



# Civil Resolution Tribunal

Date Issued: March 15, 2024

File: AB-2022-007794

Type: Accident Claims

Category: Accident Benefits

Civil Resolution Tribunal

Indexed as: *Pichette v. ICBC*, 2024 BCCRT 274

BETWEEN:

JACQUALYN ROXANN PICHETTE

**APPLICANT**

AND:

INSURANCE CORPORATION OF BRITISH COLUMBIA

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Alison Wake

## INTRODUCTION

1. This dispute is about entitlement to accident benefits. Jacquelyn Roxann Pichette was in a motor vehicle accident on October 13, 2021. Ms. Pichette claims health care and rehabilitation benefits and income replacement benefits from the respondent

insurer, Insurance Corporation of British Columbia (ICBC). I address the specific benefits requested by Ms. Pichette below.

2. ICBC generally denies Ms. Pichette's claims, and says that it has provided the benefits she is entitled to under the *Insurance (Vehicle) Act* (IVA).
3. Ms. Pichette is represented by a friend, who is not a lawyer. ICBC is represented by an employee.

## **JURISDICTION AND PROCEDURE**

4. These are the formal written reasons of the Civil Resolution Tribunal (CRT). The CRT has jurisdiction over accident claims brought under section 133 of the *Civil Resolution Tribunal Act* (CRTA). Section 133(1)(a) of the CRTA gives the CRT jurisdiction over the determination of entitlement to accident benefits.
5. CRTA section 2 says that the CRT's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly.
6. CRTA section 39 says the CRT has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. Here, I find that I am properly able to assess and weigh the documentary evidence and submissions before me. Further, bearing in mind the CRT's mandate that includes proportionality and a speedy resolution of disputes, I find that an oral hearing is not necessary in the interests of justice.
7. CRTA section 42 says the CRT may accept as evidence information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in court.

### ***Claim Categories***

8. In her Dispute Notice, Ms. Pichette claims two broad categories of accident benefits: health care and rehabilitation benefits, and income replacement benefits. Some of the specific benefits that she has requested under the income replacement benefits

claim are not associated with income replacement, and are more appropriately characterized as health care and rehabilitation benefits. So, I have addressed them under that heading below.

9. Ms. Pichette also argues that ICBC should have informed her that her injuries could be classified as a “permanent impairment” under the IVA and could qualify for a lump sum payment. However, she has not made a claim for permanent impairment compensation in this dispute, so I make no findings about whether her injuries meet the permanent impairment definition. Nothing in this decision prevents Ms. Pichette from filing a separate claim for permanent impairment compensation, subject to any applicable limitation period.

### ***Allegations about ICBC’s conduct***

10. In submissions, Ms. Pichette makes various arguments about ICBC’s conduct in managing her claim. Specifically, she says ICBC has mischaracterized her accident as “mild”, which has prejudiced her health care providers against her and has led to incorrect diagnoses and inappropriate treatment. Ms. Pichette also argues that ICBC has acted contrary to its enhanced care guiding principles and code of ethics, and that her Senior Support and Recovery Specialist has not acted in accordance with their job description.
11. I acknowledge that in at least one of Ms. Pichette’s recovery specialist’s emails in evidence, their tone is unprofessional, accusatory, and hostile towards Ms. Pichette. I note that Ms. Pichette says that she is considering making a damages claim against ICBC for mental harm. However, Ms. Pichette does not claim specific remedies for ICBC’s conduct in this dispute. So, I have not further addressed Ms. Pichette’s arguments about ICBC’s employee conduct in this decision, except to the extent that they specifically relate to her accident benefits claims as outlined in her Dispute Notice.
12. Lastly, I note that Ms. Pichette asks that the CRT review her ICBC recovery specialist’s actions and decide whether CRTA section 92 is applicable. That provision

makes it an offence for any person to provide false or misleading evidence or other information in a CRT proceeding. The CRT does not have the authority to investigate or decide whether someone has committed an offence under CRTA section 92 (see *AM Cleaning YYC Inc. v. McCabe*, 2023 BCCRT 913 at paragraph 9). So, I have not addressed this argument further in this decision.

