

Procedural steps for a CTP claim

The Accident

- Make a note of the registration details and any other details of the vehicle that you think is at fault for the accident. Not having the details of the vehicle(s) means not being able to identify the at-fault insurer.
- Report the accident to the police – all accidents must be reported to ACT Policing within 24 hours of an accident. This is a general legal obligation and not just a requirement for CTP. Reports can be made through the Access Canberra website.

How to claim

- You need to have a personal injury arising from a motor accident to have a CTP claim.
- Personal injury means bodily injury and death. An injury can also include psychological or psychiatric injury, damage to spectacles, contact lenses, dentures, hearing aids, crutches, wheelchairs, artificial limbs and prosthetic devices.
- The motor accident has to involve the use or operation of a motor vehicle, including driving, someone or something colliding with the motor vehicle while in operation or a motor vehicle running out of control. An example of a collision – pedestrian.
- Find the insurer for the at-fault vehicle by visiting the Access Canberra website or contacting Access Canberra.
- If you don't have the details of the at-fault vehicle (unidentified), a claim can be made against the nominal defendant. There are steps required to be taken to show you have tried to find the vehicle.
- The nominal defendant is the default insurer for unidentified, uninsured and unregistered vehicles.

To claim, you can choose to:

- Access early payments by completing a Motor Accident Notification Form and Motor Accident Medical Report. This provides up to \$5,000 in medical expenses incurred within 6 months of the accident. You must declare that you were not wholly or mainly at fault for the accident.
 - Insurers manage applications and payments, and may, at their discretion, make payments to persons later found to be the at-fault driver after the insurer's investigation. Insurers are provided guidelines for managing an early payment claim.

- The insurer does not accept liability for the motor accident by making an early payment and it does not have an effect on the subsequent claim. Any early payment can be taken into account in settling the claim.
- Complete a Notice of Claim form to commence a claim. The Motor Accident Notification Form and Motor Accident Medical Report has to be provided, if not previously provided to an insurer to claim early expenses.
- You can access early payments and then commence a claim if you wish.
- Any claim application requires medical evidence of the injury. This is provided by a doctor completing the Motor Accident Medical Report.

Time frames for early access and a claim

- To access the early payment a person has 30 working days (6 weeks) from the date of the accident. The form is provided to your own CTP insurer to ensure the benefit is received quickly, especially if investigation of the accident and the at-fault vehicle is required.
- For a claim, there are different time limits, based on which occurs first:
 - 9 months from the day of the motor accident to submit to the CTP insurer for the at-fault vehicle;
 - 3 months from the date of the motor accident if the claim is to be made against the nominal defendant;
 - 1 month from the day a person instructs a lawyer to provide advice about seeking damages for a personal injury (seeking legal advice shortens the period to submit a claim).
- A time limit exception applies if a person is under a legal disability (a child or a person with a mental or physical disability). A parent or guardian for a child may give a Notice of Claim.

Insurer's obligations for a notice of claim

- Provide a preliminary response to the Notice of Claim within 1 month. This response can be: accepting that they are the insurer for the claim; to request more information to determine that they are the correct insurer; or that they are not the insurer for the claim. It is important the right insurer responds to a claim.
- The responding insurer is required to assess the Notice of Claim and ascertain whether it is in compliance with the Act, ie. all required information has been provided and give the claimant the opportunity to address any noncompliance. A claimant cannot proceed without having a complying Notice of Claim.
- With a complying Notice of Claim, the insurer is then obliged within a 6 month period: to investigate the motor accident; advise the claimant whether liability is

accepted or denied; and respond to any offer of settlement by the claimant or make their own offer.

- The insurer's offer needs to be a fair and reasonable estimate of the damages the claimant would be entitled to in a legal proceeding.

Claimant's obligations

- Provide details of the personal injury and consequent disabilities; medical treatment and rehabilitation services sought or obtained for the personal injury; their medical history relevant to the motor accident claim; any other claims for damages for personal injury; and their claims for past and economic loss and for gratuitous services.
- There may also be assessments of cognitive, functional or vocational capacity. Assessing economic loss will be required if claiming losses. Obtaining these assessments can contribute to the time it takes to consider a claim.
- Respond to any notice of noncompliance made by the insurer with the Notice of Claim.

Payments during a claim

- An insurer may undertake in its first response to a Notice of Claim whether they will meet the reasonable and appropriate costs of a claimant's rehabilitation without admitting liability.
- An insurer who has accepted liability for the claim may make payments during the management of a claim to assist the claimant with their treatment and care, consistent with the obligation on insurers to pay for medical expenses and rehabilitation services.
- This may be on a case by case basis and require evidence being given to the insurer as to the necessity of the treatment and care.

Resolving a claim

- Settlement is the most common means of resolving a claim. This involves negotiation between an insurer and claimant through the making of offers and counter-offers.
- If a matter does not settle, then a claimant needs to bring a court proceeding to obtain compensation. There are some steps to complete before going to court.
- A compulsory conference is required before commencing a matter in court, unless the court dispenses with the obligation.

- The conference is intended to gain agreement on the claim before a mediator. This conference is to occur either on agreement of the parties or if more than 6 months has passed since the receipt of a complying notice of claim.
- If the conference process does not succeed, the claimant and insurer must exchange written final offers. This offer stays open for 14 days and court proceedings cannot be begun while the offer is open.

Court proceedings

- A claimant may commence a court proceeding within 60 days after the compulsory conference has concluded or a period agreed to by the parties (or the court).
- If there was no compulsory conference, then it is 60 days from the day the conference was dispensed with or at the conclusion of 6 months passing since the receipt of a complying notice of claim.
- The making of a mandatory final offer can be dispensed with by a court and a claimant may also make an application for an urgent proceeding.
- Applications for urgent proceedings generally occur where the limitation period for lodging a court action is approaching. This is 3 years from the date of the accident (if not under a legal disability – child or mental/physical disability. If it is a child, then the period is 6 years).
- Commencing court proceedings may arise because there is a dispute about liability or the claimant is not satisfied with the offers made. Once a court proceeding commences, the proceeding is subject to the court's processes and timings. A court proceeding can take a number of years to be resolved.