Who Pays for Surgery After a Georgia Car Accident While Your Injury Claim Is Pending?

Health Insurance, MedPay, Letters of Protection, and What Has to Be Paid Back

A doctor may recommend surgery after a Georgia car accident, but the at-fault driver's insurer usually won't pay that bill when it comes due. Liability insurers typically pay once, at settlement or judgment. That leaves injured people looking for another way to pay while their Georgia car accident claim is still open.

The choice of how to pay matters more than it used to. A 2025 change in Georgia law affects how medical bills are proven in court. Each payment source also comes with its own rules about what gets paid back from a settlement. Choosing the wrong one can shrink the amount the injured person keeps.

Our Georgia car accident lawyers at Gary Martin Hays, LLC sort out these payment questions before surgery, not after the bills arrive. We look at every available source of coverage. We also check the repayment rules that come with each one, so there are no surprises at settlement.

Key Findings

- **The At-Fault Insurer Usually Pays Last** – Georgia has no personal injury protection requirement, and the at-fault driver's insurer generally pays only when the claim resolves.
- **Health Insurance Still Matters** – Under a 2025 law, a jury can hear what your health insurance would have paid, even if you never use it.
- **Health Insurers Must Wait Their Turn** – Georgia limits most health insurer reimbursement to cases where the settlement fully covers your losses.
- **Medicare Has to Be Repaid** – Medicare's payments for crash injuries are conditional and must be repaid from a settlement or judgment.
- **Delaying Surgery Has Its Own Cost** – Putting off needed surgery while waiting on a claim can harm both your health and your case.

https://www.youtube.com/shorts/nmHdr_u8N38

Why the At-Fault Driver's Insurer Doesn't Pay as You Go

Georgia is an at-fault state, and it doesn't require drivers to carry personal injury protection coverage. The at-fault driver's liability insurer owes money for the harm its driver caused. In

practice, it rarely pays medical bills while treatment is ongoing. It usually waits until the full extent of the injuries is known and the claim is settled.

That timing gap is where problems start. A surgeon's office wants payment or a guarantee before scheduling. Meanwhile, the claim can't be valued fairly until the surgery is done and the recovery is clearer. Settling early just to pay for surgery often means accepting far less than the case is worth.

Who Can Pay for Surgery While a Claim Is Pending?

Several sources may cover surgery before the case resolves, and many injured people have more than one. Each comes with different timing and repayment rules. Knowing those rules early helps avoid a surprise when the settlement is divided. The comparison below shows how the most common options work in a Georgia car accident case.

Payment Source	When It Pays	Must It Be Repaid From the Settlement?
Private Health Insurance	As treatment happens, subject to deductibles and copays	Only if the settlement fully covers all losses, reduced by a share of attorney's fees (some federally regulated plans may differ)
Medical Payments Coverage (MedPay)	Soon after the crash, up to the policy limit, regardless of fault	Depends on the policy terms
Medicare	As treatment happens, as a conditional payment	Yes, from any settlement or judgment
Workers' Compensation	As authorized treatment happens, if the crash was work-related	The workers' comp carrier may have a lien on a third-party recovery
Letter of Protection	The provider waits for payment from the settlement	Yes, the full bill is usually owed from the recovery

MedPay is optional coverage on your own auto policy, so many drivers don't realize they have it. It can help with deductibles and copays while the claim moves forward. For a crash on the job, workers' compensation medical benefits may cover authorized treatment. A separate claim against the at-fault driver can still go forward.

Using Health Insurance Doesn't Mean Losing the Money

Many people worry that their health insurer will take most of the settlement. Georgia law limits that. Under O.C.G.A. § 33-24-56.1, a health insurer can seek repayment only in limited cases.

The recovery must exceed all of the injured person's economic and noneconomic losses. Any reimbursement is also reduced by a pro rata share of attorney's fees.

The same law bars the insurer from pursuing the at-fault driver directly. It also bars the insurer from withholding benefits to force repayment. Some self-funded employer plans governed by federal law may not follow these limits. That's why the type of health plan needs careful review before any settlement is signed.

How Georgia's 2025 Law Changed the Math on Medical Bills

For crashes on or after April 21, 2025, O.C.G.A. § 51-12-1.1 changes how medical expenses are proven. Medical damages are limited to the reasonable value of medically necessary care. For an injured person with health insurance, the jury can see two numbers. One is the billed amount, and the other is what the insurance would have paid.

That evidence comes in regardless of whether the health insurance has been or will be used. Skipping insurance to keep a larger bill in front of the jury no longer works. The change is part of Georgia's SB 68 rule on phantom damages. It makes the payment decision more important.

What Happens When Surgery Is Done Under a Letter of Protection?

Under a letter of protection, a surgeon or clinic treats now and waits to be paid from the settlement. It can make surgery possible for someone without insurance. Many of these agreements leave the patient owing the full bill, even if the case recovers less.

The 2025 law also opened these arrangements to scrutiny. The defense can obtain the letter itself along with itemized, coded charges. It can learn whether the provider sold the account to a third party at a discount. It can also learn who referred the patient for treatment. Those details give the defense new ways to attack the bills, so the arrangement needs to be documented carefully.

Medicare, Medicaid, and Hospital Liens

Medicare often pays for surgery when another payer won't pay promptly. Those payments are conditional, according to the Centers for Medicare & Medicaid Services (CMS). They "must be repaid to Medicare when a settlement, judgment, award or other payment is made." Federal law gives Medicare's claim priority over state rules like Georgia's made-whole limit.

Medicaid has its own repayment rights, and Medicare and Medicaid can affect car accident claims in different ways. Each program's repayment claim needs to be checked for charges unrelated to the crash. Hospitals can also file liens against an injury claim. Hospital liens and provider claims need to be identified and negotiated before money is distributed.

Three Questions to Ask Before Agreeing to Surgery

Gary Martin Hays addressed surgery decisions in a short video. “The overwhelming majority of surgical cases that we deal with in our practice are because of some kind of traumatic event,” he said. He recommends asking the doctor about the benefits of the surgery and its most common risks.

His third question is “perhaps the one that is rarely asked”: What happens if the patient doesn’t have the surgery? “You do not want to sit around and let a window of opportunity to repair the problem actually close on you forever because you didn’t act in a timely fashion,” Gary said.

The doctor’s answers also matter to the claim. Clear records explaining why surgery is needed make it harder for an insurer to call it optional. Insurers sometimes use independent medical examinations to question whether surgery was necessary. The treating surgeon’s reasoning helps answer that challenge.

Suppose a Shoulder Surgery Can’t Wait

A Kennesaw warehouse supervisor is rear-ended on Chastain Road and tears her rotator cuff. Her orthopedic surgeon recommends repair within a few months. The at-fault driver’s insurer says it will consider her bills when the claim settles. Her health plan has a high deductible she can’t easily cover.

Her lawyer might check her auto policy for MedPay to cover the deductible. The surgery could then run through her health insurance. The lawyer would also confirm whether her plan follows Georgia’s made-whole rule. She could have the surgery on time while the claim is valued with the full recovery in view.

Your Recovery Shouldn’t Wait on the Insurance Company

Waiting for the at-fault insurer to pay first can push surgery back for months. As Gary put it, “please don’t put your head in the sand and ignore the problem.” Just as seeing a doctor right away protects a claim, timely surgery protects both health and the case.

Facing surgery after a Georgia car accident and unsure how it will be paid? Reach out to our office for a free consultation. We can review your coverage and the repayment rules before you schedule. With our No Fee Guarantee, you won’t pay anything unless we win.