



Citation: Sawires v. Allstate Insurance Company of Canada, 2026 ONLAT 24-008301/AABS

Licence Appeal Tribunal File Number: 24-008301/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:

Heba Louka Sawares Sawires

Applicant

and

Allstate Insurance Company of Canada

Respondent

DECISION

ADJUDICATOR:

Laura Goulet

APPEARANCES:

For the Applicant:

Dayana Soto Santana, Paralegal

For the Respondent:

Sonya Katrycz, Counsel

HEARD:

By way of written submissions

OVERVIEW

[1] Heba Louka Sawares Sawires, the applicant, was involved in an automobile accident on July 19, 2021, 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, Allstate Insurance Company of Canada, and applied to the Licence Appeal Tribunal – Automobile Accident Benefits Service (the “Tribunal”) for resolution of the dispute.

ISSUES

- [2] The issues in dispute are:
- i. Is the applicant entitled to \$3,790.70 for psychological services proposed by 101 Assessments in a treatment plan/OCF-18 (“plan”) dated September 28, 2023?
 - ii. Is the applicant entitled to \$2,591.28 for physiotherapy services proposed by 101 Physio in a plan dated January 24, 2023?
 - iii. Is the applicant entitled to \$2,460.00 for a psychological assessment proposed by 101 Assessments in a plan dated September 28, 2023?
 - iv. Is the applicant entitled to interest on any overdue payment of benefits?
- [3] In its submissions, the respondent refers to an Explanation of Benefits (“EOB”) dated February 14, 2025, indicating that, following a psychological s. 44 assessment, the applicant was removed from the MIG, and each psychological treatment plan was approved. Accordingly, issues 1 and 5 from the Case Conference Report and Order dated November 5, 2024 are no longer in dispute.

RESULT

- [4] The applicant is not entitled to the plans in dispute or to interest.
- [5] The application is dismissed.

ANALYSIS

Treatment plans

- [6] To receive payment for a treatment and assessment plan under s. 15 and s. 16 of the *Schedule*, the applicant bears the burden of demonstrating on a balance of probabilities that the benefit is reasonable and necessary as a result of the accident. To do so, the applicant should identify the goals of treatment, how the goals would be met to a reasonable degree and that the overall costs of achieving them are reasonable.

The applicant is not entitled to the remainder of the plan for psychological services dated September 28, 2023

- [7] The applicant has not met her onus to prove on a balance of probabilities that the remainder of the plan for psychological services is reasonable and necessary.
- [8] The plan in the amount of \$3,790.70 was proposed by Dr. Konstantinos Papazoglou, psychologist. The plan proposes twelve 1.5-hour sessions of counseling, mental health therapy (\$2,693.04), counseling notes, evaluation (\$299.22), progress report (\$598.44), and completion of the OCF-18 (\$200.00). The goals of the plan are pain reduction, to reduce depressive symptomatology, to improve emotional status, and to return to activities of normal living.
- [9] The respondent refers to the EOB dated February 14, 2025, indicating that it partially approved this plan, based on the recommendations of Dr. Marco Chiodo, psychologist, after a s. 44 assessment conducted on January 29, 2025. Dr. Chiodo reviewed medical documentation, conducted an in-person interview, observed the applicant's behaviour, and conducted psychometric tests.
- [10] Based on the assessment, Dr. Chiodo provided an opinion on the reasonableness and necessity of this plan, and recommended twelve one-hour weekly treatment sessions, given his finding that the applicant's adjustment disorder was partially related to the accident. Dr. Chiodo indicated that the one-hour session is typically fifty minutes with the claimant and ten minutes for charting. Dr. Chiodo further opined that a total of four hours would be considered reasonable and necessary for a progress report, and \$200.00 would be considered reasonable and necessary for the OCF-18 completion.
- [11] Based on Dr. Chiodo's recommendations, the plan was approved in the amount of \$2,593.76. The plan was approved for twelve counseling sessions at

\$149.61/hour (\$1,795.32), four hours for a progress report (\$598.44), and \$200.00 for completion of the OCF-18.

