

# Legal Advice for TBI Victims and their Families

*A Qualified Lawyer May Be Able to Help You Find the Money For Necessary Medical Care*

When you or a close family member suffers a traumatic brain injury, your first priority is to obtain the best medical care. A qualified lawyer may be able to help you find the best medical care and the money to pay for it. Unfortunately, the nature and quality of care, particularly sub-acute and long-term care, may depend upon whether funds are available to pay for it. Health insurance companies often deny or limit coverage for sub-acute and long-term care. The limitations in health insurance policies are often subject to interpretation and procedures may be available to contest denials. A qualified lawyer may also be able to help you find other financial resources to pay for necessary care. For example, if someone other than the survivor caused the accident, a liability claim may be made against the person at fault. If the person at fault does not have insurance or the insurance is inadequate, compensation may be available under the “uninsured” or “underinsured” provisions of the victim’s own automobile insurance coverage. Certain medical costs may also be covered under the “medical payments” provisions of the automobile insurance coverage of the people involved. The victim may also be entitled to payment of medical expenses under worker’s compensation (if the accident was work-related) or Medicaid (if financial qualifications are met).

The financial hardships caused by lost income may also limit the victim’s ability to access necessary medical care. The victim may be able to obtain compensation for lost income through private disability insurance (sometimes an employment related benefit), through worker’s compensation or through social security disability payments. If the accident was caused by another person, the victim may be entitled to compensation for lost income, as well as for permanent disability, for pain and suffering, and for loss of enjoyment of life.

## **Time is of the Essence.**

A lawyer is most effective in protecting the interests of a brain injury victim if he or she is consulted as soon as possible after the injury. As time passes, it may become more difficult to establish the facts necessary to obtain the greatest protection for the victim.

## **A Qualified Lawyer May Be Able to Help You Locate and Coordinate the Best Care.**

In addition to assisting with the economic issues resulting from a traumatic brain injury, a qualified lawyer may also be helpful in identifying local treatment providers with expertise in traumatic brain injury and may help ensure appropriate coordination between the various providers on the treatment team.

## **Finding the Right Lawyer.**

Representing people with traumatic brain injury requires a great deal of expertise. In addition to understanding insurance law and liability law, a lawyer who represents brain injury victims, often called a “neurolawyer,” must be knowledgeable about the biomechanics of neurotrauma, neuroanatomy, neurophysiology, neurochemistry, neuropsychology, neurorehabilitation, and the special needs which accompany brain injury and spinal cord injury. In selecting a lawyer in this area, it is important to question the lawyer about his or her training and experience in this area, as well as participation in professional groups that provide continuing education concerning the special needs of brain injury victims, such as the Traumatic Brain Injury Litigation Group of the Association of Trial Lawyers of America and the Brain Injury Association of Vermont.

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