

COMPLETING THE ADMINISTRATOR'S FORMS

If a judgment for personal injury cannot be paid by the uninsured party(ies) ordered to pay it, payment may be obtained through Motor Vehicle Accident Claims (MVAC) on completion of specific application forms. The forms contain information to satisfy the administrator of the *Motor Vehicle Accident Claims Act* that all requirements of the act have been met. They also assign the debt to the administrator so that it can be recovered from the party ordered to pay in the judgment. The administrator's office provides the forms to the claimant or their lawyer or representative once it has been determined that MVAC will pay the judgment.

A description of the forms and requirements follows. Proper completion of the forms helps to speed processing of the payment - please complete them carefully and completely. (Note: Motor Vehicle Accident Claims cannot complete the forms for a plaintiff who does not have a lawyer, as MVAC is not the plaintiff's representative or agent. However, in case of difficulty, questions may be directed to 780-427-8255)

For more information on the MVAC personal injury claim process or to obtain copies of the required forms, visit our website at www.justice.gov.ab.ca/mvac/default.aspx.

Glossary of Terms:

- 1. Certified Copy of the Judgment** - The court clerk can "certify" a copy of the judgment, which confirms that it is a true copy of what is filed on the court record.
- 2. Bill of Costs** (if costs are not already included in the judgment). If the court awards costs but the amount is not stated within the judgment itself, a plaintiff's lawyer files a Bill of Costs with the court to give an account of the amount of the costs owing. (In a Provincial Court Civil Division action, the costs are usually set out in the judgment, so a Bill of Costs is not required.)
- 3. Statutory Declaration** - The statutory declaration is the application form for payment of money from the general revenue fund of Alberta. It contains information affirming to the administrator that the applicant's court action and resulting judgment comply with the relevant sections of the *Motor Vehicle Accident Claims Act*.
- 4. Assignment of Judgment** - The assignment of judgment is a form that assigns the debt to the administrator in exchange for payment of the judgment. The administrator then has the right to take collection proceedings against the person required to pay under the judgment. The assignment of judgment must be served by the plaintiff or their agent upon the defendant before the administrator can consider payment. If it is not possible to personally serve the assignment on the defendant, it may be necessary to get an order for substitutional service from the court, which allows for service by another means such as registered mail; or an order dispensing with service, which confirms that service is not required.

5. **Affidavit of Service of the Assignment of Judgment** – This is a sworn statement describing the manner in which the assignment of judgment was delivered upon the defendant. This could also be an affidavit of substitutional service if that has been authorized by the court.
6. **Order Dispensing with Service** – This is an order of the court pronouncing that it is not necessary to serve the assignment of judgment on the defendant.
7. **Certificate** – The Certificate is a form that is required under Section 15 of the *Motor Vehicle Accident Claims Act* only if a plaintiff was represented by a lawyer. It confirms that the client has been made aware that they can have their solicitor-client bill of costs taxed (have the amounts reviewed) by the court. (Plaintiffs can appear in Provincial Court, Civil Division without a lawyer. In those cases a Certificate is not required.)

FORMS & DOCUMENTS REQUIRED:

There are two kinds of claims where the Motor Vehicle Accident Claims Program may be involved in paying a judgment. One is where the defendant or at-fault party is known and named in the judgment as having to pay, but that person does not have sufficient funds to pay the judgment. The other is where the at-fault party is unknown and cannot be found, so a judgment has been made against the administrator of The *Motor Vehicle Accident Claims Act*. There are slight differences in the forms to be submitted, depending on which type of judgment was obtained. The following lists the forms and documents that must be submitted for each type of claim: (Note: Copies of these forms can also be obtained at www.justice.gov.ab.ca/mvac/default.aspx)

1. Judgment Against a Known Defendant (the at-fault party is named in the judgment)

- **Certified** copy of the judgment
- Bill of costs, **if** the amount of the costs is separate and not stated in the judgment
- Assignment of judgment (**original**)
- Affidavit of service of the assignment of judgment, or alternatively, an order dispensing with service
- Statutory declaration (**original**)
- Certificate (**original**) (if applicable.)

2. Judgment Against the Administrator (the at-fault party was not identified)

- **Certified** copy of the judgment
- Bill of costs, if the amount of the costs is separate and not stated in the judgment
- Statutory declaration (**original**)
- Certificate (**original**) (if applicable.)

COMPLETING THE FORMS:

(NOTE: MVAC will not reimburse legal fees or other charges for re-submission of forms that were incorrectly completed. Please read the following section carefully.)

DATE THE FORMS ARE COMPLETED: The forms to apply for payment of the judgment, particularly the assignment of judgment, **must not be signed before the judgment is granted.** Signing and dating the forms before the judgment is granted by the court invalidates the assignment, because a judgment that does not yet exist cannot be assigned. Improperly dated forms will be returned and will have to be redone, which will delay payment.

ORIGINAL DOCUMENTS REQUIRED: In all cases MVAC requires original signed forms. Do not submit photocopies.