- [12] The applicant relies on the s. 25 assessment conducted by Dr. Papazoglou on September 8, 2023. Dr. Papazoglou based his assessment on a virtual and then telephone interview (due to a poor connection), the applicant's presentation and self-report, behavioural observations and psychometric testing. The applicant reported that she was involved in a previous accident in 2019, sustained injuries, attended physiotherapy, and was recovering and "almost back to normal" when the subject accident occurred. She reported no history of mental health problems prior to the accident. As a "direct consequence of the accident and its sequelae," Dr. Papazoglou diagnosed her with adjustment disorder (with mixed anxiety and depressed mood), specific (isolated) phobia (driving/passenger), and somatic symptom disorder with predominant pain. Dr. Papazoglou indicated that the applicant was interested in psychological treatment and hoped that the treatment could help her regain her previous level of functioning and stabilize her mood. Dr. Papazoglou recommended twelve 1.5-hour sessions.
- [13] I prefer Dr. Chiodo's report to Dr. Papazoglou's for the following reasons. Dr. Papazoglou did not review any of the applicant's medical documentation as part of the assessment. Dr. Chiodo reviewed documents and medical records in relation to the applicant's previous accident on September 20, 2018, as well as in relation to the subject accident, and I find that his opinions were based on a complete picture of the applicant's medical history.
- [14] For example, Dr. Chiodo pointed out that, although the applicant denied having a history of psychological conditions prior to the subject accident, a psychological assessment report dated October 30, 2019 detailed significant psychological concerns related to the 2018 accident, including diagnoses of adjustment disorder with mixed anxiety and depressed mood, and specific phobia – situational phobia. Dr. Chiodo indicated that he asked the applicant at least twice about whether she had any psychological concerns stemming from the 2018 accident, and she maintained her denial consistently. Dr. Chiodo recommended twelve one-hour weekly treatment sessions, given his finding that the applicant's adjustment disorder was "partially" related to the accident.
- [15] I find that Dr. Papazoglou's recommendation for twelve 1.5-hour sessions of counselling is based on his assessment and diagnoses that he finds are "as a direct consequence of the accident and its sequelae," without having the knowledge that the applicant had been diagnosed with adjustment disorder with

mixed anxiety and depressed mood, and specific phobia – situational phobia on October 30, 2019 in relation to a 2018 accident.

- [16] Since Dr. Papazoglou did not review any of the applicant's medical documentation, I find that his opinions and recommendations were made based in part from the applicant's self report that she had no history of mental health problems prior to the accident, which is inconsistent with the medical documentation reviewed by Dr. Chiodo. Further, although Dr. Papazoglou discussed the type of treatment that would benefit the applicant, there was no explanation with respect to why 1.5-hour sessions were recommended as opposed to the conventional one-hour sessions.
- [17] The applicant does not direct me to any further evidence with respect to why twelve 1.5-hour sessions, or the remainder of the plan in dispute, is reasonable and necessary.
- [18] For these reasons, I find that the applicant has not met her onus to demonstrate on a balance of probabilities that the remainder of the plan dated September 28, 2023 for psychological services is reasonable and necessary.

The applicant is not entitled to the plan for physiotherapy services

- [19] The applicant has not met her onus to prove on a balance of probabilities that the plan for physiotherapy services is reasonable and necessary.
- [20] The plan dated January 24, 2023 was proposed by Dr. Nilav Bhowmik, chiropractor. The plan proposes education, promoting health and preventing disease, twelve sessions of chiropractic treatment, six sessions of massage therapy, a hot/cold gel pack, a back support with a rigid shell, total body assessment, a cervical pillow, pain relief cream, and six sessions of acupuncture. The goals of the plan are pain reduction, increased range of motion, and to return to activities of normal living.
- [21] The applicant submits that, as a result of a prior motor vehicle accident in 2019, she sustained injuries, attended physiotherapy, and was nearing full recovery, before the subject accident aggravated her condition significantly.
- [22] The applicant cites several Tribunal decisions where treatment plans were held to be reasonable and necessary. I am not bound by other decisions of the Tribunal. In any event, I do not find these to be helpful since the applicant does not make submissions with respect to how these decisions apply or are relevant to her case.

