



Citation: Thomas v. Aviva Insurance Company of Canada, 2026 ONLAT 25-003502/AABS

Licence Appeal Tribunal File Number: 25-003502/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:

Jeanine Thomas

Applicant

and

Aviva Insurance Company of Canada

Respondent

DECISION

ADJUDICATOR:

Jeff Chatterton

APPEARANCES:

For the Applicant:

John Chui, Paralegal

For the Respondent:

Jordan Hochman, Counsel

HEARD: In Writing

OVERVIEW

- [1] Jeanine Thomas, the applicant, was involved in an automobile accident on July 27, 2020, 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, Aviva 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 \$1,212.63 (\$3,610.50 less \$2,397.87 partially approved) for psychological services, proposed by Complete Rehab Centre in a treatment plan/OCF-18 (“plan”) dated June 14, 2024?
 - ii. Is the applicant entitled to \$6194.88 for chiropractic services, proposed by Complete Physio & Sports Rehab in a plan dated December 11, 2023?
 - iii. Is the applicant entitled to interest on any overdue payment of benefits?

RESULT

- [3] The applicant has not met her onus to demonstrate entitlement to the treatment plans in dispute.
- [4] No interest is payable.
- [5] The application is dismissed.

ANALYSIS

Is the applicant entitled to the partially denied amount for psychological services?

- [6] The applicant has not met her onus to demonstrate entitlement to the remainder of the treatment plan for psychological services.

- [7] 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.
- [8] In dispute is an OCF-18 calling for 14 counselling sessions to treat adjustment disorders and phobias, to address the stated goal of a return to the activities of a normal life.
- [9] The applicant submits that the OCF-18 was reasonable and necessary, arguing that she continues to require ongoing psychotherapy treatment and has continued to seek treatment despite the denials from the respondent.
- [10] The respondent argues they approved 14 sessions of therapy, but that the dispute over the partially denied amount rests with the hourly rates to be paid to the treatment providers.
- [11] The respondent refers to the Professional Services Guideline, and submits that the applicant has claimed an amount which exceeds the guideline standards. Specifically, the applicant has claimed an hourly amount of \$149.61, which is the standard hourly rate for a Psychologist. However, the counselling services are to be provided by a Psychotherapist, not a Psychologist, and in response, the respondent has offered \$99.75 per hour.
- [12] The respondent also disagrees with the treatment provider's request for \$600 for documentation support activities, and has offered an alternative of two hours at \$99.75 per hour.
- [13] I have reviewed the Explanation of Benefits letter sent to the applicant, dated June 26, 2024, and find that the letter clearly identifies what the respondent agrees to pay for and what the respondent has denied.
- [14] The Explanation of Benefits letter was provided with the applicant's evidence, which indicates they were aware of the reasons provided by the respondent for the partially denied amounts. However, in the applicant's submissions, the applicant was silent as to why they disagree with the respondent's decision.

- [15] I have not been provided with any submissions or arguments as to why a higher hourly amount than that stipulated in the Professional Services Guideline is necessary, nor why the applicant requires the additional funding for documentation support activities.
- [16] The applicant bears the onus to prove that all of the line items in the treatment plan are reasonable and necessary. In the absence of any submissions from the applicant on the discrepancy of the hourly rate or the documentation support activities, I find she has not, on the balance of probabilities, met her onus to demonstrate entitlement to the remainder of the treatment plan for psychological services.

Is the applicant entitled to physiotherapy?

- [17] The applicant has not met her onus to establish that the treatment plan is reasonable necessary, and is not entitled to the physiotherapy services.
- [18] In dispute is an OCF-18 dated December 11, 2023, calling for 80 physiotherapy and hyperthermy sessions with Physiotherapist Denish Tamakuwala, intended to reduce pain, increase range of motion and increase strength, with a stated goal of a return to the activities of normal living.
- [19] The applicant submits that the treatment plan is reasonable and necessary, but she states only that her physiotherapist, Denish Tamakuwala, opines that she needs extended time for her symptoms and dysfunction to resolve. She did not provide submissions as to any other reason why she required more time, point to corroborating medical evidence, or provide any additional rationale as to why the OCF-18 is reasonable and necessary.
- [20] The applicant refers to an Orthopedic Assessment Report, dated 18 months earlier (June 11, 2022) where Orthopedic Surgeon Dr. Michael West diagnosed the applicant with sprain and strain type injuries, as well as chronic pain syndrome. Dr. West recommended a chronic pain management program, as well as a number of assessments.
- [21] The respondent denied the OCF-18, stating that the applicant has “achieved maximal medical improvement.” In the respondent’s submissions and in the Explanation of Benefits letter dated April 17, 2024, the respondent relies upon the s. 44 Physician’s Assessment Report conducted by GP Dr. Ijaz Chaudhry on April 3, 2024. Dr. Chaudhry opines that the applicant has achieved maximal medical recovery and that further physiotherapy would not prove beneficial.

- [22] I find that the applicant has not met her onus to prove that the proposed physiotherapy treatment is reasonable and necessary. While I do note that the applicant provided a s. 25 report indicating she was suffering from chronic pain syndrome, this report predates the OCF-18 by 18 months, and therefore not contemporaneous to the issue in dispute. The OCF-18 in dispute also references multiple sessions of physio and hyperthermy therapy, but it is unclear if this is directly related to Dr. West's recommendations as part of the 'chronic pain management program.'
- [23] While I note the applicant's physiotherapist states the applicant requires additional therapy sessions, simply stating the applicant requires more sessions is not persuasive without corroborating medical evidence to indicate why. The applicant has not directed me to any contemporaneous medical records from her family doctor to establish what her accident-related injuries were at the time the OCF-18 was submitted, and whether further physiotherapy treatment was being recommended more than three years post accident.
- [24] The onus is on the applicant to establish that the medical services in dispute are reasonable and necessary. I have not been pointed to further corroborating medical evidence to indicate that the applicant would receive benefit from further physiotherapy. I have made an effort to review the CNR's from her family physician in an attempt to review anything relevant to physiotherapy, but was unable to find any reference. Although the applicant included 422 pages of Clinical Notes and Records from her family physician, Dr. Fatima Amin-Hussain, she has not led me to a specific reference where further physiotherapy would be beneficial.
- [25] In summary, the respondent has produced a s. 44 physician's report to argue that the applicant has achieved maximal medical recovery, and that she would not receive any further benefit from ongoing physiotherapy. The applicant has not provided sufficient evidence to refute that claim.
- [26] In the absence of further corroborating evidence, I find the applicant has not, on the balance of probabilities, met her onus to demonstrate why the physiotherapy treatment plan in dispute is reasonable and necessary.

Interest

- [27] Interest applies on the payment of any overdue benefits pursuant to s. 51 of the *Schedule*. As no benefits are overdue, no interest is payable.

ORDER

[28] The application is dismissed.

[29] The applicant has not met her onus to demonstrate entitlement to the treatment plans in dispute.

[30] No interest is payable.

Released: June 17, 2026



Jeff Chatterton
Adjudicator