



Citation: Adam v. Co-operators General Insurance Company, 2023 ONLAT 21-004550/AABS

Licence Appeal Tribunal File Number: 21-004550/AABS

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

Between:

Robert Adam

Applicant

and

Co-operators General Insurance Company

Respondent

DECISION

ADJUDICATOR: Janet Rowsell

APPEARANCES:

For the Applicant: Robert Adam, Applicant
Merella Botros, Counsel

For the Respondent: Co-operators General Insurance Company, Choose an item.
Peter Durant, J.D., Counsel

HEARD: By way of written submissions

OVERVIEW

- [1] Robert Adam, the applicant, was involved in an automobile accident on August 23, 2018, and sought benefits pursuant to the *Statutory Accident Benefits Schedule - Effective September 1, 2010 (including amendments effective June 1, 2016)* (the “*Schedule*”). The applicant was denied benefits by the respondent, Insurer, and applied to the Licence Appeal Tribunal - Automobile Accident Benefits Service (the “Tribunal”) for resolution of the dispute.
- [2] The Simcoe County Paramedic Service report describes that the applicant was stopped at an intersection when another vehicle rear-ended his car. The striking vehicle was reported by the applicant, travelling approximately 10 to 20 kilometres an hour. When paramedics arrived the applicant was standing on a sidewalk, and he stated that he did not lose consciousness as a result of the accident.
- [3] The paramedics’ report states that the applicant suffered no apparent trauma, tingling or numbness following the accident, with the applicant experiencing a full range of motion, no pain or stated complaints with the exception of a frontal headache rated by the applicant as 7/10. The applicant described to paramedics being seat-belted at the time of the accident and that the airbags did not deploy. The hospital emergency report states that the applicant experienced a head injury as a result of the accident. On the day of the accident, at the Royal Victoria Regional Health Centre, the applicant underwent a CT brain scan of his head, cervical and thoracic spine. The result of the CT scans showed a normal result without injury or fracture. The applicant showed no sign of brain hemorrhage; his cerebral and cerebellar hemispheres were symmetrical and the applicant’s bony structures were shown to be in tact.

ISSUES

- [4] The issues in dispute are:
 - i. Is the applicant entitled to \$525.00 for an optometric assessment proposed by Dr. Mona Ubhu, Optometrist of the Erin Haney Optometry Professional Corporation, in a treatment plan (OCF-18) dated November 20, 2020, denied by the respondent on December 4, 2020?
 - ii. Is the applicant entitled to \$2,405.00 for optometric services proposed by Dr. Mona Ubhu, Optometrist of the Erin Haney Optometry Professional Corporation, in a treatment plan (OCF-18) dated December 9, 2020?

- iii. Is the applicant entitled to interest on any overdue payment of benefits.

RESULT

- [5] The optometric assessment proposed by Dr. Mona Ubhu, Optometrist of the Erin Haney Optometry Professional Corporation, in a treatment plan dated November 20, 2020, in the amount of \$525.00 is not reasonable and necessary pursuant to the Schedule.
- [6] The optometric services proposed by Dr. Mona Ubhu, Optometrist of the Erin Haney Optometry Professional Corporation, in a treatment plan dated December 9, 2020, in the amount of \$2,405.00 is not reasonable and necessary pursuant to the Schedule.
- [7] Given that there are no benefits owed, the applicant is not entitled to interest pursuant to s. 51 of the Schedule.
- [8] The application is dismissed.

ANALYSIS

- [9] The applicant submits that the accident caused brain injuries resulting in the applicant experiencing neck pain, back pain, headaches, dizziness, blurred vision, in addition to light and noise sensitivity. The applicant submits that prior to the accident he did not require eyeglasses, however, the applicant submits that changes in his vision caused by the accident result in the two disputed treatment plans being reasonable and necessary.
- [10] The treatment plans in dispute were completed by Dr. Mona Ubhi, Optometrist of the Erin Haney Optometry Professional Corporation. The first treatment plan is in the amount of \$525.00, consisting of an eye examination in the amount of \$425.00 and \$100.00 as the cost of preparing the treatment plan. The goals of the treatment plan are described as returning the applicant to the activities of normal life and to his pre-accident work activities. The second treatment plan in the amount of \$2,405.00, is described by Dr. Mona Ubhi, as including \$90.00 for an eye test, \$1,080.00 for vision training, \$657.00 for polarized prescription glasses for outdoor use, and \$478.00 for prescription sunglasses for indoor use and \$100.00 for the preparation of the treatment plan. The goals of the treatment plan are returning the applicant to the activities of normal life and his pre-accident work activities.
- [11] Section 14 and 15 of the Schedule state that an insurer shall pay medical benefits to, or on behalf of an applicant so long as said person sustains an

impairment as a result of an accident, and that the medical benefit in dispute is a reasonable and necessary expense incurred by the applicant as a result of the accident.

