



**Licence Appeal Tribunal File Number: 22-000137/AABS**

In the matter of an Application for Dispute Resolution pursuant to subsection 280(2) of the *Insurance Act*, RSO 1990, c I.8., in relation to statutory accident benefits.

Between:

**Loreta Velliaris**

**Applicant**

and

**Economical Insurance Company**

**Respondent**

**MOTION ORDER**

**ADJUDICATOR:** Ludmilla Jarda

**APPEARANCES:**

For the Applicant: Jennifer Ilton, Counsel

For the Respondent: Sonya Katrycz, Counsel

**Motion heard by Teleconference: April 4, 2023**

## BACKGROUND

- [1] The applicant was injured in an automobile accident on **July 21, 2021** and sought benefits pursuant to the Statutory Accident Benefits Schedule – Effective September 1, 2010 (“Schedule”).
- [2] The applicant was denied certain benefits and submitted an application to the Licence Appeal Tribunal - Automobile Accident Benefits Service (“Tribunal”).
- [3] A case conference took place on **October 31, 2022** before Adjudicator Richard Warr.
- [4] The issues in dispute are attendant care benefits, medical and rehabilitation benefits, an award, and interest.
- [5] A 4-day videoconference hearing was scheduled for May 1, 2, 3, and 4, 2023.

## MOTION

- [6] On March 22, 2023, the applicant filed a Notice of Motion requesting the following relief:
  - a. An order adding issues in dispute.
- [7] Specifically, the applicant sought to add a treatment plan (OCF-18) dated December 16, 2022 for medical cannabis treatment in the amount of \$3,264.57, proposed by Apollo Applied Research Inc. and an OCF-18 dated February 15, 2023 for a sleep country bed system in the amount of \$5,530.55, proposed by GLA Rehab Inc.
- [8] The applicant submitted that adding these issues to the proceeding would permit for an efficient and cost-effective resolution of this application. She indicated that these new issues were common issues with those already in dispute. No additional witnesses and no additional hearing days would be required. She denied that the respondent would be prejudiced.
- [9] The applicant also indicated that if these issues were not added to this proceeding, she would be forced to file a new application which would require the use of additional, unnecessary resources from this Tribunal.
- [10] The respondent opposed the applicant’s motion.
- [11] The respondent took issue with the timing of the applicant’s motion. By bringing this motion approximately a month before the hearing, if these issues were added, the respondent would not have the ability to respond to these issues, to meet the required timelines outlined in Adjudicator Warr’s Case Conference Report and Order (CCRO), and to prepare for the hearing.

- [12] The respondent indicated that if these proposed issues were added to the proceeding, further documentary evidence would be required, and additional witnesses would have to be considered and/or included as part of the hearing. Also, additional hearing days would be required to address these new issues.
- [13] The respondent submitted that they would be prejudiced if these issues were added. This prejudice would restrict their ability to fully participate in the hearing and to adhere to the timelines outlined in the CCRO.
- [14] On reply, the applicant alleged that the respondent had not complied with the production timelines outlined in the CCRO. However, she did not provide any evidence to substantiate this allegation.
- [15] During the motion hearing, the respondent submitted that it was well established that the CCRO does not need to indicate a date for when issues can be added. The purpose of the CCRO is to identify the issues in dispute. It is implicit that further issues will not ordinarily be added after the case conference, and if they are, they will not be added a month before a hearing. Moreover, as a matter of procedural fairness, issues should not be added 18 days before the commencement of the hearing when doing so would result in the respondent being prejudiced and denied an opportunity to a fair hearing.
- [16] The parties were asked to make submissions regarding the urgency, if any, of the applicant's motion given that the applicant still had the better part of the two-year limitation to bring a new application.
- [17] The applicant took the position that as a matter of efficiency, it was appropriate to add these issues to this proceeding. The applicant saw no reason to delay adjudication of these issues any further by filing a new application. It was preferable to proceed to a single hearing on all issues.
- [18] The respondent took the position that the applicant's position was unsupported. The applicant failed to provide any case law supporting the proposition that issues in dispute can be added 18 days before a hearing. The respondent noted that the applicant still had plenty of time to file a new application.

## **RESULT**

- [19] The applicant's motion is denied.
- [20] Procedural fairness requires that a party be able to respond to the position taken against it.
- [21] As per Rule 3.1 of the Tribunal's Common Rules of Practice and Procedure ("Rules"), the Tribunal's mandate is to facilitate a fair, open, and accessible process, to allow effective participation by all parties, and to ensure efficient, proportional, and timely resolution of the merits of the proceedings before the Tribunal.

- [22] Whether the Tribunal should add these treatment plans as issues in dispute at this stage will depend on the facts of the individual case. Ultimately, the adjudicator must exercise their own discretion, based on all the facts, in deciding how the case before them should proceed.
- [23] In this case, the deadline for documentary production has passed, and documentary production relating to the proposed treatment plans have not yet occurred. Further, the deadline to exchange the parties' final list of witnesses has passed, and the parties have until April 21, 2023 to exchange their hearing briefs. The respondent has also advised that they are not able to respond to these treatment plans in time for the upcoming hearing given the applicant's late request to add these treatment plans to the proceeding. Therefore, although the parties are prepared to proceed to a hearing on all the other issues in dispute in this proceeding, they are not prepared to proceed to a hearing on these proposed treatment plans.
- [24] Additionally, given that the treatment plans were denied in 2023, the applicant would not be prejudice if these treatment plans were not added to this application. The applicant still has time to file a new application relating to this treatment plan. Also, by proceeding with a new application, these treatment plans would proceed through the Tribunal's dispute resolution process which would allow the parties to attend a case conference and to ensure a fair and efficient resolution of the dispute. At that time, the parties can address the production of any documentary evidence required for these treatment plans.
- [25] Accordingly, I am not prepared to add the proposed treatment plans as issues in dispute in this proceeding. It would be procedurally unfair to add the proposed treatment plans at this stage and in the circumstances.
- [26] **Except for the provisions contained in this Motion Order all previous orders made by the Tribunal remain in full force and effect.**

#### **OTHER PROCEDURAL MATTERS**

- [27] If the parties resolve the issue(s) in dispute prior to the hearing, the applicant shall immediately advise the Tribunal in writing.

**Released: April 5, 2023**



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**Ludmilla Jarda  
Adjudicator**