## **ISSUES**

13. The issues in this dispute are whether Ms. Pichette is entitled to the claimed health care and rehabilitation and income replacement benefits, detailed below.

## **EVIDENCE AND ANALYSIS**

14. As the applicant in this civil proceeding, Ms. Pichette must prove her claims on a balance of probabilities, meaning more likely than not. While I have read the parties' submitted evidence and arguments, I have only referred to those necessary to explain my decision.

### ***The Accident***

15. The accident occurred on October 13, 2021. Ms. Pichette was rear-ended by a vehicle behind her. A third vehicle struck the vehicle behind Ms. Pichette's, which struck Ms. Pichette's vehicle a second time.
16. As noted, Ms. Pichette says that ICBC has characterized the accident as "mild". She disagrees with this, and says that both vehicles behind her were travelling about 80 km/h when she was hit. She submitted a police report about the accident in evidence. However, it does not say the approximate speed the vehicles were travelling. I find I do not need to determine the accident's severity, as Ms. Pichette is entitled to claim accident benefits regardless of how severe the accident was. I consider each of Ms. Pichette's accident benefits claims in turn below.

### ***Health Care and Rehabilitation Benefits***

17. Entitlement to health care, rehabilitation and related benefits is set out in Division 4 of Part 10 of the IVA and Part 5 of the *Enhanced Accident Benefits Regulation* (EAB).
18. Ms. Pichette claims numerous healthcare rehabilitation benefits. Specifically, she claims benefits for:
  - a. Vision care,
  - b. A service dog,
  - c. Prescription medication,
  - d. A flight home from Mexico,
  - e. Other travel expenses, including driver support,
  - f. Specialty bras,
  - g. House cleaning expenses,
  - h. Hormone therapy and supplement expenses,
  - i. Counselling expenses,
  - j. Chiropractic and massage expenses,
  - k. Hyperbaric treatment, and
  - l. Dental care.

### ***Vision care***

19. Ms. Pichette says that she has struggled with double vision since the accident. She claims reimbursement for vision assessments and specific prism-based glasses to assist with her double vision. While ICBC initially denied coverage for these assessments and glasses, Ms. Pichette acknowledges in her final reply submissions that ICBC has now reimbursed her for these expenses. However, she says she

should still be paid for travel to and from these appointments. I will address this argument further below, with Ms. Pichette's other travel expense claims.

20. Ms. Pichette also claims reimbursement of \$4,265 she paid to have laser eye surgery. This surgery occurred in February 2021, about eight months before the accident. Ms. Pichette acknowledges this, but says that due to her vision damage from the accident, she has lost her investment in the laser eye surgery because she now has to wear glasses to correct her double vision.
21. While I acknowledge that it is likely frustrating for Ms. Pichette to have paid for laser eye surgery before the accident and to no longer be able to benefit from it, she has not identified any provisions of the IVA or the EAB that would require ICBC to reimburse her for her pre-accident laser eye surgery. I find there is no basis to order payment for Ms. Pichette's laser eye surgery, and so I dismiss this claim.

#### Service dog

22. Ms. Pichette seeks compensation for expenses to obtain a service dog, including travel expenses. In support of this, she provided a June 24, 2022 letter from Dr. Janus Steyn, a psychiatrist. In the letter, Dr. Steyn says that they fully support Ms. Pichette's application to obtain a service dog. They note that Ms. Pichette was diagnosed with Post Traumatic Stress Disorder (PTSD) in 2019 due to her work as a paramedic. Dr. Steyn says that Ms. Pichette has been in two significant motor vehicle accidents that exacerbated her PTSD symptoms, and that she struggles with chronic pain and concussion symptoms related to the accidents.
23. ICBC says that a service dog does not fall within any prescribed category of expenses under the IVA or the EAB. IVA section 123 says that an insured is entitled to payment or reimbursement of reasonable expenses respecting their bodily injury for necessary health care, prescribed services, and prescribed equipment, medication, and other things. I agree that a service dog is not within the prescribed categories of services or equipment under the IVA and EAB. However, IVA section 124 gives ICBC broad discretion to do anything it considers necessary or advisable to contribute to an

insured's rehabilitation and facilitate their recovery. This provision permits ICBC to fund treatments or services that are not explicitly covered by the legislation. I find it is open to ICBC to reimburse Ms. Pichette for the costs of obtaining a service dog under this section, if it considers it necessary or advisable.

