



**Citation: Ozekhome v. Co-operators General Insurance Company, 2026 ONLAT  
25-000615/AABS**

**Licence Appeal Tribunal File Number: 25-000615/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:

**Patrick Ozekhome**

**Applicant**

and

**Co-operators General Insurance Company**

**Respondent**

**DECISION**

**ADJUDICATOR:**

**Harry Adamidis**

**APPEARANCES:**

For the Applicant:

Patrick Ozekhome, Applicant

For the Respondent:

Jonathan Schrieder, Counsel

**HEARD: by Videoconference:**

**January 5-9, 2026**

## OVERVIEW

- [1] Patrick Ozekhome, the applicant, was involved in an automobile accident on September 23, 2022, 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, Co-operators General Insurance Company, Insurer, and applied to the Licence Appeal Tribunal - Automobile Accident Benefits Service (the “Tribunal”) for resolution of the dispute.

## PRELIMINARY ISSUES

### ***Notice of motion dated November 26, 2025***

- [2] Prior to the hearing, the applicant filed a motion asking for the following relief:
- i. The exclusion of insurer examinations and catastrophic impairment reports.
  - ii. A finding of procedural unfairness.
  - iii. A finding of a privacy breach.
  - iv. An order for particulars of the breach.
- [3] In regard to the relief being sought in item (i) of the motion, the applicant explained that Ms. Reema Shafi, occupational therapist, conducted two in-home assessments. The first one took place on August 14, 2024 and the second assessment was on August 16, 2024. According to the applicant, the respondent only disclosed one of these two reports. He submits that various insurer examinations and catastrophic impairment reports should be excluded because they rely on the incomplete evidence of Ms. Shafi.
- [4] The respondent submitted that both of Ms. Shafi’s reports are in the respondent’s brief.
- [5] The cover page of Ms. Shafi’s Catastrophic Occupational In-Home Situational Assessment states that the assessment took place on August 14, 2024, but the body of the report states that the assessment took place on August 16, 2024.
- [6] This is consistent with Ms. Shafi’s the other report, the Occupational Therapy In-Home Functional Assessment, which states:

This Occupational Therapy Functional Assessment was completed on August 14, 2024 beginning at 10:00 AM and concluding around 4:00 PM. Subsequently, a situational assessment was completed on August 16, 2024, which began at 10:00 AM and concluded at 1:30 PM.

- [7] The cover page of the situational assessment incorrectly states that the assessment took place on August 14, 2024 and this may have caused some confusion. Even so, both the in-home functional and the situational assessment reports are in the respondent's brief. As such, I find that the applicant has not established a basis for excluding various reports of the respondent.
- [8] In regard to item (ii), the applicant submits that the Tribunal should make a finding of procedural unfairness based on the respondent's failure to consider evidence and also because it relied on the internal contradictions and errors made by the respondent's assessors. The applicant also argues that the respondent withheld disclosure.
- [9] The manner in which the respondent considers evidence when adjusting an accident benefit file is not a procedural fairness issue before the Tribunal because this does not touch on any principle of natural justice. This point is more properly dealt with when the applicant makes submissions for an award.
- [10] The applicant further submits that he did not receive various clinical notes and records of assessors as required by the Tribunal's Case Conference Report and Order dated April 29, 2025. He explained that the respondent told him that many assessors did not have any clinical notes and records. He does not accept this explanation argues that this is a basis for the Tribunal to make a finding of procedural unfairness.
- [11] The applicant has no evidence showing that the respondent has withheld disclosure. His submissions indicate that the respondent could not obtain various clinical notes and records as these documents do not exist. On the face of it, the circumstances presented by the applicant do not form the basis for a finding of procedural unfairness.
- [12] The final two items of relief in the applicant's motion relate to a privacy breach. The applicant explained that his personal medical records were sent to a provincial government office by the respondent without his consent. He asked the Tribunal to make a finding that a privacy breach occurred and to order the respondent to provide particulars of this privacy breach.

