

Dear Parties,

RE: Tribunal File No: 24-000303/AABS

Pascale Leong vs. Economical Insurance Company

Please see the attached AABS Decision related to your Automobile Accident Benefits Service dispute.

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Should you have any other concerns regarding this file, ***please contact Hoeun Rara, the assigned Case Management Officer***, or the Tribunal via telephone at **416-326-1356** or via email at

LATRegistrar@ontario.ca.

Kind regards,

Maureen Balagtas (she/her)

Case Management Officer

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Citation: Leong v. Economical Mutual Insurance Company, 2025 ONLAT 24-000303/AABS

Licence Appeal Tribunal File Number: 24-000303/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:

Pascale Leong

Applicant

and

Economical Mutual Insurance Company

Respondent

DECISION

ADJUDICATOR:

Laura Goulet

APPEARANCES:

For the Applicant:

David Wylupek, Counsel

For the Respondent:

Kadey Schultz, Counsel

HEARD:

By way of written submissions

OVERVIEW

- [1] Pascale Leong, the applicant, was involved in an automobile accident on November 15, 2018, 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, Economical Mutual Insurance Company, 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 \$12,887.06 for home modifications proposed by Interactive Rehabilitation in a treatment plan/OCF-18 (“plan”) dated January 10, 2022?
 - ii. Is the applicant entitled to interest on any overdue payment of benefits?

RESULT

- [3] The applicant is not entitled to the plan for home modifications.
- [4] The applicant is not entitled to interest pursuant to s. 51 of the *Schedule*.

ANALYSIS

Treatment plans

- [5] 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 plan for home modifications

- [6] The applicant has not met her onus of demonstrating on a balance of probabilities that the plan for a massage chair is reasonable and necessary.
- [7] The plan was proposed by Toni-Marie Taylor, occupational therapist. The plan lists the following accident-related injuries: traumatic subarachnoid haemorrhage,

fracture of C5-C7 vertebra, closed, traumatic subdural haemorrhage, fracture of mandible, other fracture of malar and maxillary bones, and subcapsular liver haematoma involving 10% to 50% of surface, or capsular laceration of 1 to 3 cm parenchymal depth and less than 10 cm in length (Grade II). The plan proposes documentation and support activity, planning and service, education, promoting health and preventing disease, and a massage chair. The goals of the plan are pain reduction and to return to activities of normal living.

- [8] The applicant lists many serious accident-related injuries; however, she does not put into evidence any medical documentation in support of the plan for home modifications, other than the treatment plan. Both parties agree that the applicant is catastrophically impaired because of the accident.

- [9] The applicant relies on the plan, where Ms. Taylor indicated that the applicant has benefited greatly from massage therapy in terms of pain management since her accident, and that she is frustrated that she cannot attend massage therapy daily, rather than biweekly. Ms. Taylor indicated that the applicant is seeking a home massage chair. She points out that the applicant is unvaccinated and therefore there would be less potential exposure to infection with a self-massage unit. Ms. Taylor indicated that given the applicant's pain levels, previous benefit from massage, anticipated need for ongoing massage, and the current pandemic situation, a unit to assist the applicant in self-massage at home is supported and anticipated to be of benefit in pain management. Ms. Taylor pointed out that the applicant tried several low-cost solutions such as wearable and handheld models without success, and that she and her husband have conducted significant research and have decided on the Medical Breakthrough Chair. The applicant advised Ms. Taylor that this model was the one that met all their goals with respect to both comfort and function.

- [10] The applicant submits that the provision of a high-quality in-home massage unit is reasonable given the nature and extent of her catastrophic physical and neurological injuries. The applicant further submits that she is forty-two years of age and according to Statistics Canada she can expect to live another forty or more years, and likely her ongoing medical and rehabilitative expenses will exhaust the one-million-dollar limit before then. The applicant argues that it would be imprudent for her to purchase and use a device that would not fulfill her needs and would likely need continual replacement.

- [11] The respondent points out that the applicant has provided no medical evidence in support of the treatment plan. The respondent submits that Ms. Taylor did not assist the applicant in conducting research to best select a model which suits her

needs. Rather, she simply put her name to something as a treating practitioner that the applicant expressed she wanted. The respondent further submits there is no explanation for the cost, nor a comparison with other models, and there is no indication as to how this specific chair will assist with the applicant's injuries. Further, Ms. Taylor does not opine as to why daily massage is required when the applicant had been receiving weekly to biweekly massage for the past three years.

- [12] The respondent submits that the applicant was receiving frequent massage therapy by a registered massage therapist and that this therapist has not opined about the reasonableness and necessity of the massage chair.
- [13] While I acknowledge the extent of the applicant's injuries, I find that a treatment plan on its own is not sufficient evidence in support of the plan. In this case, the applicant does not direct me to any evidence in support of the plan, nor does she direct me to evidence of any of her treating health practitioners, other than the author of the plan, recommending the need for the massage chair. Further, without medical evidence in support of the plan, I also find that the applicant does not identify how the goals of the plan would be met to a reasonable degree.
- [14] For these reasons, I find that the applicant has not met her onus of establishing on a balance of probabilities that the plan for a massage chair is reasonable and necessary.

Interest

- [15] 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

- [16] For the above reasons, I find:
 - i. The applicant is not entitled to the plan for a home modifications.
 - ii. The applicant is not entitled to interest pursuant to s. 51 of the *Schedule*.

Released: October 3, 2025



**Laura Goulet
Adjudicator**