24. However, I find that in this dispute Ms. Pichette has not proven that it is necessary or advisable for her to obtain a service dog. While Dr. Steyn says in their letter that having a specially trained dog would help Ms. Pichette recover and return to her former level of functioning, I find their letter lacks specificity about how a service dog would assist Ms. Pichette with managing her symptoms related to the accident. So, I dismiss this part of Ms. Pichette's claim. Nothing in this decision prevents ICBC from approving this funding in the future if it considers it necessary or advisable to do so.

#### Ozempic prescription

25. Ms. Pichette claims \$968.68 as reimbursement for an Ozempic prescription. She says she gained weight after the accident, and Ozempic is required to return to her pre-accident weight. In support of this claim, Ms. Pichette submitted a January 24, 2023 assessment by Dr. Lindsay Pritchett, Ms. Pichette's family physician. In it, Dr. Pritchett reported that Ms. Pichette complained of weight gain after the accident, but that her weight had come down with the use of Ozempic for several weeks.
26. Taken together, IVA sections 118 and 123(1)(c) and EAB section 23(a) say that an insured is entitled to payment or reimbursement of reasonable expenses for necessary prescription medication for a bodily injury caused by an accident.
27. ICBC says that the medical evidence does not support that Ms. Pichette's weight gain was caused by the accident. It says that Ms. Pichette had pre-existing weight issues, as noted by Dr. Douglas Courtemanche, a plastic, reconstructive, and craniofacial surgeon. In an April 21, 2021 letter to Dr. Pritchett, Dr. Courtemanche noted that Ms. Pichette was eating a soft diet as a result of jaw pain, which resulted in an increased caloric intake and was causing her to gain weight. An undated report in evidence by

Dr. Pritchett also says that Ms. Pichette reported gaining 35 pounds as a result of taking trazodone, but there is no indication this is related to the accident.

28. While I accept Dr. Pritchett's report that Ms. Pichette gained weight after the accident, I agree with ICBC's submission that this report is insufficient to conclude that Ms. Pichette's weight gain was a result of the accident. Without more detailed medical evidence, I find Ms. Pichette has not established on a balance of probabilities that the accident caused her to gain weight and that Ozempic is required to treat her weight gain. I dismiss this part of Ms. Pichette's claim.

#### Mexico flight

29. Ms. Pichette says she visited Mexico in the spring of 2023 to be with family and receive treatment. She does not claim expenses for this treatment, but says that she had to return home a week earlier than planned because her ICBC recovery specialist said that if she didn't return, ICBC would terminate her income replacement benefits. Ms. Pichette claims reimbursement of \$704 for her flight home from Mexico.
30. Ms. Pichette relies on *Biefeld v. Neetz*, 2016 BCSC 689. In that case, the court found that the fact that the plaintiff had taken vacations did not mean that she was not suffering chronic pain. I agree with ICBC's submission that this case is not relevant to the question of whether it must reimburse Ms. Pichette for her travel expenses under the IVA.
31. I find this is not a claim for accident benefits under the IVA and EAB. Under IVA section 125(2) and EAB section 32(3), an insured is entitled to reimbursement of reasonable and necessary transportation expenses to receive care or rehabilitation.
32. I find Ms. Pichette's flight home was not travel to receive care or rehabilitation, so she is not entitled to compensation for it under the IVA or EAB. I acknowledge Ms. Pichette's argument that she felt threatened by her ICBC recovery specialist's email. As noted, Ms. Pichette says she may claim damages against ICBC in the future because of its handling of her case. I make no findings about whether Ms. Pichette is



entitled to reimbursement of her flight expenses as damages because of ICBC's conduct, but I dismiss this part of her claim for accident benefits.