- [13] The respondent submitted that the privacy breach does not relate to any issue in dispute and falls outside the jurisdiction of the Tribunal. It confirmed that documents were sent to the wrong email address because of a typographical error. Upon realizing that this error took place, the respondent contacted the email recipient, and the recipient subsequently advised that the email was deleted. The respondent then contacted the applicant and apologized for what happened.
- [14] Quite understandably, the applicant is concerned and upset about his personal information being shared without his consent. Even so, the applicant has not persuaded me that the Tribunal has jurisdiction to grant the relief he is seeking. Section 280(1) of the *Insurance Act* gives the Tribunal the authority to resolve disputes in respect of an insured person's entitlement to statutory accident benefits. The last two items of relief do not fall within these parameters as they do not contribute to or engage the process of resolving a dispute between the parties over accident benefits. Therefore, I cannot grant the relief requested in items (iii) and (iv) of the motion.

***Notice of motion dated December 19, 2025***

- [15] The applicant filed a further motion for an order to add the issue of a treatment plan for psychological treatment that was denied on November 25, 2025. The applicant argues that this is an important matter relevant to his case.
- [16] The respondent submits that issue should not be added so late because the witness lists and documents for this proceeding have already been exchanged. Under these circumstances, the respondent argues that it has had no opportunity to prepare for this issue.
- [17] I asked the applicant to reply to the fairness concerns raised by the respondent. He provided more details on the importance and relevance of this plan but did not explain how the fairness concerns could be addressed.
- [18] I agree with the respondent. At this late stage it has not had sufficient notice to meaningfully address the disputed treatment plan. Consequently, I denied this motion as it would be procedurally unfair to add this issue.

**ISSUES**

- [19] The issues in dispute are:
1. Has the applicant sustained a catastrophic impairment as defined by the *Schedule*?

2. Is the applicant entitled to attendant care benefits in the amount of \$10,328.00 per month from September 5, 2023 to date and ongoing?
3. Is the applicant entitled to \$5,354.67 for physiotherapy services, proposed by Focus Physiotherapy Bolton Inc. in a treatment plan/OCF-18 ("plan") dated September 4, 2023?
4. Is the applicant entitled to \$1,103.50 for assistive devices, proposed by Dr. Ganesh in a plan dated November 4, 2024?
5. Is the applicant entitled to the services proposed by Dr Frank, as follows:
  - i. \$3,100.00 for a Psychological Assessment, in a plan dated August 17, 2023; and
  - ii. \$5,668.28 for Psychological services, in a plan dated October 15, 2023?
6. Is the applicant entitled to the services proposed by FunctionAbility Rehabilitation Services, as follows:
  - i. \$3,392.04 for Occupational Therapy services, in a plan dated January 23, 2024;
  - ii. \$3,392.04 for Occupational Therapy services, in a plan dated September 5, 2023;
  - iii. \$99.75 for Administration fees, in an OCF-21 dated September 28, 2023?
7. Is the applicant entitled to the services proposed by Q Medical, as follows:
  - i. \$2,513.12 for a Chronic Pain Assessment, in a plan dated May 25, 2023;
  - ii. \$2,260.00 for an Attendant Care Assessment, in a plan dated March 16, 2023;
8. Is the applicant entitled to reimbursement for the following pharmaceutical and Personal Support Worker expenses, submitted on separate claim forms (OCF-6) as follows:
  - i. \$183.48, dated February 13, 2023;

- ii. \$8,677.76, dated August 10, 2023;
- iii. \$1,300.00, dated September 14, 2023;
- iv. \$5,456.00 dated January 18, 2024;
- v. \$10,846.93 (\$10,935.19 less \$88.26 approved) dated December 14, 2023;
- vi. \$11,031.38 (\$11,054.04 less \$22.71 approved) dated April 19, 2024;
- vii. \$2,464, dated June 4, 2024;
- viii. \$7,722, dated July 15, 2024;
- ix. \$10,828.10, dated September 20, 2024;
- x. \$8,426.00, dated October 18, 2024;
- xi. \$2,464.00, dated June 4, 2024;
- xii. \$2,288.00, dated December 2, 2024;
- xiii. \$5,434.00, dated February 7, 2025; and
- xiv. \$5,726.00, dated February 7, 2025?

