



Citation: Chai v. Northbridge General Insurance Company, 2025 ONLAT 23-012286/AABS

Licence Appeal Tribunal File Number: 23-012286/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:

Wen Hsuan Felix Chai

Applicant

and

Northbridge General Insurance Company

Respondent

DECISION

ADJUDICATOR: Nikisha Evans

APPEARANCES:

For the Applicant: Aylina Dhanji, Counsel

For the Respondent: Mitchell J. Barber, Counsel

HEARD: In Writing

OVERVIEW

[1] Wen Hsuan Felix Chai, (the “applicant”), was involved in an automobile accident on September 16, 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 Northbridge General Insurance Company (the “respondent) 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 \$1,249.24 for physiotherapy services, proposed by First Markham Physiotherapy and Rehabilitations in a treatment plan/OCF-18 (“plan”) submitted June 22, 2023?
 - ii. Is the respondent liable to pay an award under s. 10 of Reg. 664 because it unreasonably withheld or delayed payments to the applicant?
 - iii. Is the applicant entitled to interest on any overdue payment of benefits?

RESULT

- [3] The applicant is entitled to the disputed treatment plan.
- [4] The respondent is not liable to pay an award under s.10 of Reg. 664 because it unreasonably withheld or delayed payments to the applicant.
- [5] The applicant is entitled to interest in accordance with s.51 of the *Schedule*.

ANALYSIS

Is the applicant entitled to the disputed treatment plan?

- [6] 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.
- [7] I find that the treatment plan submitted June 22, 2023, for \$1,249.24 is reasonable and necessary.
- [8] The plan aims to reduce pain, improve strength and range of motion, support a return to normal activities and return to pre-accident work activities.
- [9] The treatment plan was submitted and signed by Donna Chan, physiotherapist. The proposed interventions include exercises targeting multiple body sites. These services are designed to address the applicant's physical impairments and functional limitations resulting from the accident.
- [10] The applicant argues that the proposed plan is reasonable and necessary because he has been diagnosed with chronic pain syndrome and has consistently reported that physiotherapy has helped relieve his symptoms. Donna Chan recommended another treatment to achieve his pre-accident state.
- [11] The applicant submitted the clinical notes and records ("CNRs") from First Markham Physiotherapy & Rehabilitation Clinic which reflected the ongoing pain complaints of the applicant for the periods September 18, 2021, to September 29, 2023. These complaints noted by Donna Chan, physiotherapist and Dr. Clement Liu, corroborate the October 10, 2021 report of Justin Moy, occupational therapist, and the OCF-18 completed by Donna Chan, physiotherapist, dated June 18, 2023. Justin Moy reported that the applicant should continue to receive ongoing physiotherapy/massage therapy/chiropractic treatment sessions. Further Mr. Moy's report, noted the applicant attended to Dr. Lim's, the family physician on September 24, 2021, and October 4, 2021, both times for examination and

prescription. Donna Chan's, clinical notes and records from October 31, 2021, to September 26, 2023, reported both the pain the applicant was experiencing and improvements as a result of the physiotherapy.

- [12] The respondent denied the treatment plan, citing Dr. Shafik Dharamshi's Insurer's Examination (IE) report dated August 17, 2023, who opined that the treatment is not reasonable and necessary because the applicant had attained maximum medical improvement from the facility-based treatment that he had already received. Further, the respondent relied on Dr. Dharamshi report where he opined that the treatment is unlikely to provide any further or incremental benefit.
- [13] I disagree with the respondent, and I am persuaded by the applicant's submissions and evidence. In reaching my conclusions, I have placed significant weight on the clinical notes and records from First Markham Physiotherapy & Rehabilitation Clinic. I also considered the clinical notes of Mr. Moy's report dated October 10, 2021. The applicant submitted clinical notes and records from Donna Chan found within the First Markham Physiotherapy & Rehabilitation clinical notes and records, from October 31, 2021, up to September 26, 2023. Donna Chan reported the applicant benefiting from the physiotherapy treatments significantly reducing the pain and improving his functional limitations.
- [14] As a result of the above and the improvements due to the physiotherapy treatments, I find on a balance of probabilities that the applicant has satisfied his onus of proof that the treatment plan for physiotherapy treatment in the amount of \$1,249.24 is reasonable and necessary for him to reach the goals outline on the OCF-18 dated June 18,2023.

Interest

- [15] The applicant is entitled to the disputed treatment plan, with interest pursuant to s. 51 of the Schedule.

Award

- [16] The applicant sought an award under s. 10 of Regulation 664. He submits that the respondent unreasonably withheld or denied the payment of the OCF-18. 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.
- [17] I find that the applicant has not established a basis for an award. Although the applicant argues that the respondent unreasonably denied the benefit, it did so on the basis of its IE reports. While I ultimately determined that the treatment plan is reasonable and necessary, I do not find the respondent's reliance on its IE assessments meets the high threshold for an award.

ORDER

- [18] For the above reasons, it is ordered that:
- i. The applicant is entitled to the disputed treatment plan, with interest pursuant to s. 51 of the *Schedule*.
 - ii. The applicant is not entitled to an award.

Released: November 19, 2025



Nikisha Evans
Adjudicator