- [23] The applicant submits that the treatment plan is reasonable and necessary because her impairments have substantially impacted her life and her impairments are well documented in expert reports, treatment forms, and the CNRs of all treating practitioners.
- [24] The applicant refers to the following evidence of her accident-related physical injuries.
- [25] On July 19, 2021, at the hospital, the applicant reported significant lower back pain radiating above both glutes, and upper shoulder pain. On July 27, 2021, the applicant submits that she reported neck and back pain to her family physician, Dr. Salib Ashraf, and that Dr. Ashraf recommended physiotherapy and prescribed Celebrex and Tylenol 3. On April 24, 2023, the applicant had an appointment with Dr. Mohamed Shalaby, physician at Good Doctors Medical Clinic (“Good Doctors”), reporting that she continued to suffer from severe, accident-related lower back pain, left shoulder pain, and numbness in her left hand and leg. The applicant was referred to a pain clinic. There is a notation that she was 31 weeks pregnant.
- [26] On June 20, 2023, the applicant had an appointment with Bryan Olivares, IMG, from Good Doctors, and reported that she continued to suffer from severe mid and lower back pain rated at 10/10 and persisting for over two years. On January 8, 2024, the applicant attended an appointment at Newmarket Pain Clinic, reporting that she continued to suffer from lower back pain. She was diagnosed with myofascial pain, mechanical low back pain, and chronic pain syndrome. Several treatment modalities were recommended, including physiotherapy, aqua therapy, yoga, Tai Chi, acupuncture, chiropractic care, and massage therapy.
- [27] In March of 2024, the applicant submits that during an appointment with Dr. Wijdan Fadholi, physician, she reported that she continued to suffer from debilitating lower back pain from the accident, and that Dr. Fadholi diagnosed her with mechanical and myofascial pain syndromes, and chronic pain syndrome. On June 18, 2024, the applicant reported to Dr. Fadholi that she continued to suffer from persistent, severe lower back pain. On July 23, 2024, Dr. Fadholi diagnosed the applicant with chronic mid to lower back pain. On August 21, 2024, the applicant reported to Dr. Fadholi that she continued to suffer from pain since the accident in the mid and lower back, hips, legs, neck, and shoulders.
- [28] The applicant submits that due to an intensive pregnancy and the need for extensive childcare thereafter, she was unable to attend appointments with Dr. Ashraf.

- [29] I note that the clinical notes and records (“CNRs”) indicate that the applicant attended appointments to see Dr. Ashraf on the following dates, with no mention of the accident or any accident-related pain: September 13, September 20, October 25, and December 22, 2021, and January 18, January 19, February 28, March 4, and March 31, 2022. The respondent submits that the applicant fails to explain why she was unable to speak to Dr. Ashraf about her accident-related issues during these frequent visits.
- [30] The applicant also refers to a prescription summary, submitting that it provides a synopsis of the medications prescribed for her accident-related physical and psychological injuries, impairments, and functional limitations.
- [31] The applicant refers to CNRs from three different clinics, submitting that she started physiotherapy within a week after the accident and currently attends sessions once weekly. I have reviewed the CNRs from the three clinics. I find that the CNRs reflect that the applicant attended for an initial assessment at HealthMax Physiotherapy Clinics on July 22, 2021, one therapy session on September 15, 2021, and a consultation on January 17, 2022. The applicant attended at 101 Physio Medical Rehabilitation Centre for an initial examination on January 24, 2023, and sessions on February 14, February 28, and March 7, 2023. Further, the applicant attended sessions at MyoDynamic Health in January, February, March, April, May, June, July, August, and October of 2024.
- [32] As outlined above, the records indicate that after the applicant attended for one therapy session in September 2021, she did not reattend for therapy until February of 2023, one year and five months later. As submitted by the respondent, the applicant has not explained this delay.
- [33] The respondent further argues that the applicant has not proven a causal link between the accident and her pain complaints two years post-accident, following the birth of her second child in 2023.
- [34] Given that the applicant did not provide evidence of reporting any accident-related pain between July 27, 2021 and April 24, 2023, a gap of almost one year and nine months, I am not satisfied on a balance of probabilities that the accident was a necessary cause of the applicant’s pain in April 2023 sufficient to meet the causation test outlined in *Sabadash v. State Farm et al.*, 2019 ONSC 1121 (CanLII). I am not persuaded by the applicant’s reference to CNRs indicating that she reported accident-related pain from April 2023 to August 2024 because the applicant attended for appointments with Dr. Ashraf nine times between July 27, 2021 and March 31, 2022, with no mention of pain or the accident.