Travel expenses

33. As noted above, the IVA and EAB provide for reimbursement of reasonable and necessary travel expenses to receive care or rehabilitation for injuries from an accident. Ms. Pichette submitted a spreadsheet of travel expenses to attend various medical appointments. She acknowledges that ICBC has reimbursed her for some of this travel, but that other expenses remain unpaid.
34. ICBC says that it has not reimbursed Ms. Pichette for travel to receive Botox injections, because she was receiving these injections before the accident. Ms. Pichette does not dispute this, and I find there is insufficient evidence before me to conclude that these treatments were a result of the accident. I dismiss this part of Ms. Pichette's travel expense claim.
35. Ms. Pichette also claims travel expenses to see Dr. Courtemanche in Vancouver, for a surgical consultation regarding injuries to her jaw. While ICBC originally denied that Ms. Pichette's jaw injuries were a result of the accident, in submissions, it notes that it has accepted Ms. Pichette's claim for jaw surgery. So, I find Ms. Pichette is entitled to reasonable travel expenses to attend this consultation. I order ICBC to reimburse Ms. Pichette for her reasonable and necessary transportation, lodging, and meal expenses incurred for this appointment. For clarity, this does not include Ms. Pichette's claimed driver support expenses, addressed below.
36. As noted above, ICBC originally denied coverage for Ms. Pichette's vision care. While it has now provided coverage for Ms. Pichette's vision treatments and glasses, Ms. Pichette says that her transportation expenses for these appointments have not been reimbursed. As ICBC now agrees that Ms. Pichette is entitled to vision care as a result of the accident, I order it to reimburse Ms. Pichette for her reasonable transportation expenses for her vision care appointments related to the accident.

37. Lastly, Ms. Pichette claims expenses for transportation to chiropractic and massage appointments. I address this below as part of her claim for reimbursement for those services.

#### Driver

38. In addition to the mileage claimed above, Ms. Pichette claims \$20 per hour for a driver to assist her with attending medical appointments. She says her appointments often result in her being nauseous and needing help to get to her vehicle, so she needs a driver to accompany her.

39. Ms. Pichette says that ICBC has reimbursed her for driver support in the past, but she provided no evidence of this. In any event, I find the IVA and EAB do not require ICBC to continue funding a specific expense simply because it has done so in the past.

40. As noted above, Ms. Pichette is entitled to compensation for reasonable and necessary transportation expenses to receive care. I agree with ICBC's submission that the IVA and EAB provide for reimbursement per kilometer of travel, and do not provide for an hourly rate for a driver.

41. Under IVA section 125(3), if Ms. Pichette requires someone to accompany her to receive care because of her age or physical or mental condition, that person is also entitled to reimbursement of transportation expenses that they incur to accompany her to receive care. However, this does not mean that Ms. Pichette is entitled to reimbursement on that person's behalf. I find there is no basis in the IVA or EAB for ICBC to pay Ms. Pichette for a driver to accompany her to appointments, and I dismiss this part of her claim.

#### Specialty bras

42. Ms. Pichette claims reimbursement of \$846.72 for seven specialty bras, which she says are necessary to reduce tension on her cervical spine. In support of this, she

provided a June 23, 2022 letter from Kevin Action, registered massage therapist, and a prescription from Dr. Pritchett, discussed below.