9. Is the respondent liable to pay an award under s. 10 of Reg. 664 because it unreasonably withheld or delayed payments to the applicant?

10. Is the applicant entitled to interest on any overdue payment of benefits?

## RESULT

[20] The applicant is not catastrophically impaired in accordance with the *Schedule*.

[21] He is not entitled to attendant care, the treatment plans, expense claims, nor interest.

[22] The respondent is not liable to pay an award.

## PROCEEDURAL ISSUES

- [23] The applicant is a self-represented lay person with mental and behavioural limitations. Throughout the hearing, he required various accommodations such as queuing, redirection, frequent breaks, and the repetition of instructions.
- [24] He was offered the opportunity of converting this matter to a written hearing in order to better facilitate meaningful participation in the hearing under less stressful circumstances. He declined this offer and insisted on having an oral hearing.

## ANALYSIS

### *Catastrophic impairment*

#### *Criterion 4*

- [25] The applicant is not catastrophically impaired (CAT) under Criterion 4.
- [26] The three prong test to establish a Criterion 4 impairment is set out in section 3.1(4) of the *Schedule*:
- 3.1(4) If the insured person was 18 years of age or older at the time of the accident, a traumatic brain injury that meets the following criteria:
- i. The injury shows positive findings on a computerized axial tomography scan, a magnetic resonance imaging or any other medically recognized brain diagnostic technology indicating intracranial pathology that is a result of the accident, including, but not limited to, intracranial contusions or haemorrhages, diffuse axonal injury, cerebral edema, midline shift or pneumocephaly.
  - ii. When assessed in accordance with Wilson, J., Pettigrew, L. and Teasdale, G., *Structured Interviews for the Glasgow Outcome Scale and the Extended Glasgow Outcome Scale: Guidelines for Their Use*, *Journal of Neurotrauma*, Volume 15, Number 8, 1998, the injury results in a rating of,
    - A. Vegetative State (VS or VS\*), one month or more after the accident,

B. Upper Severe Disability (Upper SD or Upper SD\*) or Lower Severe Disability (Lower SD or Lower SD\*), six months or more after the accident, or

C. Lower Moderate Disability (Lower MD or Lower MD\*), one year or more after the accident.

- [27] Establishing CAT requires the insured person to be 18 years old, or older, at the time of the accident, to have imaging with findings of intercranial pathology, and to also have any one of the three ratings under 3.1(4)(ii).
- [28] Section 45(2)(1) of the *Schedule* requires assessments for CAT determinations to be made by physicians. For Criterion 4, this means that a rating under s.3.1(4)(ii) must be made by a physician.
- [29] The applicant submits that the information provided in Ms. Shafi's occupational therapy assessments establishes that he is catastrophically impaired under Criterion 4.
- [30] The respondent did not make submissions on Criterion 4.
- [31] The applicant meets the first prong of a Criterion 4 CAT determination because was greater than 18 years of age at the time of the accident.
- [32] The second prong of Criterion 4 requires imaging showing intercranial pathology. The applicant has not pointed me to any imaging that shows he meets the second prong for a Criterion 4 CAT determination. Even if such imaging exists, he still requires a rating under s. 3.1(4)(ii) by a physician to meet the third prong. No such evidence is before me.
- [33] Consequently, I find that the applicant is not CAT as he has not established that he meets the second and third prongs of the Criterion 4 test.

### **Criterion 8**

- [34] The applicant is not catastrophically impaired under Criterion 8.
- [35] A catastrophic impairment under Criterion 8 results when an insured person sustains three or more Class 4, Marked impairments or one or more Class 5, Extreme impairments from an accident pursuant to the American Medical Association's Guides to the Evaluation of Permanent Impairment, 4th edition (the "Guides") due to a mental or behavioural disorder. The four areas of function in

Criterion 8 are the activities of daily living (“ADL”), social functioning, concentration, persistence and pace (“CPP”), and adaptation.