STATUTORY DECLARATION (Form VI):

- Complete all fields on the form. Put “N/A” or “Nil” for any items that are not applicable.
- When completing Item 18 (application for payment) list the amounts as awarded in the judgment. If claiming costs subsequent to judgment (for example, the costs of a process server), **receipts must be attached** to support the amount claimed.
- Ensure the plaintiff has **signed** the declaration, and that it has been **witnessed** by and in the presence of a commissioner for oaths.
- Make as many copies as you require, but always provide an **original signed** declaration to MVAC.

ASSIGNMENT OF JUDGMENT (Form VIII)

(This form is only required if there is a known defendant that is required to pay. If the judgment is against the administrator, this form is not required.)

- Complete all fields on the form.
- The amount assigned to the administrator **cannot be more** than the amount awarded in the judgment. Only those amounts awarded in the judgment can be assigned. Do not include any extras that are not in the judgment itself (ie: subsequent costs, forms completion fee).
- Ensure the plaintiff (**assignor**) and the witness have signed and dated the assignment, **after** the date the judgment was granted. (For those unfamiliar with signing formal documents, the witness is to be present while the plaintiff signs in order for the document to be valid.)
- Leave the space for the **assignee’s** signature at the bottom of the form blank. The administrator of Motor Vehicle Accident Claims signs there. Do not allow a process server or anyone else to stamp or write in this block.
- Ensure that the affidavit of execution is completed on the back of the form. This section affirms that the witness saw the plaintiff sign the document. A commissioner for oaths must then commission the signature of the witness.
- Serve a copy of the assignment of judgment on the defendant (see notes about service later in this document). Complete an affidavit of service and have it sworn before a commissioner for oaths giving details as to how service was conducted. The affidavit of service may be filed on the court file to complete the record, but it is not invalid if not filed.

- Provide an **original signed** assignment to MVAC. (It is advisable to make extra copies of the assignment before it is signed, to ensure that there are enough originals to file one with the affidavit of service and to give an original to MVAC).

CERTIFICATE

(This form is only required if the plaintiff retained a lawyer to conduct their action.)

- Ensure that the plaintiff and witness have executed the upper part of the form.
- Ensure that the lawyer and witness have executed the lower part of the form, and it is dated.
- Provide the **original signed** certificate to MVAC.

SERVING THE ASSIGNMENT

Pursuant to Section 5(4) of the *Motor Vehicle Accident Claims Act*, the plaintiff is required to serve a copy of the assignment of judgment on the judgment debtor (the defendant named in the order to pay) or obtain an order dispensing with service, before the administrator can make payment. (Note: service of an assignment of judgment is only required if there is a known defendant that is required to pay. If the judgment is against the administrator, this form and service are not required.)

- The assignment is to be served on the defendant(s) before it has been signed by the administrator. The administrator will execute it on receipt of the final documents.
- Personal service on the defendant is required, unless there is an order of the court for substitutional service or an order dispensing with service.
- If personal service cannot be achieved, service by *registered mail* will be acceptable in the following circumstances:
 - 1) If delivery of the item is confirmed. Delivery confirmation can be obtained on the Canada Post website at www.canadapost.ca, under “Delivery Confirmation”. (Enter the item number from the post office receipt for the registered letter. The status of the item is tracked until it is either delivered to the recipient or returned to sender.) The signature page can be printed and attached with the affidavit of service. The signature **must** be that of the defendant, and not someone signing on their behalf, or
 - 2) If the plaintiff has previously obtained an order allowing for service of documents on the defendant(s) by registered mail (for example, such an order is sometimes granted when service of the originating claim has been difficult), or
 - 3) If the plaintiff is granted an order for substitutional service allowing them to serve documents in another manner, including by registered mail, or
 - 4) If an order deeming service sufficient is granted. When a plaintiff has served by registered mail because other methods were not successful, they may apply to the court for an order deeming that service by registered mail was sufficient.
- If the defendant cannot be served, it may be necessary to obtain either an order for substitutional service (to serve the document in another manner, such as by posting the item to the door of the defendant’s residence), or an order dispensing with service (which is an order of the court that the assignment does not need to be served.)

FINAL CHECKLIST:

Use the checklist below to ensure you have completed and attached everything needed to apply for payment.

Judgment Against a Known Defendant:

- Certified** copy of the judgment
- Bill of costs, **if** the amount of the costs is not stated in the judgment
- Assignment of judgment (**original**)
- Affidavit of service of the assignment of judgment, or
- Order dispensing with service of the assignment of judgment
- Statutory declaration (**original**)
- Certificate (**original**) (if applicable)

Judgment Against The Administrator of Motor Vehicle Accident Claims

- Certified** copy of the judgment
- Bill of costs, **if** the amount of the costs is not stated in the judgment
- Statutory declaration (**original**)
- Certificate (**original**) (if applicable)

Completed forms and documents are to be sent to:

The Administrator of Motor Vehicle Accident Claims
Suite 600, Sun Life Place
10123 – 99 Street
Edmonton, AB T5J 3H1

If there are no discrepancies, once the completed documents are forwarded to the administrator, processing the cheque usually takes two to four weeks. Cheques are not issued from the administrator's office. They are mailed directly by the Government of Alberta central accounting department, once printing is complete. For that reason, the administrator cannot offer courier pick-up or delivery of cheques.