

Request – CAT Determination

Prepared For: You

Date Requested: Now

Issues Raised: Cases dealing with Mental and Behavioural Impairment Analysis

Fact Situation as Described by Requester: “CAT dispute re: mental and behavioural impairment. AMA Guides 4th and 6th edition; assessment of whole person impairment rating; four spheres of functioning and assessment of impairment ratings; use of Brief Psychiatric Rating Scale (BPRS); Global Assessment of Functioning Scale (GAF); Psychiatric Impairment Rating Scale (PIRS).”

EOB Reason for Denial: “Not CAT.”

Interaction

Clarification Question:

1. Are you dealing with a pre-Jun 2016 or post-Jun 2016 definition?
2. To-date there hasn't been any reported decisions that deal with criterion 8 under the new definition. But we can certainly compile an OAR with 3 for and against cases where the Tribunal deals with whether the Applicant meets 3 or more marked impairment

Corresponding Response:

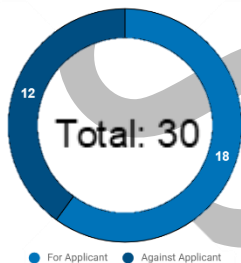
1. “Post June 2016 definition.”
2. “Thanks - Could you include the 55% WPI analysis based on combining psych with physical?”

Results - Compendium Search Parameters

Option 1:

Issues/Benefit in Dispute: CAT-Marked Impairment

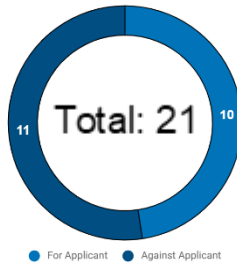
Results Returned: CAT-Marked Impairment



Option 2:

Issues/Benefit in Dispute: CAT-WPI Determination

Results Returned: CAT-WPI Determination



For/Against Analysis: CAT-Criterion 8 & WPI Determination

Results as of February 18th, 2021, including any Reconsiderations

Sorted by the most relevant/recent decisions returned

Date of most recent decision found: December 8, 2020

None of the corresponding decisions have been cited

For Applicant

- 1. 17-006929 v Allstate**
Release Date: December 8, 2020
Outcome: The Tribunal concluded that the Applicant has sustained a CAT impairment, as it accepted the finding of the Applicant’s assessors that he suffered a Class 4 Marked impairment in the domains of Activities of Daily Living and Concentration, Persistence and Pace, and Adaptation. This was further corroborated by the IE OT reports by Ms. Munir and the testimony from the Applicant’s wife and children as they stated that he suffered from depression, ongoing pain, fatigue, poor mood, poor sleep, hygiene, lack of interest and poor coping mechanisms as a result of the accident, which significantly impacted his ability to engage in personal care, conduct housekeeping tasks and work duties. The Tribunal did not give much weight to the IE psychological report dated July 2017 as her tests were outdated and not useful for the purpose of validity or the clinical status of a patient.

- 2. 18-000017 v Gore Mutual**
Release Date: April 6, 2020
Outcome: The Tribunal concluded that the Applicant is catastrophically impaired based on a combined WPI rating of 55%. While the Respondent’s assessor concluded a combined WPI rating of 35% and a mild impairment in all four domains from a mental and behavioural disorder, the Tribunal found that the Applicant has a moderate (class 3) impairment in all four spheres of functioning, as opposed to the Applicant’s psychiatrist’s finding of a marked impairment in the Adaptation domain.

3. 18-004113 v Pafco Insurance
Release Date: April 6, 2020

Outcome: The Tribunal concluded that the Applicant is catastrophically impaired as a result of a 2012 accident, preferring the assessment of the Applicant's psychiatrist who found that he suffers a marked (class 4) impairment in activities of daily living ("ADL"), social functioning ("SF") and adaptation ("AD"). While the Respondent contended that the Applicant did not suffer a marked impairment in any of the four domains, and further raised the issue of causation that the impairments are as a result of a prior 2006 accident, the Tribunal was persuaded that the Applicant would not have sustained his current psychological impairment but for the subject accident in light of the functional limitations post-accident.

Against Applicant

18-012633 v Allstate

Release Date: September 28, 2020

- 1. Outcome:** The Tribunal concluded that the Applicant is not catastrophically impaired as a result of the May 6, 2013 accident. While the Applicant's assessors found that he had a combined WPI of 55%, including a 23% physical WPI and a 40% psychological WPI, the Tribunal instead found his total WPI was 48%. The Applicant's problems with memory and cognition post-accident were consistently reported to all assessors and were also corroborated through his wife's testimony. However, based on Dr. Braganza's cross examination, the Tribunal accepted that the Applicant's cognitive limitations only warranted a mental status impairment rating of 12%, rather than the highest range of 14% assigned by Dr. H. Becker. The Tribunal further accepted Dr. D. Becker's determination that the Applicant sustained moderate impairment in all four spheres of functioning.

18-008775 v Wawanesa

Release Date: June 19, 2020

- 2. Outcome:** While accepting that the Applicant's pre-existing psychological impairments were worsened as a result of the subject April 2016 accident, the Tribunal did not find that the Applicant sustained a CAT impairment. The Applicant's claim of a combined 62% WPI was largely predicated upon a 49% WPI for mental/behavioural disorders, as compared to the overall 10% WPI determined by the Respondent's assessors. The Tribunal assigned little weight on the 49% WPI rating assigned by the Applicant's lead assessor, as the psychologists had failed to address the Applicant's significant pre-accident psychological issues. In addition to the Applicant's assessor choosing the highest WPI percentage in the range without any explanation, the Tribunal also found that the assessor had "zero" certification in the use of the Guides with no expertise in completing psychological assessments. With the Applicant's rating being discounted, the Tribunal found the maximum possible combined WPI is 33%, falling below the threshold of 55%. The Applicant also did not meet the definition under criterion 8, as the Tribunal preferred the findings of the Respondent's

psychiatrist for the most part in concluding that the impairment ratings across all four domains ranged from “no” impairment to “mild”.

18-004952 v Dominion

Release Date: March 25, 2020

- 3. Outcome:** The Tribunal concluded that the Applicant is not catastrophically impaired as a result of the 2009 accident. While the Applicant relied upon the opinion of his psychiatrist Dr. Ennis that he meets the criteria for a CAT impairment in the domains of social functioning, concentration, persistence and pace and adaptation, the Tribunal found it significant that Dr. Ennis provided incoherent impairment ratings in two of the domains, where he had assigned inconsistent ratings for the same domain. In this case, the non-CAT limit had been exhausted.

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