43. ICBC does not argue that the bras are not medically necessary for Ms. Pichette's recovery. Instead, it says that Ms. Pichette did not obtain its approval before purchasing the bras, that the claimed expenses are not covered under IVA sections 127 and EAB section 37, and that the cost is not reasonable.
44. I agree that the bras are not reimbursable under IVA section 127 and EAB section 37. Those sections only provide coverage for clothing that is damaged as a result of the accident, or for clothing that is required because the insured uses a wheelchair, prosthesis, or orthosis, none of which apply here.
45. However, as Ms. Pichette notes, clothing can be considered "medical equipment" under EAB section 22(1)(i). IVA section 123(1)(c) says an insured is entitled to reasonable expenses for medical equipment respecting their bodily injury. EAB section 22(3) says that an insured must have a prescription from an authorized health care provider for the medical equipment. As noted, Ms. Pichette provided a March 29, 2022 prescription from Dr. Pritchett for seven supportive bras. I find Dr. Pritchett is an authorized health care provider as defined in the EAB. So, I find the bras were prescribed as required by the EAB.
46. ICBC says that Ms. Pichette purchased the bras without its prior approval. However, nothing in the EAB requires an insured to obtain ICBC's prior approval before purchasing medical equipment.
47. Finally, ICBC argues that the bras' cost is not reasonable. Ms. Pichette provided receipts in evidence showing that each "high support" bra cost \$108 plus tax. I find this cost is reasonable, as ICBC provided no evidence to show that bras with a similar level of support could be purchased for less. I also find the quantity of seven bras is not unreasonable, as it is consistent with Dr. Pritchett's prescription and ICBC did not explain why fewer bras are necessary. I order ICBC to reimburse Ms. Pichette

\$846.72 for the bras as they are prescribed medical equipment under the IVA and the EAB.

48. Ms. Pichette is entitled to interest under the *Court Order Interest Act* from the dates she purchased the bras to the date of this decision. This equals \$57.11.

#### House cleaning

49. Ms. Pichette claims reimbursement for 27 hours of “home support”, which she says is primarily for house cleaning. She says it is extremely difficult for her to clean because it exacerbates her concussion symptoms.
50. Under IVA section 125(1) and EAB Part 5, Division 3, an insured is entitled to reimbursement of expenses to assist them with activities of daily living (ADLs), which includes performing housework to maintain a place of residence in acceptable sanitary condition. EAB section 30 requires ICBC to use an assessment tool to determine how much assistance an insured needs with ADLs. The assessment is used to calculate a total weighted score for the insured under EAB section 30, which sets out a formula to determine the amount the insured is entitled to.
51. ICBC says that Ms. Pichette is not entitled to ADL benefits because her total weighted score is 8. The EAB only allows payment or reimbursement for ADLs for a total weighted score of 9 or more.
52. ICBC provided a March 30, 2022 Personal Care Assistance Assessment Report completed by Meridian Rehabilitation Consulting Inc. (PCA Report). The PCA Report assesses Ms. Pichette’s ability to complete various tasks and assigns a score to each depending on whether Ms. Pichette is able to complete the task independently or whether she requires assistance.
53. Ms. Pichette disputes the PCA Report’s findings. She says that she was only able to partially complete many of the tasks that were marked as “independent”, such as mopping floors. She says the PCA Report’s numbers do not make sense.

54. The difficulty for Ms. Pichette is that she did not provide medical evidence demonstrating that the PCA report is incomplete or inaccurate. A June 7, 2022 Occupational Therapy Reassessment Report notes that Ms. Pichette is able to complete most cleaning tasks with adaptive equipment and breaks, which is consistent with the PCA Report. Ms. Pichette did not provide any other expert medical evidence about her ability to complete ADLs, so I find she has not established that her total weighted score should be higher.
55. Ms. Pichette says that she would like to be reassessed by her current occupational therapist. Nothing in this decision prevents Ms. Pichette from undergoing further assessment.
56. ICBC agrees to reimburse Ms. Pichette's home care invoices for May 6 and June 2, 2022, because it did not inform her about the PCA Report's outcome until June 2, 2022. There is no evidence that ICBC has reimbursed these expenses already. So, I order ICBC to reimburse Ms. Pichette \$140 for these two invoices. Ms. Pichette is entitled to pre-judgment interest from the dates of these invoices to the date of this decision, which equals \$9.33. I dismiss Ms. Pichette's remaining claims for home care expenses.

