

**Automobile Injury Appeal Commission  
Province of Saskatchewan**

**Citation:** *C.T. v. Saskatchewan Government Insurance,*  
2008 SKAIA 017  
**Date:** 20080312  
**File:** 112 of 2006

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**BETWEEN**

**C.T., Applicant**

**and**

**Saskatchewan Government Insurance, Respondent**

**Appearances:**  
**C.T., the Applicant**  
**Allan McLeod, for the Respondent**

**Before:** **Barbara Tomkins, Chair**  
**Joy Dobko, Commission Member**  
**Jane Lancaster, Q.C., Commission Member**

**THIS DECISION HAS BEEN EDITED TO PROTECT THE PERSONAL AND HEALTH  
INFORMATION OF INDIVIDUALS BY REMOVING PERSONAL IDENTIFIERS AND  
OTHER IDENTIFYING INFORMATION.**

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Heard at Saskatoon, Saskatchewan  
February 27, 2008

## DECISION

[1] The Appellant, C.T., was very seriously injured in a vehicle accident on January 31, 2000. She has been in receipt of injury benefits under Part VIII of *The Automobile Accident Insurance Act* (“the Act”) since the accident and continues in receipt of benefits at this time.

[2] In the course of her rehabilitation, the Appellant received cranial sacral therapy from a registered massage therapist. The Appellant requested that SGI fund the cost of these treatments and related expenses but SGI has declined to do so. In a decision dated December 30, 2005, SGI advised that:

Cranial sacral therapy is not recognized by SGI as being an appropriate treatment protocol for injuries such as yours. In consideration of this I am unable to reimburse you for the treatments you have already paid for, or to commit to funding for further such treatments.

[3] The Appellant did not agree with SGI’s position and requested that the dispute be mediated. As the mediation was not successful in resolving the matter, the Appellant appealed to this Commission.

## JURISDICTION

[4] The Commission derives its jurisdiction from section 191(1) of the new *Act* which provides as follows:

191(1) A claimant may appeal a decision of the insurer pursuant to this Part to either the Court of Queen’s Bench or the appeal commission within the later of:

(a) 90 days after the date of insurer’s written decision; and

(b) if a claimant has requested mediation pursuant to section 190, 60 days after the date [of] the mediator’s written statement pursuant to subsection 190(8) declaring that the mediation is completed.

[5] SGI’s decision letter is dated December 30, 2005 and shortly after receiving it, the Appellant requested that the matter be mediated. By letter dated October 10, 2006, the mediator advised that the mediation was concluded.

[6] The Appellant's application for appeal was received by the Commission on November 21, 2006. Thus, her appeal was filed within 60 days of the mediator's letter and in accordance with section 191(b). The appeal is properly before us.

## **FACTS AND FINDINGS**

[7] The Appellant suffered a serious brain injury, among other injuries, in a vehicle accident on January 31, 2000. She was hospitalized for a number of months following the accident and then received in-hospital rehabilitative care for a number of months thereafter. Her recovery was, at the date of her discharge from hospital, termed "remarkable" by her physician. Nonetheless, she still suffered significant disability. As this appeal relates primarily to disabilities with speech and ambulation, our description below is limited to those two aspects of her condition.

[8] Following her discharge and apparently continuing to this date, the Appellant has continued to improve. While she was virtually confined to a wheelchair when she left hospital, she is now able to maneuver with support for some of her daily activities and is able to walk very short distances without support. While her speech is not yet what it was prior to the accident, conversation is now coherent, appropriate and thoughtful. She still has difficulty with articulation and with modulating the volume of her voice, although these difficulties have lessened.

### **Cranial Sacral Massage**

[9] In the course of her recovery, the Appellant learned of a new technique - cranial sacral therapy - that is administered by specially trained massage therapists. She has received this treatment occasionally, first in Edmonton and more recently in Saskatoon. The Appellant is convinced that she obtains benefit from the therapy and that SGI should fund it.