[36] The Guides set out the five levels of impairment, ranging from a Class 1 No Impairment to a Class 5 Extreme Impairment, as noted in the chart below:

<b>Area or Aspect of Functioning</b>	<b>Class 1: NO Impairment</b>	<b>Class 2: MILD Impairment</b>	<b>Class 3: MODERATE Impairment</b>	<b>Class 4: MARKED Impairment</b>	<b>Class 5: EXTREME Impairment</b>
Activities of Daily Living	No impairment is noted	Impairment levels are compatible with most useful functioning	Impairment levels are compatible with some, but not all useful functioning	Impairment levels significantly impede useful functioning	Impairment levels preclude useful functioning
Social Functioning					
Concentration, Persistence and Pace					
Adaption					

***Activities of daily living (ADL)***

[37] I find that the applicant does not have a ratable impairment in ADL.

[38] This area of functioning evaluates a person’s ability to engage in activities such as self-care, personal hygiene, communication, ambulation, travel, sexual function, sleep, and social and recreational activities. The quality of these activities is judged by their independence, appropriateness, effectiveness and sustainability. It is necessary to define the extent to which the individual is capable or initiating and participating in these activities independent of supervision or direction. What is assessed is not simply the number of activities that are restricted, but the overall degree of restriction or combination of restrictions.

[39] The applicant argues that he was a high functioning person before the accident, and that the accident caused either a marked or extreme impairment in all areas of function.

[40] The respondent submits there are no medical opinions in evidence that say the applicant is catastrophically impaired as a result of the accident, and thus, he cannot be found to be catastrophically impaired. It further submits that the applicant was already seriously impaired and that there is no evidence showing he worsened after the accident. The respondent made no submissions on specific ratings for any area of function.

- [41] I note that the respondent has put into evidence the Independent Psychiatric Assessment Catastrophic Determination, dated February 21, 2025, of Dr. Sivasubramanian, psychiatrist, which provides Criterion 8 ratings for mental and behavioural impairments. He makes these ratings using the apportionment method from section 2.3 of the *Guides*. He rates the applicant as having a Class 2 – Mild impairment in the ADL, concentration persistence and pace, and adaptation, and a Class 1 – No impairment rating for social functioning. I agree that it is possible to rate the applicant in this way. However, I have not used the same method for my analysis because, in my view, it is more accurate and correct to consider the applicant's actual level of impairment before the accident and determine if this level changed after the accident.
- [42] I also note that the applicant did not provide any s.25 reports with catastrophic impairment ratings.
- [43] The applicant, and his spouse, testified that he was in an earlier accident in 2016 which caused mental and behavioural impairments, but by 2020 he was fully recovered and had returned to a high level of functioning. Both witnesses stated that he was working in computer repair, was independent with self care and household duties, and that he was also engaged in various leisure and social activities such as playing chess and attending church. They further testified that since the accident he can no longer do any of these things.
- [44] This testimony is inconsistent with the applicant's medical records which show that his mental health issues became progressively worse after 2020 and caused a serious decline in his ability to function prior to the subject accident.
- [45] The Medico-Legal Report dated December 18, 2019 of Dr. Jeffries, psychiatrist, is an insurer examination whose purpose is to determine if the applicant's mental and behavioural impairments were caused by a June 13, 2016 MVA. Dr. Jeffries goes through numerous medical reports and concludes that the applicant's mental health issues began after an earlier October, 2014 MVA. He explains that things became worse after the 2016 accident, when the applicant began to have auditory and visual hallucinations. Dr. Jeffries considers the characteristics of these psychotic symptoms and opines that the applicant may have organic brain disease and that his symptoms may not be related to the 2016 MVA. He notes that the applicant has thought disorder, emotional disinhibition, and mood volatility. He further opines that the applicant is unfit for work and in need of ongoing psychiatric care.
- [46] The letter of Dr. Vasdev, the applicant's treating psychiatrist, dated September 29, 2020, states that the applicant experiences anger outbursts, intermittent

psychotic symptoms, a decline of function, and that he is unable to return to work.

