

In case of the unexpected

 Read time: 3 mins

Sometimes a patient can be injured while receiving treatment from a registered health professional. Adverse outcomes can happen as a normal part of treatment, but sometimes things might not go as expected. In these cases, a claim may be covered if the injury isn't a necessary part or ordinary consequence of treatment.

Defining treatment

The term 'treatment' can be quite broad and mean many things in a health context. Because of that, we rely on our legislation, the Accident Compensation Act 2001, to help us decide on cover. Section 33 sets out what constitutes treatment, including:

- administering treatment or prophylaxis
- diagnosing a medical condition
- decisions relating to treatment
- failing to provide treatment or provide it in a timely manner
- obtaining or failing to obtain consent from a person to undergo treatment
- equipment failure (except fair wear and tear)
- use of policies, process and support systems which support treatment.

Criteria for cover

Once a claim is lodged with the patient's consent, it needs to meet certain criteria before it can be accepted.

This includes:

- whether the treatment was provided by, or at the direction of, a registered health professional
- evidence of an injury which has resulted in bodily harm or damage
- that the injury was caused by treatment, not an underlying condition.



Understanding treatment injury cover

What's not covered

Our legislation explains what can't be covered as a treatment injury. The main reason is if the injury is a necessary part or ordinary consequence of treatment, considering all the circumstances of treatment, including the person's underlying health conditions and clinical knowledge at the time.

The courts have provided guidance on determining what is an ordinary consequence. For example, an outcome that falls within the normal range of expected outcomes and is not surprising, would be considered an ordinary consequence.

Other exclusions under legislation include where the injury is:

- ✗ wholly or substantially caused by an underlying condition
- ✗ where desired results were not achieved
- ✗ solely attributable to resource allocation
- ✗ the client unreasonably withheld or delayed consent
- ✗ caused by fair wear and tear of a prosthesis or device.

Every client is unique, so treatment injury cover is considered on a case-by-case basis.

What to include

An ACC2152 Treatment Injury form must be completed alongside the ACC45 form when lodging a treatment injury claim. This provides information about the personal injury and the treatment believed to have caused the injury.

[ACC2152 Treatment Injury Form](#)

To help make a quicker cover decision, there are some clinical documents to include with your claim if available and relevant. This provides supporting evidence that the injury happened and that it was caused by treatment.

These might include:

- lab reports
- referral letter
- x-ray reports
- MRI reports
- operative notes
- consent forms
- discharge summaries.

For particularly complex claims, we may seek expert opinion from a specialist in a specific medical discipline e.g. oncology or orthopaedic surgery.

acc.co.nz/treatment-safety

Find out more

More information is available in our Treatment Injury Claim Lodgement Guide which is available on our website.

[Treatment Injury Claim Lodgement Guide](#)



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