• If there is no prompt treatment.
• If there is no property damage, or if the property damage is less than $1,500.

If you decide to go forward on your own, here is a brief outline of what you should do, and how it can be done:

Check Out Your Benefits

Get your insurance company declaration page from your files. It is typically a letter-sized document, sent to you soon after you have paid your premium for that premium period. It itemizes all the coverages that you have for all of the vehicles that are insured on that policy.

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You will want to look for coverages for Personal Injury Protection (PIP — sometimes referred to as No-Fault); Medical Payment (Med-Pay); Collision coverage; and Uninsured Motorist coverage. By the way — any claim you make for coverage from your own insurance company does not automatically permit your insurance company to raise your rates. If the collision was not your fault, Maryland Law prohibits your insurance company from increasing your premium as a result of the collision.

### Use Your Personal Injury Protection (PIP)

PIP pays for medical expenses and 85% of your lost wages. Look on your declaration sheet to see if you have this coverage — Maryland law permits you to waive it, so it’s not definite that it’s there.

If you have it, the law requires your insurance company to provide a minimum of $2,500 coverage; you could have more.

So, if you have PIP, write to your insurance company and request a PIP claim form. Most companies have such a claim form and will mail it to you, along with a wage and salary verification form (to be completed by your employer) and an attending physician’s report (to be completed by your doctor). These forms may also be able to be downloaded directly from your insurance company’s web site.

**IMPORTANT**: You have one year from the date of the collision to make the PIP claim. If you do not make it in writing within that time, your insurance company may deny benefits.

Send all completed forms along with the medical records and bills, as well as your attending physician’s report and wage and salary verification form, to your insurance company for payment. Many healthcare providers want to be paid directly from PIP before billing your health insurance, because they receive higher reimbursements that way.

When PIP is exhausted, use your health insurance coverage. Do not avoid using your health insurance just because the other driver is at fault. Your doctor has already agreed to accept the amount that your health insurance will pay, and may charge you more than that if your bills are not submitted to your health insurance company.

### Use Your Medical Payment (Med-Pay)

This coverage, for medical expenses only, is not purchased as frequently as PIP, so it may or may not be listed on your declaration sheet. It is separate from PIP, and is available to pay medical expenses after PIP limits are exhausted.

Your policy may provide that you have one year from the date of the collision to claim this coverage. You should claim it even if PIP is not exhausted, so that you are protected from any time limitations.

### Working with the Liability Insurance Company

Of course you must immediately notify your insurance company of the collision to explain how the collision took place and to explain why it was not your fault. Your insurance company will contact the liability insurance company (that’s the company which insures the at-fault vehicle); so, soon after you call your insurance company, you should receive a call from the adjuster for the liability insurance company.

The adjuster may request a recorded statement from you over the phone. You are not required to give one, but it’s often useful for you to cooperate with the process. It may even help the claim get resolved sooner and more to your satisfaction. Just be careful what you say — you don’t want to give any suggestion that someone other than the at-fault driver (for instance, you yourself!) or some other factor (such as “it is just a bad intersection”) is a contributing cause for the collision.

The main reason for this is the doctrine of “contributory negligence.” In Maryland, you can’t legally recover compensation from a
person who negligently injured you if you also acted carelessly. Under this, if an injured victim is at all responsible for the injuries, that victim is not entitled to ANY compensation — even if the injured party is just 1% at fault! Maryland is one of only four states that practices this doctrine of pure contributory negligence.

Every 90 days or so, send the liability insurance company updated medical bills and medical records as well as your lost income statements. The insurance company is required by law to set a “reserve” in your case in order to pay the claim. This will keep your file updated and determine whether the liability insurance company should modify the reserve.

Your healthcare providers will require that you sign a HIPPA Medical Authorization, and that any request that you have for your medical records be in writing. Be sure you ask for ALL of your medical records. Sometimes healthcare providers will not charge a patient for these records; if they can be provided to you in digital format, it will help you in dealing with the liability insurance company, because you can e-mail them to it.

Reach a Settlement

Once you have finished all of your medical treatment and are fully healed, you should wait 60 or 90 days to assure that you are totally fine before offering to settle the claim.

If you are not fully fine, or you still have symptoms or some impairment, you should consult with your doctor and with an attorney; it may be necessary for your attorney to obtain an evaluation of permanent impairment by a physician who is certified to do so under the guidelines published by the American Medical Association.

Once you are totally fine, you are entitled to be compensated by a compromise settlement. Compensation includes paying your gross medical expenses, your lost income (even if you used accident, sick or personal leave) and some compensation for your pain and suffering, the burden and hassle you have experienced, and the disruption in your life’s activities because of your injury.

Never accept the first or even the second offer made by the insurance company. But when they hold firm on a number, that is probably as high as they will go.

All About Subrogation

If you have received a notice from your health insurer or disability insurer that they are seeking reimbursement for what they have paid to healthcare providers as a result of your injury, you are obliged to reimburse them, but only from the monies you recover from the liability insurance company (not from PIP or Med-Pay).

This is called SUBROGATION: the assumption by a third party such as an insurance company of another party’s legal right to collect a debt or damages. It is a legal doctrine whereby one person is entitled to enforce the subsisting or revived rights of another for one’s own benefit.

If you ask, you may convince your health insurer or disability insurer to compromise their claims. It doesn’t hurt to try! You may also be asked if there is another party responsible; if so, tell your health insurer or disability insurer.

Whether or not you receive a notice of a claim for reimbursement to Medicare or Medicaid, you nonetheless have the legal obligation to do so from your settlement. You must notify Medicare or Medicaid!

However, these agencies are entitled only to be repaid the amount of money they have advanced for the bills related to your injury in the liability settlement.

Do not ignore Medicare or Medicaid — they may make you advance these monies and then put the burden on you to prove to them that what they paid is for medical treatment which is unrelated to your injuries in this collision.

Representation by an Attorney

As noted above, if you have suffered more than a minor injury, or the claim has become complicated, or if you feel unable to handle the steps outlined above, you should trust the advice of an experienced and competent attorney.

Please call Brown, Brown & Young, P.A., to schedule a consultation with Augustus F. Brown, Esq., about your situation.

Gus Brown will explain your various options, and help you make an informed decision on how to proceed.

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