

Tribunals Ontario  
Licence Appeal Tribunal

Tribunaux décisionnels Ontario  
Tribunal d'appel en matière de permis



**Citation: Asieduaa v. TD General Insurance Company, 2026 ONLAT 24-002324/AABS-R**

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**RECONSIDERATION DECISION**

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**Before:** Craig Mazerolle, Vice-Chair

**Licence Appeal Tribunal File  
Number:** 24-002324/AABS

**Case Name:** Princess Asieduaa v. TD General Insurance  
Company

**Written Submissions by:**

**For the Applicant:** Steven Glowinsky, Counsel

**For the Respondent:** Nicole De Bartolo, Counsel

## OVERVIEW

- [1] On December 8, 2025, the applicant requested reconsideration of the Tribunal's decision released November 17, 2025 ("decision").
- [2] Stemming from an accident on February 6, 2022 and a request for benefits made pursuant to the *Statutory Accident Benefits Schedule – Effective September 1, 2010 (including amendments effective June 1, 2016)* (the "Schedule"), the parties participated in a written hearing. In the decision, the Tribunal found the applicant was removed from the Minor Injury Guideline ("MIG"), and that she was entitled to treatment plans for a chronic pain assessment and a chronic pain program, plus interest. It denied the applicant's requests for a non-earner benefit ("NEB"), as well as treatment plans for a psychological assessment and chiropractic services, an OCF-6 for prescription medications, and an award. The Tribunal also denied the respondent's request for costs.
- [3] The grounds for a request for reconsideration are found in Rule 18.2 of the *Licence Appeal Tribunal Rules, 2023* ("Rules"). To grant a request for reconsideration, the Tribunal must be satisfied that one or more of the following criteria are met:
  - a) The Tribunal acted outside its jurisdiction or committed a material breach of procedural fairness;
  - b) The Tribunal made an error of law or fact such that the Tribunal would likely have reached a different result had the error not been made; or
  - c) There is evidence that was not before the Tribunal when rendering its decision, could not have been obtained previously by the party now seeking to introduce it, and would likely have affected the result.
- [4] The applicant relies on Rule 18.2(b) to support her request. The request is limited to the denied treatment plans and the award, with the applicant asking the Tribunal to find she is entitled to these benefits, plus interest. The applicant does not address the NEB in her request for reconsideration.
- [5] The respondent asks the Tribunal to dismiss the request for reconsideration.
- [6] As noted in the Tribunal's reconsideration order (dated December 15, 2025), the applicant also filed a Notice of Motion (dated December 11, 2025) seeking an order to amend the decision to address two issues that she claims were not referred to. Considering the "overlap between a motion to amend and a reconsideration request", the Tribunal ordered that this motion would be heard as

part of the adjudication of the reconsideration. The respondent was given an opportunity to make submissions on both the reconsideration request and the motion. Accordingly, I have considered the grounds set out in the Notice of Motion as a part of this reconsideration decision.

## RESULT

- [7] The applicant's request for reconsideration is granted, in part. Specifically, it is granted in relation to the physiotherapy services treatment plan (dated August 14, 2023) only.
- [8] Pursuant to Rule 18.4, the decision is varied at paragraph 119(iii) to read:

The applicant is entitled to the treatment plans for chronic pain assessment, physiotherapy services (dated August 14, 2023), and chronic pain program, plus interest.

## ANALYSIS

- [9] The test for reconsideration under Rule 18.2 involves a high threshold, and the requesting party must show how or why the decision falls into one of the categories in Rule 18.2. The reconsideration process is not an opportunity for a party to re-litigate its position where it disagrees with the Tribunal's decision, or with the weight assigned to the evidence.

### ***Award Claim***

- [10] The applicant has not established grounds for reconsideration under Rule 18.2(b) with respect to the award.
- [11] To start, the applicant challenges the Tribunal's denial of the award by raising several alleged errors with the analysis. First, the applicant argues that the Tribunal should have commented on "the plethora of the Respondent's improper redactions" that she consented to having be un-redacted. The applicant also claims that the Tribunal's noted preference for her treating providers' evidence should have factored into the award analysis. The applicant further claims that the adjuster "repeatedly ignored available medical evidence speaking to [her] pre-existing diagnoses", an "inflexible failure" that is akin to *Chen v. Economical Insurance Company*, 2024 CanLII 81190 (ON LAT) ("*Chen*"). Similarly, the applicant disputes the respondent's reliance on a report from Dr. Pankaj Bansal (dated July 22, 2022), as she argues this assessor did not conduct any analysis under s. 18(2) of the *Schedule*. In light of this deficiency, the applicant claims the

respondent's reliance on this "fundamentally flawed" report was unreasonable, citing *S.M. v. Unica Insurance Inc.*, 2020 CanLII 61460 (ON LAT) ("*S.M.*").