- [47] The most promising evidence, in terms of his mental health and ability to function prior to the subject accident, are found in a clinical note of Dr. Vasdev, dated May 20, 2021. The applicant reports that he buys food for himself, goes for walks, speaks with a friend on the phone, is managing his finances, and is able to keep a structure and routine for himself. He also told Dr. Vasdev that he continues to hear voices, but is able to ignore these hallucinations.
- [48] A few months later, in a clinical note dated November 16, 2021, Dr. Vasdev documents worsening symptoms. The applicant reports feeling more distressed. He expressed a fear that someone is coming into his home. He also described vivid dreams and nightmares that are bothersome to him.
- [49] It appears that the applicant continued to deteriorate and became highly dysfunctional. Dr. Vasdev completed a Disability Tax Credit Certificate on January 7, 2022. This was nine months before the subject accident. It states that the applicant acquired a brain injury in the 2016 MVA that caused various impairments:
- requires the support of a personal support worker (PSW) for supervision, meals, and checking-in.
  - has moderate to severe difficulties with expressing basic needs, exhibiting socially appropriate behaviour, basic impulse control, performing necessary everyday tasks, performing basic hygiene or self care activities, initiating common simple transactions, and going out into the community.
  - Has moderate difficulties remembering simple instructions, and remembering material of importance and interest to him.
  - Has moderate to severe difficulties making and carrying out simple day-to-day plans and reacting appropriately to unfamiliar situations.
  - Has “anger/temper outbursts due to brain injury”, “needs reminders for tasks/functions”, “has had psychotic symptoms”, “mostly stays in bed.”
  - Dr. Vasdev also checked off a box indicating that the applicant is unable to perform mental functions necessary for everyday life or takes an

inordinate amount of time compared to someone of a similar age without an impairment.

- [50] The applicant submits that the information on this form is for previous tax years, before he recovered from the 2016 accident. I do not agree. This form covers the period from 2016 until the time it was completed in 2022, but it is also forward looking. On page 13 of the form, question 11 asks if the applicant is likely to improve. Dr. Vasdev checked the “no” box. In doing so, Dr. Vasdev makes clear that the applicant was experiencing serious mental and behavioural symptoms in 2022 and would likely continue to experience these symptoms into the future.
- [51] The applicant’s pre-accident mental and behavioural symptoms were also confirmed by Dr. Chaudhary, his family doctor, in a Severe Disability Benefit Medical Report completed on September 8, 2022 which states:
- He does not expect the applicant to work in any type of employment (with or without accommodation and supports) now or in the future.
  - The applicant has psychosis, secondary to a 2016 brain injury.
  - The applicant has “anger/temper outbursts due to brain injury” “he constantly needs reminders for tasks/functions” “he mostly stays in bed and has psychotic symptoms.”
- [52] The applicant describes this document as an administrative form and argues that it is not relevant. I agree that the form has an administrative purpose in relation to his student loan. However, the form asks Dr. Chaudhary to describe the applicant’s limitations and to provide a medical opinion on the permanence of those limitations. As such, this form is relevant because it provides a doctor’s opinion on the applicant’s functional limitations just 15 days before the accident.
- [53] Neither the applicant nor his spouse could explain why there are two contrasting images of the applicant; the highly functional person in their testimony and the highly impaired person in the medical records. As no explanation has been provided for this inconsistency, I give more weight to the medical records because these records are contemporaneous with the period before the subject accident and also because these records are completed by doctors who examined the applicant and are qualified to opine on his limitations.
- [54] The applicant relies on the opinion of Dr. Wagg, a psychiatrist who treated him after the subject accident. She testified that he was functioning well until the 2022 accident caused his current psychological impairments. In cross-examination, Dr.

Wagg agreed that she did not have all of Dr. Vasdev's clinical notes, nor did she have the clinical notes of the applicant's family doctor. She further testified that her opinion on the applicant's pre-accident functioning is based on his self-report and the incomplete clinical notes of Dr. Vasdev. Consequently, I do not give weight to Dr. Wagg's opinion on causation because she formed this opinion without knowing about the medical evidence that contradicts the applicant's self-reported high level of functioning prior to the subject accident.

