



Citation: Reid v. Aviva Insurance Company of Canada, 2021 ONLAT 20-004370/AABS

Licence Appeal Tribunal File Number: 20-004370/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:

Ingrid Reid

Applicant

and

Aviva Insurance Company of Canada

Respondent

DECISION

ADJUDICATOR: Chloe Lester, Vice-Chair

APPEARANCES:

For the Applicant: Frank N. Del Giudice, Counsel

For the Respondent: Jennifer Cosentino, Counsel

HEARD: By way of written submissions

REASONS FOR DECISION

- [1] The applicant, Ingrid Reid, was rear-ended by another vehicle on March 29, 2017, causing an accident. As a result, she alleges that she sustained physical and psychological injuries.
- [2] The applicant applied to the respondent, Aviva Insurance Company of Canada, for a social worker assessment¹ in accordance with the *Schedule*.²
- [3] Aviva denied the social worker assessment on the basis that it required more information to determine whether the recommended assessment is reasonable and necessary.³
- [4] The applicant disagreed and filed an application for dispute resolution with the Tribunal.⁴

BACKGROUND

- [5] After receiving the initially denied treatment plan, Novo Medical sent a letter to Aviva providing the information requested by them. Novo Medical had recommended the social worker assessment following the recommendations from Dr. Waisman's report, psychiatrist.⁵
- [6] After reviewing the information, Aviva denied the social worker assessment on the basis that Dr. Waisman did not recommend a social worker assessment. He recommended ongoing psychotherapy and referral to a multidisciplinary chronic pain management program. Aviva confirmed that they have approved ongoing psychotherapy and an assessment from a chronic pain assessment centre.⁶

ISSUES IN DISPUTE

- [7] The issues to be determined are:
 - (a) is the applicant entitled to a social worker assessment in the amount of \$2,090.00 proposed by Novo Medical Services?

¹ Treatment and Assessment Plan dated May 14, 2019 – Applicant's Submissions Tab 2

² *Statutory Accident Benefits Schedule – Effective September 1, 2010, O. Reg. 34/10.* (the "Schedule")

³ Explanation of Benefits dated June 28, 2019 – Applicant's Submissions Tab 4

⁴ Tribunals Ontario, Safety, Licensing Appeals and Standards Division, Licence Appeal Tribunal – Automobile Accident Benefits Service (the "Tribunal")

⁵ Letter from Novo Medical to Aviva – Applicant's Brief Tab 6

⁶ Letter from Aviva dated January 11, 2021 – Applicant's Submissions Tab 7

(b) is the applicant entitled to interest?

RESULTS

[8] I find the applicant is not entitled to the social worker assessment or interest.

ANALYSIS

Is the applicant entitled to the social worker assessment?

[9] In this case, the applicant submits the assessment is reasonable and necessary because:

- (a) of the applicant's ongoing impairments;
- (b) the applicant continues to struggle with social interactions, she is unable to complete her pre-accident housekeeping and employment duties; and
- (c) the assessment is based on the biopsychosocial approach to managing chronic pain. This type of treatment was a preferred approach by Dr. Waisman for managing chronic pain and is part of his multidisciplinary treatment recommendation.

[10] The applicant relies on *D.J. v. Aviva Insurance Company of Canada*⁷ that a social worker can provide psychotherapy. The applicant submits that in Dr. Waisman's report there is no specific distinction between psychotherapy and social worker counselling.

[11] The respondent submits that the recommendations by Dr. Waisman were already approved through other treatment plans, namely the recommendation for psychotherapy. They also claim that the applicant has had extensive treatments, and the records at Altima Physio shows that she was feeling better and improving. The respondent also submits there has been no medical documentation that supports a need for community resources like Ontario Works or Ontario Disability Support Program, a main goal of the assessment.

[12] Under s. 15 of the *Schedule*, the respondent is obligated to pay for all reasonable and necessary medical benefits incurred because of injuries sustained in the accident. The term "reasonable and necessary" is not defined in the *Schedule*. Nevertheless, some guiding principles to consider when determining if a benefit meets the test, are the necessity of the treatment in relation to the injuries

⁷ *D.J. vs. Aviva Insurance Company of Canada*, 2020 ONLAT 18-012131/AABS – Applicant's Submissions Tab 14

sustained in the accident, the reasonableness of the treatment's goal, the ability to achieve that goal, and the proposed treatment's cost.

- [13] Novo Medical recommended the social worker assessment based on the applicant suffering from adjustment disorders, mixed anxiety and depressive disorder, and problems related to social environment. The treatment goals sought to reduce pain, return the applicant to her activities of normal living, and help the applicant to identify skills and abilities to use her own resources and those of the community to resolve her problems. The aim of the assessment is to discover the barriers in leading a more socially active and dynamic lifestyle, determine whether the applicant can benefit from community resources, like Meals on Wheels or Ontario Works, and to provide counselling to develop skills and resources to increase social functioning.⁸
- [14] I do not find the social worker assessment reasonable or necessary as it is a duplication of services and there is no medical need for this assessment.
- [15] At this time, I do not see a medical need for this type of assessment. The psychotherapy report and the report of Dr. Waisman do not recommend this type of assessment. The applicant's psychotherapist recommended ongoing psychotherapy and physical therapy to manage her accident-related injuries. Dr. Waisman recommended psychotherapy and a pain management program. The applicant's accident-related problems are already being explored through psychotherapy or with a recommendation for a pain management program. The social worker assessment will explore areas already being treated through the applicant's psychotherapy treatment, and therefore, will not improve the applicant's injuries.
- [16] Based on the assessment of Dr. Waisman, the applicant suffers from major depressive disorder and her pain symptoms result in a high level of anxiety. In his report, Dr. Waisman comments that the biopsychosocial approach is the most commonly accepted view to understand chronic pain. Dr. Waisman recommended ongoing psychotherapy and a referral to a multidisciplinary pain management program.⁹ The respondent approved two treatment plans for psychotherapy and a driver reintegration program.¹⁰
- [17] Unfortunately, the applicant is confusing the recommendations by the treating practitioners with the goals of the assessment. I agree with the applicant's case law that a social worker may be able to provide psychotherapy. I also agree that

⁸ Treatment and Assessment Plan dated May 14, 2019 – Applicant's Submissions Tab 2

⁹ Report of Dr. Waisman – Applicant's Submissions Tab 6

¹⁰ Letter from Aviva to Ingrid Reid dated December 3, 2018 and letter dated December 28, 2018

Dr. Waisman recommends a biopsychosocial approach to managing the applicant's chronic pain, but the assessment in dispute is neither. The social worker assessment is not evaluating a need for psychotherapy treatment, or for managing the applicant's chronic pain. It is for identifying skills and abilities to use one's own resources and those of the community to resolve the applicant's problems. The goal of this assessment is not one that has been recommended by any of her treating practitioners. Therefore, there is no medical need for this assessment.

- [18] I find the assessment to be a duplication of services. The applicant is already attending Novo Medical for psychotherapy. According to the progress report, the clinic is helping the applicant develop coping strategies to help manage her physical and psychological difficulties. The psychological difficulties include the applicant's avoidance of big gatherings, public social settings and interacting with others.¹¹ The psychotherapy sessions are covering similar treatments that would be explored during the assessment.
- [19] For the reasons listed, I find the applicant is not entitled to the social worker assessment or interest.

Released: November 16, 2021



Chloe Lester, Adjudicator

¹¹ Psychotherapy progress report dated September 19, 2019 from Novo Medical Services