- [12] On the topic of Dr. Bansal's report, the applicant also challenges the Tribunal's determination that it would not consider a decision about this expert's assessment practices from the College of Physicians and Surgeons of Ontario's Inquiries, Complaints and Reports Committee ("CPSO"). Briefly, the CPSO commented on a complaint that the applicant filed about Dr. Bansal's assessment. The applicant disputes the Tribunal's reasons for excluding the CPSO's decision, claiming its findings corroborate her submissions that the respondent should not have relied on Dr. Bansal's conclusions.
- [13] The Tribunal explained its denial of the award at paragraphs 99, 100, 102 – 104 of the decision:

The applicant submits that the respondent unreasonably withheld and delayed payment of benefits by:

- Applying the MIG without proper consideration of her pre-existing conditions;
- Failing to instruct its IE assessors to evaluate whether she met the chronic pain or pre-existing condition exceptions under section 18(2) of the *Schedule*;
- Denying treatment plans despite consistent and contemporaneous medical evidence from her family physician and treating specialists.

The applicant relies on [*S.M.*], in which an award was granted against an insurer that failed to assess the medical evidence and unreasonably withheld benefits. She argues that the respondent's conduct forced her to pursue extensive litigation to obtain modest benefits and that such conduct warrants a punitive remedy.

[...]

The respondent's denials of treatment plans were consistently based on IE findings, particularly Dr. Bansal's conclusion that the applicant sustained minor, self-limiting injuries. While those opinions were later contradicted by the applicant's treating providers, Dr. Karmy (for chronic pain) and Dr. Gabidulina (for psychological impairments), there is no evidence that the respondent ignored or suppressed relevant medical information available at the time of its decisions.

The respondent's adjuster notes indicate that the respondent reviewed and relied upon its IE results in making benefit determinations.

I accept that the respondent's position was supported by IE evidence available at the time, and there is no indication that the respondent acted in bad faith or disregarded relevant medical documentation.

- [14] In reviewing this section of the decision, I find most of the applicant's alleged errors are best characterized as disagreements with the Tribunal's factual determinations. Though the applicant may disagree with the Tribunal's assessment of the respondent's adjusting process, these submissions are, in substance, disputes with the Tribunal's weighing of the evidence. For instance, the applicant argues that the respondent's behaviour was "inflexible", and that its denials were premised on unreliable expert opinions, but the Tribunal did not agree. It is the role of adjudicators to consider and weigh the evidence, and, unless a party can show this analysis was incorrect or legally impermissible, these evidentiary assessments will not be disrupted on reconsideration.
- [15] In a similar vein, I do not find the applicant's reliance on *Chen* and *S.M.* show that the Tribunal erred by denying the award. Aside from the fact that Tribunal case law is not binding, award determinations are highly fact specific. It is not enough to show that there are other cases where a similar set of circumstances resulted in an award. Rather, an applicant must show that the case at hand meets the threshold under s. 10 of Reg. 664.
- [16] I do note that the applicant award argument about the respondent's redactions did not appear in the decision. In addition to the well-established principle that decision-makers are not expected to address every argument, I find the applicant has not shown how explicitly addressing this part of her submissions would likely have impacted the outcome. I do not find the respondent's alleged non-compliance with the Tribunal's redaction orders would have had any bearing on its adjusting of the claim. Put another way, the applicant has not shown why this conduct is connected to the unreasonable delay or withholding of any payment. Additionally, concerns about a party's conduct during a Tribunal proceeding are better addressed through other remedies, like costs.
- [17] Turning to the applicant's argument about the CPSO decision, I accept that the Tribunal erred in its determination that this case would not form part of the hearing record. The CPSO decision was incorrectly characterized as documentary evidence, rather than a legal authority. As such, the Tribunal's assessment of its admission using the Rule 9.3 factors was not the correct

framework. Rather, the Tribunal should have accepted this decision as part of the other legal authorities filed with the parties' written submissions.