[55] The applicant argues that his income tax returns prove that he was working before the 2022 accident. I reviewed the applicant's income tax documents which consist of Income Tax and Benefit Returns (T1) for 2018, 2019, and 2022 and his Notice of Assessments (NOA) for 2020-2022. Based on these documents, the following is a breakdown of his reported income:

- 2018: \$9,927.48 income from interest and investment income (Line 121) and capitol gains (Line 127). No employment or other income was reported.
- 2019: \$29,000 business income (Line 13500). No employment or other income reported.
- 2020: \$43, 791 income. \$24,000 employment income, \$20,000 other income, and a business loss of \$209. He reports receiving \$412,852.49 (Line 13199) from the sale of stocks and mutual funds which results in a loss of \$3,038.57 (Line 13200).
- 2021: \$144,237 income. \$120,000 from employment. \$21,600 other income. \$2,636.00 taxable scholarship income. \$1 business income. He reports receiving \$3,308,771.91 (Line 13199) from the sale of stocks and mutual funds which results in a loss of \$38,182.62 (Line 13200).
- 2022: \$65,300 income. \$33,000 employment income. \$3,300 other income. \$29,000 business income. He reports receiving \$14,969,531.29 (Line 13199) from the sale of stocks and mutual funds which results in a loss of \$92,212.30 (Line 13200).

[56] These documents confirm that the applicant received employment and business income, of varying amounts, from 2020 to 2022. However, the nature of the work and specific details on how he derives income are not shown on the tax forms. This is significant because the medical evidence shows that he was not functioning well during this period. He had declined to the point where he was experiencing psychotic symptoms and required PSW support. More importantly,

two treating physicians, Dr. Patel and Dr. Vasdev, opined that the applicant was unable work during these years. Consequently, I find that he tax forms are not persuasive because they give no insight into how he could work despite having the severe limitations noted in his medical records.

- [57] The applicant was assessed by Ms. Vogiatzis, occupational therapist, after the subject accident. Her s. 44 in-home assessment took place on October 10, 2023. In terms of useful functioning in the area of the ADL, she reports that the applicant is able to independently wash his face and brush his teeth, and change his clothes before he goes out. He checks what his PSW has written on the white board in order to prepare for the day and to know if he has any appointments. The report also states that the applicant waits for his PSW to assist him with his meal preparation, but if he is hungry, then he may warm something up for himself.
- [58] In testimony, she also opined that the applicant requires supervisory care because of safety concerns. She provides the example of the applicant creating a safety issue by placing weights against the front door of his home. He blocked the front door because he feared someone was coming after him. She further testified that the applicant needs someone to cook meals because he cannot safely operate the stove.
- [59] The applicant was also assessed by Ms. Reema Shafi, occupational therapist, who wrote a s.44 report titled Occupational Therapy In-Home Functional Assessment – Catastrophic Determination, and dated February 21, 2025. In this report, the applicant confirms that he can complete various grooming tasks and feeding with verbal reminders. Ms. Shafi confirms the use of the whiteboard for reminders. In regard to completing household tasks such as cleaning, cooking, and laundry, the applicant advised that he can do some these things but relies on the assistance of others.
- [60] The limitations described by Ms. Vogiatzis and Ms. Shafi are similar to what is noted the pre-accident medical records. Both show a limited ability to complete the ADL. Both also show that he requires cuing, and assistance with various household tasks. In my view, the applicant had a Marked, Class 4 impairment in the ADL prior to the subject accident and continued to have the same level of functional impairment after the MVA.
- [61] As the applicant's impairment level did not change after the subject accident, I find that this accident did not cause a rateable impairment in the ADL.