- [12] The test to determine causation is the “but for” test, signifying that causation is a factual determination made on a balance of probabilities: See *Sabadash v. State Farm et al*, 2019 ONSC 1121. In order to demonstrate causation, an applicant must show that “but for” the accident, he would not have suffered the injuries. In *Sabadash*, the Divisional Court held that the accident need not be the sole cause of the impairment but must be a “necessary” cause. In my view, the applicant has not met the burden of showing on a balance of probabilities that the accident was the necessary cause of the applicant’s vision changes as an otherwise normal age-related consequence requiring reading glasses, as opined by Dr. Paul Ranalli in his section 44 IE assessment. Dr Ranalli opined that the use of reading glasses which coincidentally was detected following the accident, was not related to the event of the accident. Likewise, I find that the two treatment plans in dispute are neither reasonable nor necessary for the purpose of addressing any vision changes the applicant experienced. I am not persuaded the changes to the applicant’s vision were caused by the accident but rather the vision changes are an age-related consequence as described in the section 44 IE assessment of Dr. Paul Ranalli.
- [13] The applicant submits that medical evidence corroborates and demonstrates that the accident was the cause of the applicant experiencing vision impairment.
- [14] The applicant cites the report of Dr. Mona Ubhi who completed a visual assessment of the applicant, concluding that the applicant had experienced post-traumatic vision syndrome. The applicant also cites the findings of Dr. Albert Cheng who is a specialist in Physical Medicine and Rehabilitation. Dr. Cheng prepared a Physiatry Assessment which diagnosed the applicant with a mild traumatic brain injury with persistent symptoms of post-concussive syndrome. Dr. Cheng reported that the applicant experienced visuospatial difficulties as a result of the accident. I place greater evidentiary weight on the examination and assessment of Dr. Paul Ranalli and his findings in relation to the cause and existence of any visual impairments by reason of Dr. Ranalli’s qualifications respecting brain physiology and neuro-ophthalmology described in these reasons.
- [15] In the explanation of benefits dated December 4, 2020, the first treatment plan in the amount of \$525.00 submitted on the applicant’s behalf by Mona Ubhi of Erin Haney Optometry, is denied by the respondent company on the basis of the

section 44 Neuro-Ophthalmology IE assessment of Dr. Paul Ranalli. Dr. Ranalli completed a neuro-ophthalmological examination on July 2, 2019, showing that the presbyopia experienced by the applicant was an age-appropriate condition, corrected by reading glasses which formed part of an otherwise normal eye examination result. Dr. Ranalli opined that the applicant did not require further treatment or rehabilitation services related to vision or neuro-ophthalmological function. In addition, Dr. Ranalli opined that aside from what the applicant self reported as photosensitivity, there was no independent visual or neuro-ophthalmological diagnoses related to the accident.

- [16] In the explanation of benefits dated December 18, 2020, the respondent denies the treatment plan dated December 9, 2020, by Dr. Mona Ubhi, Optometrist, on the basis that the section 44, IE assessment of Dr. Ranalli dated July 30, 2019, opines that the applicant did not sustain a significant visual or neuro-ophthalmological impairment as a result of the accident and that the applicant did not require further treatment or rehabilitation services related to vision or neuro-ophthalmological function.
- [17] As submitted by the respondent, Dr. Ranalli is highly qualified to comment on matters of neurology and neuro-ophthalmology. In Dr. Ranalli's assessment report dated July 30, 2019, he sets out his qualifications, research and publications respecting brain physiology and neuro-ophthalmology. Dr. Ranalli describes that he completed a fellowship in neuro-ophthalmology; that he co-directs the subspecialty Neuro-Otology Clinic at the University Health Network in Toronto and that he is a lecturer in the Department of Otolaryngology and Ophthalmology/Visual Sciences at the Faculty of Medicine at the University of Toronto. Dr. Ranalli's curriculum vitae is attached detailing his experience and qualifications at Tab 14 of the respondent's written submissions.
- [18] Dr. Ranalli details in his assessment and paper review dated February 5, 2021, medical evidence submitted by the applicant including: Clinical notes and records of Dr. Q. Li, and Dr. Mona Ubhi's visual assessment report dated December 9, 2020. I find Dr. Ranalli's opinion offered in his original report dated July 30, 2019, and in his subsequent paper review dated February 5, 2021, are persuasive based on his noted expertise in matters of ophthalmology, neuro-ophthalmology, and neurology; in addition, based on his review of the medical documentation and his comprehensive assessment of the effects of the accident on the applicant and any concussion symptoms related to visual or neuro-ophthalmological impairment. Dr. Mona Ubhi's qualifications as an Optometrist are not authoritative and reliable in offering expert evidence and an opinion on the subject of Neuro-Ophthalmology, as is the case with Dr. Ranalli, based on his