- [18] However, despite establishing this error, I find the applicant has not met the second branch of the Rule 18.2(b) test. She has not shown how considering the CPSO's decision would likely have impacted the outcome. Aside from the fact that the Tribunal is not bound by the findings made by this other body, the CPSO found Dr. Bansal did eventually address the applicant's concerns about her pre-existing condition. Though it noted that Dr. Bansal should have acted in a timelier fashion, the CPSO concluded that his addendum report (dated May 21, 2024) "offered a more comprehensive rationale for his opinion" that the applicant's pre-existing condition of lupus "did not alter his opinion". Put another way, though there was a delay in this part of the adjusting process, the result was the same, i.e., the respondent's expert found the applicant's pre-existing condition did not merit removal from the MIG.
- [19] Taken together, the applicant has not established grounds for reconsideration based on the Tribunal's denial of the award.

### ***Psychological Assessment Treatment Plan***

- [20] The applicant has not established grounds for reconsideration under Rule 18.2(b) with respect to the psychological assessment treatment plan (dated April 4, 2024).
- [21] The applicant claims the Tribunal should have approved this plan based on its finding at paragraph 84 of the decision that she "suffers from chronic pain syndrome with associated psychological impairment". She also notes that the respondent's psychological assessor, Dr. Kelly McCutcheon, accepted that she suffers from "mild anxiety and low mood". Therefore, when considering the holding from *J.M. v. Aviva General Insurance*, 2019 CanLII 51309 (ON LAT), the applicant argues this plan is reasonable and necessary.
- [22] The Tribunal addressed the psychological assessment treatment plan at paragraphs 67 – 75 of the decision. After noting that this OCF-18 was not submitted by the applicant, the Tribunal concluded at paragraph 74:

I accept that the applicant's psychological condition may have worsened by 2024 and that Dr. Gabidulina's findings are supported by objective testing. However, without the plan in evidence, I cannot assess whether the proposed psychological assessment meets the threshold of being reasonable and necessary under the *Schedule*. The Tribunal requires that treatment

plans be submitted in evidence and sufficiently detailed to allow for meaningful adjudication. In this case, the applicant has not met that requirement.

- [23] While the applicant may take issue with certain evidentiary assessments, her reconsideration submissions do not touch on the key aspect of the denial, i.e., the missing OCF-18. I also note that, though the applicant may claim that more attention should have been paid to her chronic pain and the findings from Dr. McCutcheon, this submission is another request to re-weigh the evidence. As noted above, the reconsideration process is not a venue for asking the Tribunal to re-weigh evidence that was considered at first instance.

***Treatment Plan for Chiropractic Treatment (dated July 4, 2022)***

- [24] The applicant has not established grounds for reconsideration under Rule 18.2(b) with respect to the treatment plan for chiropractic treatment (dated July 4, 2022).
- [25] The applicant disputes the Tribunal's denial by challenging the finding it made at paragraph 49 of the decision, i.e., the OCF-18 form was "not submitted into evidence nor mentioned in the applicant's submissions".
- [26] In her initial reconsideration submissions, the applicant claimed this document was not in her possession. Specifically, the OCF-18 "was not attached to its denial, dated August 4, 2022, nor does the Applicant (or her counsel) have access to the HCAI portal", so it was unreasonable for the Tribunal to rely on this missing document to deny the plan.
- [27] The respondent challenged this claim, arguing that it provided her with a copy of the plan on multiple occasions, namely, when it sent her copies of the accident benefits file in 2023 and 2025.
- [28] In reply, the applicant accepted the respondent's position, and she now "concedes on this Treatment Plan and withdraws same from the herein Reconsideration".
- [29] Since there is no outstanding dispute over this part of the decision, I find the applicant has not shown there is any error in respect to the Tribunal's denial.

***Treatment Plans for Chiropractic Treatment (dated February 6, 2022) and Physiotherapy Services (dated August 14, 2023)***

- [30] The applicant has established grounds for reconsideration with respect to the physiotherapy services treatment plan (dated August 14, 2023), pursuant to Rule

18.2(b). She has not established grounds for reconsideration with respect to the chiropractic services treatment plan (dated February 6, 2022).