[35] Further, I note that one of the goals of the plan in dispute is pain reduction, and I find that the following evidence suggests that her treatment to date has not achieved improvement in this area:

- i. During the applicant's appointment at Good Doctors on April 24, 2023, she reported that she had tried multiple physiotherapy appointments, chiropractic care, and massage therapy, with no improvement.
- ii. After Dr. Papazoglou's September 8, 2023 assessment, he concludes that the applicant has been receiving rehabilitation treatment, but she continues to experience a significant level of pain and physical restrictions, and there has not been a significant improvement in her experience of pain in comparison to the initial post-accident period.
- iii. On June 18, 2024, during an appointment with Dr. Fadholi, the applicant reported that since the accident, she has undergone ongoing massage, chiropractic care, and physiotherapy, yet continues to experience bilateral lower thigh pain, numbness, and sleep disruption due to pain.
- iv. On August 21, 2024, the applicant reported to Dr. Fadholi that, despite engaging in physiotherapy twice weekly and chiropractic care weekly since the accident, her back, hip, leg, neck, and shoulder pain remains uncontrolled and continues to impact her daily activities.

[36] In addition, the applicant does not direct me to evidence with respect to the reasonableness and necessity of a hot/cold gel pack, a back support with a rigid shell, or a cervical pillow. Further, I note that the applicant has not pointed to evidence or made submissions with respect to how the goals of the disputed plan would be met to a reasonable degree and how the overall costs of achieving them are reasonable.

[37] For these reasons, I find that the applicant has not met her onus to demonstrate on a balance of probabilities that the plan for physiotherapy services is reasonable and necessary.

The applicant is not entitled to the psychological assessment proposed in the plan dated September 28, 2023

[38] The applicant has not met her onus to prove on a balance of probabilities that the plan for a psychological assessment is reasonable and necessary.

- [39] The respondent refers to the EOB dated February 14, 2025, indicating that the plan dated July 25, 2023 (for a psychological assessment in the amount of \$2,460.00 that was originally at issue in this hearing) was approved.
- [40] The respondent submits that the plan dated September 28, 2023 was denied because it is for a further psychological assessment, which would be a duplication.
- [41] The applicant does not make submissions with respect to the reasonableness and necessity of a second psychological assessment.
- [42] For these reasons, I find that the applicant has not met her onus to demonstrate on a balance of probabilities that the plan for a psychological assessment dated September 28, 2023 is reasonable and necessary.

Interest

- [43] Interest applies on the payment of any overdue benefits pursuant to s. 51 of the *Schedule*. Since there are no overdue payments, no interest is ordered.

ORDER

- [44] For the above reasons, I find:
- i. The applicant is not entitled to the plans in dispute or to interest.
 - ii. The application is dismissed.

Released: February 19, 2026



Laura Goulet
Adjudicator