[10] Both parties provided evidence respecting cranial sacral therapy.

[11] The Appellant testified that she received cranial sacral therapy a number of times since 2005, probably about ten times in all, most recently in November 2007. She said that after treatment, she notices that her voice is not "croaky" and that she can speak more easily.

Whereas usually speaking requires a lot of effort and conscious thought, words come more easily after the therapy. She believes her flexibility and balance are also improved by the therapy. Most important, she said that she simply feels better generally and doesn't "feel the weight of the world on her shoulders." She feels better about herself and has more confidence. She said these effects and results last about a week, though the improvement to her speech lasts about a month.

[12] A friend of the Appellant also testified. She has taken the Appellant to two of her recent cranial sacral therapy appointments and said she has personally observed changes that appear to her to be the result of the treatments. She said that immediately after the treatment, the Appellant's speech is much clearer and her enunciation is noticeably improved. Her co-ordination is also better.

[13] The friend said she did not know the duration of these improvements but had noticed on the way to the second appointment that the effects of the first had not been maintained. She did not recall the time frame between the two appointments except that they were months apart.

[14] The Appellant filed documentary evidence in support of her appeal. The Nurse Practitioner who provides primary care for the Appellant provided two letters. In the first, dated November 7, 2006, the Nurse Practitioner said<sup>1</sup> that the cranial sacral therapy provided benefits in:

improving her speech, her attitude and her pain and her strength. [The Appellant] has been seeing this lady for cranial sacral therapy for a period of a few months and there really has been improvement. This treatment has given her initiative to continue to work her daily life, to improve her ability to go to the gym and work out and most importantly pain relief and improvement in speech.

[15] In a later letter, the Nurse Practitioner said:

The cranial sacral therapy that [the Appellant] undergoes is and continued to be an asset to her health in 2008 very similar to how well it helped her when I wrote a letter for her in 2006 with the same outcomes but with improvements that she continues to make. This therapy continues to help

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<sup>1</sup> C08

[the Appellant] to improve her daily living and work diligently at improving her health. She continues to get pain relief and improvements with her speech. She continues to get improvements on a regular basis from this treatment and feels strongly that she improves because of it and we do see improvements in her speech quality and also her pain. She needs to continue to work on her balance and walking but also does see improvements in these areas as well. She also continues to work on the tread mill and equipment to continue to improve her strength and balance.

This motivates [the Appellant] to strive to improve her health in all regards from psychological to physical to emotional and as WE know in health care it take all of these to make us better no matter what we are facing. . . . I feel this sacral cranial therapy is doing this for [the Appellant] and she has benefited from it and we should assist with it if we can as it is making an improvement in [her] outlook, as well as her physical abilities . . .

[16] The Registered Massage Therapist (RMT), who has taken post-graduate training to learn to administer cranial sacral massage and who is the Appellant's therapist, also provided an opinion. She provided information about the therapy and then said:

I have found and treated significant restrictions in her cranial vault. Her temporal bones, in which are located the utricles, the organs of balance, were very restricted from the impacts received to her head in that accident. Since the release in this area she has been able to function much better. For instance she can roll over in bed easily whereas before it took her five minutes, she can also bend forward with out losing her balance. There are also significant restriction around her face and throat and with work here she is speaking more clearly. I would like to continue working with her, I believe more improvements are possible.

[17] SGI provided an opinion from its consultant physiotherapist that came to a contrary conclusion. The consultant provided an opinion based on a literature review. She found that there were serious short-comings in studies that had shown that cranial sacral therapy was effective and that some studies showed adverse effects in some patients with traumatic brain injuries. In addition, she provided information from a study conducted by practitioners of cranial sacral therapy that showed that the assessment of craniosacral rhythm was unreliable among practitioners of the technique. Finally, she conducted a systematic review of studies examining the potential association between health and craniosacral mobility restrictions, fusion at cranial sutures in adults and motion of cerebrospinal fluid; these are all areas that are alleged to be involved and manipulated in the

course of cranial sacral therapy. The consultant concluded that the studies do not indicate that cranial sacral therapy provides the kinds of change that it puts forward as the basis of its effectiveness.