- [31] As noted at the outset of this reconsideration decision, the applicant filed a Notice of Motion seeking relief similar to the remedies available through reconsideration, namely, she asked the Tribunal to amend the decision to address these two treatment plans that had been missing from its reasons. The arguments for these two plans are identical, so I will deal with them together.
- [32] The respondent opposes this position, claiming the Tribunal addressed the substance of these two plans, even if they were not mentioned in the decision. In short, the respondent claims the applicant's request (emphasis removed): "prioritizes form over substance by treating the absence of issue specific headings as a procedural flaw."
- [33] The two treatment plans were listed in the Case Conference Report and Order (released July 17, 2024) as Issues 4 and 6:
- a. Is the applicant entitled to \$2,928.24 for chiropractic services, proposed by In Motion Rehabilitation and Wellness Centre Inc. in plan dated February 6, 2022?
  - b. Is the applicant entitled to \$1,574.48 for physiotherapy services, proposed by In Motion Rehabilitation and Wellness Centre Inc. in a plan dated August 14, 2023?
- [34] These treatment plans were not included in the list of issues laid out in the decision at paragraph 5, nor is there any mention of these plans in the section of the decision entitled "Physiotherapy and Chiropractic Services". For instance, at paragraphs 47 – 49, the Tribunal made specific reference to some, but not all, of the physiotherapy and chiropractic services treatment plans in dispute:

I find that the applicant is not entitled to medical and rehabilitation benefits under the treatment plans dated July 4, 2022, and October 5, 2022.

The treatment plan dated October 5, 2022, and signed by chiropractor Gail Wright, outlined services totalling \$3,567.33. It included 16 physical rehabilitation sessions, 8 acupuncture sessions, 8 exercise sessions, provider travel time, and supporting documentation. The goals were to lessen pain, enhance range of motion and strength, and support a return to daily activities.

However, the treatment plan from July 4, 2022, was not submitted into evidence nor mentioned in the applicant's submissions. Without details about its goals, cost, or expected outcomes, I cannot assess its reasonableness or necessity.

- [35] I further note that both these missing plans were explicitly mentioned in the applicant's initial written submissions.
- [36] Taken together, while the respondent may argue that the plans were implicitly addressed in the decision, I accept that the applicant has shown that the Tribunal erred by not explicitly mentioning them in its reasons. However, I only find that the applicant has shown that correcting this error would likely have impacted the outcome for one of the two plans, i.e., the August 14, 2023 plan for physiotherapy services.
- [37] The applicant did not include a copy of the OCF-18 for the February 6, 2022 treatment plan with her written submissions. As such, it is likely that the Tribunal would have denied this plan for the same reason it denied the July 4, 2022 plan noted above.
- [38] On the other hand, I am satisfied that the Tribunal would likely have reached a different outcome for the August 14, 2023 plan. Not only was a copy of this OCF-18 included with the applicant's submissions, but the date of this plan suggests that the Tribunal may have looked at it in a different light. Specifically, at paragraphs 50 – 54, the Tribunal assessed the positions and medical evidence that the parties relied upon to argue the July 4 and October 5, 2022 plans (emphasis added):

The applicant asserts that she pursued active rehabilitation following the accident, including physiotherapy, chiropractic care, and acupuncture. She relies on clinical notes from In Motion Rehabilitation and her family physician, Dr. Mok, which document ongoing pain and reduced mobility...

The respondent maintains that the proposed treatments are duplicative, excessive, and unsupported by objective medical evidence. It relies on the IE conducted by Dr. Bansal on July 22, 2022, which concluded that the applicant sustained only soft-tissue injuries and had reached maximal medical recovery. The respondent further argues that the applicant's symptoms are consistent with pre-existing conditions and not attributable to the accident.

Clinical records from In Motion Rehabilitation document ongoing findings such as muscle spasms, reduced cervical and lumbar mobility, and functional limitations. Dr. Mok's notes confirm persistent pain despite treatment efforts. **Additionally, Dr. Karmy diagnosed the applicant with chronic pain syndrome in his August 22, 2023, report.** In contrast, Dr. Bansal opined that further passive therapy was not medically necessary and unlikely to yield functional improvement.

While the applicant had pre-accident complaints related to lupus and widespread pain, the medical records indicate a post-accident worsening of symptoms and increased dependence on rehabilitation services. **However, none of the treating practitioners, including Dr. Mok, explicitly recommended chiropractic care, acupuncture, or physical rehabilitation around the time of the plans.**

Since the applicant's treating providers did not offer direct recommendations for these services, and one of the treatment plans was not submitted as evidence, I find that the treatment plans dated July 4, 2022, and October 5, 2022, are neither reasonable nor necessary.