*Hormone therapy patches, vitamins, and supplements*

57. Ms. Pichette claims reimbursement for hormone therapy patches and various vitamins and supplements. In support of this, she provided receipts for these items along with an October 15, 2023 letter from her naturopathic doctor, Shelby Entner.
58. In the letter, Dr. Entner reports that they saw a "sudden and dramatic" change in Ms. Pichette's menopausal symptoms after the accident which required hormone replacement therapy. They also say that elevated cortisol levels have worsened Ms. Pichette's recovery, and that they have had "some success" with supporting Ms. Pichette's stress levels with herbal and nutritional medicine.
59. ICBC says that Dr. Entner's letter simply provides support of hormone therapy without providing any medical basis for why it is recommended because of the accident. I

agree. While I accept that Ms. Pichette is experiencing hormonal symptoms, I find Dr. Entner's letter does not prove, on balance, that these symptoms are because of the accident. Further, Dr. Entner does not explain why the specific supplements Ms. Pichette is claiming are necessary to treat her accident-related symptoms.

60. Ms. Pichette argues that ICBC has previously reimbursed her for the hormone therapy patches. While ICBC does not dispute this, as noted above, the fact that ICBC has previously funded a specific treatment is not determinative. I find Ms. Pichette has not proven that these items are necessary, and I dismiss this part of her claim.

### Counselling

61. Ms. Pichette claims reimbursement of \$425.25 for three counselling appointments on August 30, September 13, and September 15, 2023. ICBC says it paid the provider directly for the September 15, 2023 appointment. Ms. Pichette does not dispute this, and it is supported by an electronic funds transfer receipt in evidence.

62. While Ms. Pichette also provided a receipt showing that she paid the provider for this service, nothing in this decision prevents her from seeking reimbursement from the provider as ICBC has paid them directly for the appointment.

63. ICBC also says in submissions that it is in the process of reimbursing Ms. Pichette directly for the remaining two counselling appointments. It provided evidence showing it requested a cheque for payment to Ms. Pichette on November 22, 2023. In reply submissions, Ms. Pichette does not dispute that ICBC has now reimbursed her for the counselling appointments. I dismiss this part of Ms. Pichette's claim as I find it has been paid.

### Chiropractic and massage

64. Ms. Pichette claims reimbursement for chiropractic and massage treatments from November 12, 2022 to October 13, 2023. She submitted receipts for 20 chiropractic treatments and 9 massage treatments in this time frame.

65. ICBC undisputedly has not reimbursed Ms. Pichette for any of these treatments. ICBC relies on a January 25, 2023 Comprehensive Medical Assessment (CMA) report completed by Dr. James Atkins, a physician. The CMA also includes functional testing completed by Corinne Muchowski-Stone, a physiotherapist. In the report, Dr. Atkins recommends that Ms. Pichette continue physiotherapy treatment, but they do not recommend chiropractic or massage treatment.
66. Ms. Pichette relies on Dr. Pritchett's October 5, 2023 report. In it, Dr. Pritchett says that they support Ms. Pichette receiving "activation therapy" supervised by a physiotherapist or kinesiologist. Dr. Pritchett says that they also support concurrent treatment with massage and/or chiropractic therapy, if recommended by the physiotherapist or kinesiologist directing Ms. Pichette's care, but that they do not recommend these treatments by themselves.
67. Ms. Pichette also relies on a report prepared by Louie Gerome, a physiotherapist at Concussion Care Kelowna (CCK). While this report is undated, I find it was likely prepared in the fall of 2023, as it recommends 8 physiotherapy sessions and says that the anticipated date of completion is December 25, 2023. In this report, Louie Gerome says that chiropractic and massage therapy "may be beneficial concurrent treatments to facilitate rehabilitation".
68. Finally, Ms. Pichette submitted an October 13, 2023 letter from her registered massage therapist, Kevin Acton, who says that Ms. Pichette's massage therapy treatments have brought her some relief of pain and that she could benefit from continuing treatment for pain management.
69. Under IVA section 123(1) and EAB section 19(3), after using available pre-authorized treatments within 12 weeks of the accident date, Ms. Pichette is entitled to reimbursement for further necessary treatments to facilitate her recovery from injury, including chiropractic and massage therapy.
70. I note that Dr. Pritchett's report, the CCK report and Kevin Acton's letter were all prepared after Ms. Pichette had already incurred most of the claimed chiropractic and

massage expenses. In any event, I find that Louie Gerome's comments that chiropractic and massage therapy "may be beneficial" and Kevin Acton's comments that Ms. Pichette "could benefit" from massage fall short of establishing that these are necessary treatments as required by the IVA. So, I dismiss this part of Ms. Pichette's claim. It follows that Ms. Pichette is not entitled to transportation expenses to attend these appointments. Nothing in this decision prevents Ms. Pichette from seeking reimbursement for further treatments from ICBC if her medical practitioners consider them necessary to facilitate her recovery.