## ***Social functioning***

- [62] I find that the applicant does not have a ratable impairment in social functioning.
- [63] Social functioning refers to an individual's capacity to interact appropriately and communicate effectively with others. This includes the ability to get along with family members, friends, neighbours, grocery clerks, landlords, and other members of the public.
- [64] The following are examples illustrate that the applicant had significant impairments in interacting appropriately with people prior to the accident:
- “Patrick shared that he got into a physical altercation with a stranger at the bus stop yesterday.” – From the clinical note of Dana Brommersma, social worker, dated December 19, 2017.
  - “states he was at one point getting into a lot of fights out in the public so he has a personal support worker with him 5 hours per day ‘which is less than before’” – From a clinical note of Kathy Shaule, registered nurse, dated March 9, 2018.
  - “He remains a bit fixated on a negative experience he had with his previous family physician, when he lost his temper and became very angry in her office. He is quite concerned this was unfair and he is feeling distressed about being discharged from her practice.” – From a clinical note of Dr. Vasdev, dated November 5, 2020.
- [65] Dr. Chaudhary documented “anger/temper outbursts due to brain injury” in the Severe Disability Benefit Medical Report which was completed shortly before the subject accident. In light of this evidence, I find that the applicant had a Class 4 - Marked impairment in social functioning prior to the subject accident.
- [66] Post accident, Ms. Vogiatzis writes in her assessment that the applicant feels he overreacts and gets easily upset. He believes that this is the reason his family and friends have left him. He further reported becoming easily agitated, and screaming or shouting at others even when he does not intend to do so.
- [67] There are also examples that demonstrate some capacity for useful functioning, such as his appropriate interactions with various treatment providers and assessors. I also note that during the hearing there were times when the applicant became upset at respondent's counsel. However, he was also able to take direction from the Tribunal, and refocus himself in a constructive manner.

[68] The applicant has some ability to interact appropriately with others. The description of his functioning in Ms. Vogiatzis' assessment shows impairments that significantly impede useful functioning. This results in a Class 4 – Marked impairment rating. However, as I have found above, he already had a marked impairment in social functioning before the accident. Consequently, I find that he does not have a ratable impairment in social functioning as his level of functioning did not change after the accident.

### ***Concentration, persistence and pace (CPP)***

[69] I find that the applicant does not have a Class 5 – Extreme impairment in CPP.

[70] CPP refers to the ability to sustain focused attention long enough to permit the timely completion of tasks commonly found in work settings. In activities of daily living, concentration may be reflected in the ability to complete everyday household tasks.

[71] In her assessment, Ms. Vogiatzis observed that the applicant has compromised memory and judgement. He had difficulty maintaining focus and in conversation would go off topic. He also reported hallucinations of seeing people who are not there. However, she also documents some useful functioning in the area of CPP. For example, the applicant can independently do things such as washing his face, brushing his teeth, changing his clothes when leaving the house, reviewing whiteboard notes made by his personal support worker to prepare for his day and know whether he has appointments. This is a low level of useful functioning in the area of CPP, but also establishes that he is not precluded from some useful functioning, and therefore, does not have an extreme impairment in CPP.

### ***Adaptation***

[72] I find that the applicant does not have a Class 5 – Extreme impairment in adaptation.

[73] Adaptation is the functional ability to adapt to stressful situations. When faced with such circumstances, an individual may withdraw or experience an exacerbation of signs and symptoms of a mental disorder.

[74] In her s.44 report, Ms. Shafi opines that “Despite self-limiting engagement in tasks, his reported and observed ability to respond and modify in response to simulated and naturally occurring stressful scenarios was assessed to be adequate.” However, she does not give any specific examples to provide insight

into this opinion. As such, her report is not helpful in understanding the applicant's impairment level in the area of adaptation.