specialized medical training and knowledge as a Physician, established by his expertise in Neuro-Ophthalmology, Neuro-Otology, Otolaryngology, or Ophthalmology/Visual Sciences, as described above.

- [19] With respect to Dr. Ubhi's report, Dr. Ranalli did not agree with her findings of post-traumatic vision syndrome with aspects of convergence insufficiency, accommodative insufficiency, deficiency of saccades and visual motion sensitivity with cervical dysfunction. Dr. Ranalli concluded following the neuro-ophthalmological examination that besides the age-appropriate presbyopia, the applicant's examination was otherwise normal. Dr. Ranalli's opinion was that the applicant experienced no visual impairments as a result of the accident thus the treatment plan for an optometric assessment in the amount of \$525.00 is neither reasonable nor necessary for the purpose of treating accident-related impairments. Dr. Ranalli also opined in his assessment dated July 30, 2019, that the applicant did not require further treatment or rehabilitation services related to vision or neuro-ophthalmological function.
- [20] Dr. Ranalli opines following the comprehensive neuro-ophthalmological assessment of the applicant, taking place on July 2, 2019, that there was no accident-related abnormalities making an optometry assessment assistive in the applicant's recovery from his accident-related symptoms. Dr. Ranalli found in the course of his assessment, a lack of visual symptoms and that the applicant had normal age-appropriate vision consistent with the mild to moderate nature of the accident. Dr. Ranalli describes that the photosensitivity which the applicant self reports is addressed by wearing sunglasses and that the applicant's age-appropriate near refractive error (presbyopia) is corrected by the use of reading glasses. He opines that no further optometric evaluation is required, or likely to be of assistance. Dr. Ranalli states that the applicant as of July 30, 2019, requires no further treatment or rehabilitation services with regard to his vision or neuro-ophthalmological function, which would assist in his recovery from the accident. I place greater weight on the findings of Dr. Ranalli for the reasons described than the findings of Dr. Mona Ubhi, and I agree with the respondent that neither of the two treatment plans dated November 20, 2020, and the treatment plan dated December 9, 2020, proposed by Dr. Mona Ubhi, are reasonable and necessary.
- [21] Specifically with respect to the treatment plan dated December 9, 2020, proposed by Dr. Mona Ubhi, Dr. Ranalli stated that in his opinion, the proposed vision therapy submitted by Erin Haney Optometry, is not reasonable and necessary to treat accident-related impairments because Dr. Ranalli's 2019 assessment found no significant visual or neuro-ophthalmological impairments

related to the subject accident. Dr. Ranalli further opined that the optometric therapy proposed by Dr. Ubhi, had not been shown to have validated efficacy in a clinical setting. As such Dr. Ranalli opined that the treatment plan in the amount of \$2,405.00 for optometric services proposed by Dr. Mona Ubhu, Optometrist, dated December 9, 2020, was not reasonable and necessary. Given the results of Dr. Ranalli's examination in relation to the applicant and Dr. Ranalli's expertise, I place greater weight on his opinion of the proposed treatment plan than that of Dr. Ubhi and I agree with the respondent's submission that the treatment plan dated December 9, 2020, is neither reasonable nor necessary.

Interest

[22] Interest applies on the payment of any overdue benefits pursuant to s. 51 of the *Schedule*. Given that there are no benefits owed, the applicant is not entitled to interest pursuant to s. 51 of the *Schedule*.

ORDER

[23] The applicant is not entitled to any of the treatment plans in dispute.

[24] Given that there are no benefits owed, the applicant is not entitled to interest pursuant to s. 51 of the *Schedule*.

[25] The application is dismissed.

Released: July 28, 2023



Janet Rowsell
Adjudicator