- [39] While this reasoning may have applied to the plans submitted in July and October 2022, the August 14, 2023 treatment plan was completed within a week of the August 22, 2023 report from Dr. Karmy. This report recommended a course of treatment that included "passive physical modalities". With this timelier recommendation, I am satisfied that, if the Tribunal had explicitly turned its mind to this plan, it would likely have reached a different outcome.
- [40] Taken together, the applicant has established grounds for reconsideration, pursuant to Rule 18.2(b), with respect to the physiotherapy services treatment plan (dated August 14, 2023).

#### **Rule 18.4 – Varying the Decision**

- [41] Considering this error, I find the most appropriate remedy under Rule 18.4 is to vary the decision based on the parties' written hearing submissions and the evidentiary findings made by the Tribunal regarding the other physical therapy plans. Since the August 14, 2023 plan was argued in their written submissions, I find there is no prejudice that would face the parties with this procedural choice. In fact, it will help the parties' dispute resolve itself in a timelier fashion.
- [42] I further find that the nature of the error established above has not challenged the basis of any of the earlier evidentiary findings made by the Tribunal. Rather, the

applicant has shown that this missing treatment plan should have been explicitly addressed in the decision.

- [43] For the reasons that follow, I find the applicant is entitled to the treatment plan for physiotherapy services (dated August 14, 2023).
- [44] To receive payment for an OCF-18 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.
- [45] The applicant is requesting \$1,574.48 for eight, one-hour sessions of physical rehabilitation and eight, half-hour sessions of acupuncture. She is also seeking \$200.00 to cover the cost of completing the claim form. According to the OCF-18, the treatment goals include pain reduction, increases in strength and range of motion, and a return to activities of normal living.
- [46] As noted above, the applicant relied, in part, on the August 2023 chronic pain report from Dr. Karmy to demonstrate the extent of her accident-related impairments, as well as the need for ongoing treatment. In light of the findings the Tribunal made in the decision about this report, I find the applicant has shown that this treatment plan is reasonable and necessary. Not only is this proposed treatment focused on the applicant's accident-related pain, but there is a clear and contemporaneous recommendation from Dr. Karmy for this kind of physical treatment. I further note that the amount of treatment being requested in this plan (as well as the cost of these services) is modest in comparison to the scope of the applicant's impairments.
- [47] The respondent primarily challenges the applicant's claim for treatment, including physiotherapy, by submitting that there has been no reported improvement in her condition since 2019. Following the reasoning from *V.L. v. Aviva Insurance Company*, 2020 CanLII 14475 (ON LAT), there is no need for ongoing treatment after an extended period with no noted benefit. Additionally, it claims that the applicant has not followed her medication regimens for her lupus and fibromyalgia.
- [48] I do not accept these arguments. Instead, I find the physical rehabilitation that was recommended by Dr. Karmy (and that mirrors the services proposed in this plan) is one element of a larger, multidisciplinary treatment regime. While it is possible that this physical treatment may continue to show little to no benefit, I still find the applicant has shown it is reasonable and necessary to follow a

course of treatment that was provided as part of this comprehensive expert opinion.

- [49] Taken together, I find the applicant has demonstrated the reasonable and necessary nature of the treatment plan for physiotherapy services (dated August 14, 2023). I further find the applicant is entitled to interest, in accordance with s. 51 of the *Schedule*.
- [50] I do not find the applicant has established entitlement to an award for this plan, as the primary basis for her award claim focused on the respondent's handling of the MIG. As noted above, she has not established any grounds to challenge the reasoning for the Tribunal's denial of this award claim.

### **CONCLUSION & ORDER**

- [51] The applicant's request for reconsideration is granted, in part. Specifically, it is granted in relation to the physiotherapy services treatment plan (dated August 14, 2023) only.
- [52] Pursuant to Rule 18.4, the decision is varied at paragraph 119(iii) to read:

The applicant is entitled to the treatment plans for chronic pain assessment, physiotherapy services (dated August 14, 2023), and chronic pain program, plus interest.

  
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**Craig Mazerolle**  
**Vice-Chair**

**Released: April 1, 2026**