- [75] Dr. Sivasubramanian's opinion also is not helpful. He agrees with Ms. Shafi but does not explain how he reached his rating on adaptation.
- [76] There is little evidence which speaks directly to the applicant's post-accident ability to adapt to stressful situations. Part of this may be attributed to his day to day low level of functioning which typically does not require him to adapt to stressful circumstances.
- [77] The clinical notes of Dr. Wagg document that one of the biggest stressors in the applicant's life is the disappointment he feels in his mental and behavioural limitations. Despite this stress, there is some evidence that shows he has taken steps to adapt to the reality of his functional limitations. For example, receiving the assistance of PSWs and the use of a whiteboard to provide him with reminders of what he must do on a particular day. I also note that there is no evidence showing that he routinely withdraws from most situations, or has an inability to respond to the stressors of he day to day life. In fact, the final clinical note of Dr. Wagg, dated April 4, 2024, states that the applicant has suffered financial losses, loss of independence, and loss of work and relationships, but remains motivated "to pursue help in order to improve and restore his mental and physical well-being." This shows that the applicant has not been overwhelmed by his difficult circumstances. Instead of withdrawing, he continues to take on the struggle of accessing treatment. In my view, these factors show that the applicant has some functional ability in the area of adaptation, and as such, I find that he does not have a Class 5 – Extreme impairment in adaptation.
- [78] As noted above, an insured person must have 3 marked impairments or 1 extreme impairment to be found catastrophically impaired under Criterion 8. Having found that the applicant has no ratable impairment in the ADL and social functioning and no Class 5 – Extreme impairment in CPP and adaptation, I further find that he is not catastrophically impaired under Criterion 8.

#### ***Attendant care benefit (ACB)***

- [79] I find that the applicant is not entitled to an ACB.
- [80] Section 19 of the Schedule states that an insurer shall pay for all reasonable and necessary expenses incurred by or on behalf of an insured person as a result of an accident for attendant care services (ACBs) provided by an aide or attendant. Section 42(1) of the Schedule provides that an application for ACBs must be in

the form of, and contain the information required to be provided in, the version of the document entitled Assessment of Attendant Care Needs (“Form-1”).

- [81] The applicant relies on the Form 1 by Ms. Vogiatzis dated October 10, 2023. She recommended attendant care for maintaining control of the applicant’s medication, co-ordinating attendant care, basic supervisory care, ensuring comfort and safety, supervising walks, and meal preparation. All of these recommendations are made because of his mental and behavioural impairments.
- [82] In my view, the recommendations made by Ms. Vogiatzis address pre-existing impairments. For example, she recommends 24 hour supervisory care, less the other time that has been allotted. She explains in her report that this is necessary because the applicant has poor judgement and difficulty with decision making. She provides the example of his apartment being filled with smoke when she arrived because he left food on the stove and forgot about it. She also references the applicant’s hallucinations and how he created a safety hazard by barricading his front door with weights to prevent people from entering his home. I agree that these are valid reasons to recommend attendant care. However, the applicant has not shown that his attendant care needs are the result of an accident-related injury. His functional limitations, including poor judgement and hallucinations, are pre-existing conditions that also necessitated supervision. This was noted by Dr. Vasdev, who opined in his Disability Tax Credit Certificate, dated January 7, 2022, that the applicant needed PSW support for checking-in.
- [83] For these reasons, I find that the applicant’s attendant care needs are rooted in impairments that pre-date the accident. Consequently, I find that he is not entitled to attendant care.

***Treatment plans and expense claim forms***

- [84] The applicant is not entitled to the treatment plans and expense claims.
- [85] To receive payment for a treatment and assessment plan under s. 15 and 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.

[86] There are numerous treatment plans and expense claim forms in dispute. The applicant submitted that he needs this treatment. However, he did not identify the goals of treatment, how the goals would be met, and the reasonableness of the costs for any of the plans or expense claims. As such, there is no basis to find that he is entitled to these benefits.

***Interest***

[87] Interest applies on the payment of any overdue benefits pursuant to s. 51 of the *Schedule*. As no benefits are overdue, the applicant is not entitled to interest.

***Award***

[88] The applicant sought an award under s. 10 of Reg. 664. Under s. 10, the Tribunal may grant an award of up to 50 per cent of the total benefits payable if it finds that an insurer unreasonably withheld or delayed the payment of benefits.

[89] As there are no benefits owing, there is no basis to find that the respondent is liable to pay an award.

**ORDER**

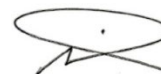
[90] The applicant is not catastrophically impaired.

[91] He is not entitled to attendant care, treatment plans, expense claims, nor interest.

[92] The respondent is not liable to pay an award.

[93] This application is dismissed.

**Released: June 23, 2026**



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**Harry Adamidis  
Adjudicator**