#### Hyperbaric treatment

71. In the CMA report, Dr. Atkins also says that there is some evidence supporting hyperbaric therapy for prolonged post-concussion symptoms, and that a referral to a Kelowna facility offering hyperbaric treatment "would seem reasonable". Ms. Pichette says that ICBC did not follow up on this recommendation, but that she received beneficial hyperbaric treatment in Mexico. It is not clear whether Ms. Pichette is claiming reimbursement for this treatment, but I find it unproven in any event as she did not submit an invoice or receipt in support of it. I dismiss this part of Ms. Pichette's claim. Nothing in this decision prevents Ms. Pichette from pursuing Dr. Atkins' recommendation with ICBC, if it is still recommended by her medical practitioners.

#### Dental care

72. Ms. Pichette claims \$269 for dental cleaning. She says that since the accident, she has been unable to effectively clean her teeth because of her jaw injuries. She says she required a dental cleaning under sedation. Ms. Pichette submitted an invoice for this expense, but no medical evidence in support of her argument that this treatment was required because of the accident. In the absence of supporting evidence, I dismiss this part of Ms. Pichette's claim.

#### ***Income Replacement Benefits***

73. Ms. Pichette initially argued that ICBC had incorrectly calculated her income replacement benefits because it had not taken her disability tax credit into account.



However, in submissions, she says that she will address this directly with ICBC because it is a calculation error that does not require CRT intervention. I infer that Ms. Pichette has withdrawn this claim, so I will not address it further.

#### Return to work plan

74. Ms. Pichette seeks an order that ICBC commit in writing to support a future return to work plan for her, after she recovers from jaw surgery. It is undisputed that an ICBC-contracted occupational therapist previously created a graduated return to work schedule for Ms. Pichette, but Ms. Pichette's employer was unable to accommodate the recommendations and Ms. Pichette has not returned to work.
75. While I acknowledge Ms. Pichette's submission that ICBC did not consult with her on the original return to work plan, I find there is no obligation in the IVA or the IRB requiring ICBC to provide a written commitment to supporting an insured with a return to work plan. I dismiss this part of Ms. Pichette's claim.

#### Person with disability benefits

76. Ms. Pichette says that she has been a Person with Disability Status (PWD) with the Ministry of Social Development and Poverty Reduction (Ministry) since 2001. Because of this, she received disability assistance from the Ministry, which included comprehensive health benefits. Ms. Pichette says that because she is receiving income replacement benefits from ICBC, she is no longer eligible to receive Ministry health benefits, and has had to pay out of pocket for medical services. She asks that ICBC reimburse her for medical services that would otherwise have been covered by the Ministry benefits.
77. The IVA and the *Income Replacement and Retirement Benefits and Benefits for Students and Minors Regulation* (IRB) set out an insured's entitlement to income replacement benefits. Ms. Pichette acknowledges that there is no specific category under which ICBC is required to reimburse her for the Ministry benefits that she is no longer eligible for, but asks ICBC to exercise discretion to do so.

78. ICBC says it has no jurisdiction over the Ministry's decision to reduce or discontinue the benefits it provides to Ms. Pichette. I agree. While it is unfortunate that receiving ICBC income replacement benefits has disintitled Ms. Pichette to Ministry health benefits, I find this is a matter between Ms. Pichette and the Ministry. There is no provision in the IVA, IRB or EAB requiring ICBC to replace the Ministry's coverage. I dismiss this part of Ms. Pichette's claim.

