



**Citation: Shirazi v. The Co-operators General Insurance Company, 2023 ONLAT  
20-005725/AABS**

**Licence Appeal Tribunal File Number: 20-005725/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:

**Asel Shirazi**

**Applicant**

and

**The Co-operators General Insurance Company**

**Respondent**

**DECISION**

**VICE-CHAIR: Christopher Climo**

**APPEARANCES:**

For the Applicant: Philip Kai Kwong Yeung, Paralegal

For the Respondent: Emily A. Schatzker, Counsel

**HEARD: By Way of Written Submissions**

## OVERVIEW

- [1] Asel Shirazi, the applicant, was involved in an automobile accident on April 10, 2019, 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, The Co-operators General 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 \$1,945.00 (\$3,701.88 less \$1,756.88 approved) for psychological counselling proposed by Mr. Bruce Cook of Somatic Assessments & Treatment Clinic in a treatment plan/OCF-18 dated April 17, 2020?
  - ii. Is the applicant entitled to interest on any overdue payment of benefits?

## RESULT

- [3] I find that the psychological counselling proposed by Mr. Bruce Cook of Somatic Assessments & Treatment Clinic in a treatment plan/OCF-18 dated April 17, 2020, is reasonable and necessary.
- [4] The applicant is entitled to interest on any overdue payment of benefits.

## ANALYSIS

### ***Treatment Plan for psychological counselling dated April 17, 2020***

- [5] To receive payment for a treatment and assessment plan under s. 15 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 how the overall costs of achieving them are reasonable.
- [6] The OCF 18 for psychological counselling proposed by Mr. Bruce Cook of Somatic Assessments & Treatment Clinic dated April 17, 2020, proposed 14 sessions of 1.5 hours. The plan was created following a psychological

assessment completed by Mr. Cook dated April 15, 2020. The assessment identified the goals of the treatment as:

- a) Alleviation of depressive anxiety and PTSD symptoms;
- b) Adjust to loss/change in psychological and physical functioning due to the accident;
- c) Develop strategies for stress management and relaxation (pain reducing techniques);
- d) Establish more effective and flexible cognitive patterns; and
- e) More effective emotions management skills.

- [7] The respondent requested a Section 44 Assessment which was completed by Dr. Shulamit Mor on October 22, 2020 and a report issued November 6, 2020. Dr. Mor diagnosed the applicant with Adjustment Disorder with Mixed Anxiety and Depression related to the subject accident and recommended 8 sessions of 1 hour. On this basis the OCF-18 was partially approved.
- [8] The applicant submits that the respondent failed to consider all the relevant evidence including the combined physical and psychological impairments, that Dr. Mor failed to provide reasons why she believes 8 sessions of 1 hour are more appropriate and that the opinion of Mr. Cook as the treating psychologist should be given more weight.
- [9] The respondent submits that Mr. Cook also failed to provide reasons why he believed 14 sessions of 1.5 hours are appropriate so in that regard they are equal. The respondent submits that at the time of the proposed treatment plan Mr. Cook was not yet the treating psychologist and was no more familiar with the applicant than Dr. Mor.
- [10] The respondent submits that the applicant's credibility is questionable. In support of this assertion, it notes in the report of Mr. Cook that (i) the applicant's Pain Patient Profile test produced an invalid response; (ii) the Personality Inventory Assessment Test indicated that "*she may have attempted to portray herself as more psychopathological than is actually the case*" and (iii) the Summary noted that the applicant has a "*penchant for extreme and sometimes invalid reporting*". The report of Dr. Mor noted similar credibility questions including "*a tendency to over report symptoms*" and "*it is difficult to render a formal diagnosis as Ms. Shirazi tends to report different information to different assessors*".

- [11] The parties both agree that the applicant needs psychological counselling sessions. They simply differ on the number of sessions that are reasonable and necessary. Neither party provided substantive reasons as to why the number of sessions they recommended was more appropriate.
- [12] While I am troubled by the credibility issues noted in both reports, it may explain why two experts faced with the same applicant came to two different conclusions.
- [13] I concur with the respondent that at the time of the initial report in April 2020 Mr. Cook was not the treating psychologist for the applicant and as such had no more familiarity with the applicant than Dr. Mor. However, I am persuaded by the January 20, 2021 Psychological Progress Note of Mr. Cook completed after 6 sessions where he noted improvement in depressive symptoms including more hopefulness and increased physical activity and improvements in falling asleep. Mr. Cook was the treating psychologist at that date and concluded that the applicant demonstrated good engagement, was trying to implement strategies into her daily life and had responded positively to treatment.
- [14] In his April 15, 2020 report, Mr. Cook noted that “*each client responds differently to psychological treatment and it is therefore difficult to state with certainty the number of sessions required*”. Based on the January 20, 2021 Progress Note, after 6 treatments the applicant seems to be progressing towards the goals set out in the treatment plan. I find that the provision of 8 additional sessions (as opposed to the 2 additional sessions approved by the respondent) is a reasonable cost to meet those goals.
- [15] I find that the applicant has met her onus to prove the treatment plan is reasonable and necessary.

### ***Interest***


- [16] Interest applies on the payment of any overdue benefits pursuant to s. 51 of the *Schedule*. As I find that the applicant is entitled to the treatment plans, interest is payable by the respondent.

**ORDER**

[17] For the reasons outlined above, I find that:

- i. The applicant is entitled to the OCF-18 dated April 17, 2020 for psychological counselling, plus interest in accordance with s.51 of the Schedule.

**Released: August 2, 2023**



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**Christopher Climo  
Vice-Chair**