#### Employment training certifications

79. Ms. Pichette says that her pre-accident employment required safety and first aid certifications which had to be renewed every three to five years. She claims compensation for this training in the event she is able to return to work.

80. ICBC submits that these expenses are not reimbursable under the IVA and its associated regulations. I agree. The IVA and the IRB do not require ICBC to pay for safety certifications. I find Ms. Pichette, or her employer, would have had to pay for these certifications regardless of the accident. I find there is no basis to order ICBC to pay these expenses, and I dismiss this part of her claim.

### **CRT FEES, EXPENSES, AND INTEREST**

81. Under CRTA section 49 and the CRT rules, the CRT will generally order an unsuccessful party to reimburse a successful party for CRT fees and reasonable dispute-related expenses.

82. Ms. Pichette paid \$125 in CRT fees, and ICBC paid \$25. As both parties were partially successful, I find it appropriate for them to each bear half of the total CRT fees paid. The net result is that I order ICBC to pay Ms. Pichette \$50 as reimbursement for CRT fees.

83. Ms. Pichette claims expenses for medical reports she obtained in support of her claims in this dispute. She submitted two receipts for two \$250 charges for reports prepared by Dr. Capo at A B See Optometry & Vision Therapy in relation to her vision care. Ms. Pichette provided Dr. Capo's October 3, 2023 report in evidence. This

report explains Ms. Pichette's need for prism glasses, which ICBC has undisputedly now agreed to fund. As there is no indication ICBC had agreed to fund the prism glasses before this report, I find it appropriate for ICBC to reimburse Ms. Pichette for the cost of obtaining the report. I order ICBC to pay Ms. Pichette \$250 for Dr. Capo's October 3 report. However, Ms. Pichette did not explain the need for the second invoice or provide a second report, and so I decline to order further reimbursement.

84. I dismiss Ms. Pichette's claim for \$50 to obtain her chart from Vernon Physiotherapy & Rehabilitation Clinic, as I find the chart is not directly related to Ms. Pichette's claims in this dispute, and I did not rely on it in reaching this decision.

85. I also dismiss Ms. Pichette's claim for \$197 for a report prepared by Dr. Pritchett. While I considered Dr. Pritchett's opinion in relation to Ms. Pichette's claim for massage and chiropractic therapy, she was not successful in this claim, so I find she is not entitled to reimbursement of dispute-related expenses in relation to it.

86. Lastly, in submissions, ICBC refers to a \$1,000 claim by Ms. Pichette for "representative support costs, CRT and communications with ICBC". Ms. Pichette does not address this claim in her submissions, so it is unclear whether she is pursuing this claim. However, I dismiss it in any event as under the CRT rules, the CRT will not order one party to pay another party compensation for time spent dealing with the tribunal proceeding except in extraordinary circumstances, which I find are not present here.

## **ORDERS**

87. Within 21 days of this decision, I order ICBC to pay Ms. Pichette a total of \$1,353.16, broken down as follows:

- a. \$846.72 as reimbursement for prescribed medical equipment,
- b. \$140 as reimbursement for home care expenses,
- c. \$66.44 in pre-judgment interest under the *Court Order Interest Act*, and

- d. \$300, for \$50 in CRT fees and \$250 in dispute-related expenses.
88. Ms. Pichette is entitled to post-judgment interest, as applicable.
89. Within 30 days of this decision, I order ICBC to reimburse Ms. Pichette for her reasonable transportation, lodging and meal expenses associated with her April 17, 2023 surgical consultation with Dr. Courtemanche.
90. Within 30 days of this decision, I order ICBC to reimburse Ms. Pichette for her reasonable transportation expenses associated with vision care treatments in relation to the accident.
91. I dismiss Ms. Pichette's remaining claims.
92. This is a validated decision and order. Under CRTA sections 57 and 58, a validated copy of the CRT's order can be enforced through the Supreme Court of British Columbia or the Provincial Court of British Columbia if it is under \$35,000. Once filed, a CRT order has the same force and effect as an order of the court that it is filed in.

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Alison Wake, Tribunal Member