[18] The consultant further noted that the therapy is not taught within the curriculum of university physical therapy programs in Canada and that it is not typically recognized by the physical therapy and rehabilitation departments that treat people with traumatic brain injuries. Indeed, she quoted a study by professors at the College of Osteopathic Medicine who concluded that cranial sacral therapy was a “health fiction” that should be removed from the curriculum of colleges of osteopathic medicine. Finally, she noted that the American Medical Massage Association does not accept or recommend the practice for its members or for patient treatment.

[19] Overall, she concluded, the therapy has not been shown to be effective, nor have any benefits been proven. Therefore, she did not believe the therapy was likely to be of benefit for the Appellant and thought that it might put her at risk of adverse effects. She did not describe the adverse effects.

[20] Prior to the accident, the Appellant was a highly independent, self-reliant and capable woman and these traits are evident in her recovery. Perhaps in this context, she declined to continue certain therapies that she didn’t think helpful but she has been fully engaged in any activity that was beneficial.

[21] The Appellant was a very physically active woman who owned and operated a gym; she was, as her friend described her, a “fitness buff”. Since the accident, she pushed her recovery through physical activity. With the help of friends and community, she enjoyed a season of curling in 2006 and was able to return to aquasize in 2007. She exercises in her home and at the local gym at least three times each week, including extensive time on the treadmill, the elliptical machine, the exercise ball and doing push-ups, crunches and sit-ups. She has achieved significant benefit from her hard work. For instance, following the accident, the Appellant had very limited ability to raise her left arm but now is able to use the arm for many daily activities. Her stability, balance and strength have been improved

and she is now able to bend at the waist to touch the floor, to manage many household activities and to walk short distances unsupported.

[22] The Appellant's most significant improvement, by all accounts, derives from the fact that the small improvements have given her self-confidence and the self-confidence, in turn, motivates her to work harder. She has been tenacious.

## LAW AND ANALYSIS

[23] This appeal turns on section 110 of the old Act<sup>2</sup> which reads as follows:

**110(1)** In this section, “**rehabilitation**” includes any or all of the following measures, programs and treatments that the insurer considers necessary or advisable to contribute to the rehabilitation of a victim, to lessen the victim's disability caused by an accident and to facilitate the victim's recovery from the accident.

[24] The question for our consideration, therefore, is whether it was reasonable for SGI to conclude that cranial sacral therapy was not necessary or advisable to contribute to the rehabilitation of this Appellant? We are satisfied that SGI's decision was reasonable.

[25] The opinion from SGI's consultant is troubling in some respects. The manner in which studies are referenced suggests the possibility that aspects of the studies that suggest against cranial sacral therapy have been referenced while positive aspects may have been omitted. It comments on certain opinions without mentioning their corollaries.<sup>3</sup>

[26] Having said that, however, we note that SGI's expert consultant provided a professional opinion that explored scientific evidence and concluded that cranial sacral therapy was not likely beneficial for the Appellant's injuries and might, in fact, expose her to risk of adverse effects. This opinion was not premised on a general dismissal of the therapy but on its impact on people with traumatic brain injuries.

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<sup>2</sup> Amendments to the legislation took effect on August 1, 2002 and created, in effect, two acts – the old Act and the new Act. This Appellant's accident occurred in 2000 and is therefore administered under the old Act.

<sup>3</sup> For example, the opinion mentions that Canadian universities that offer degrees in physical therapy do not teach the therapy and that the American Massage Therapy Association considers it a “fringe” form of massage. However, she does not comment on the RMT's statement that the therapy is recognized for continuing education purposes by the Saskatchewan Massage Therapy Association.

[27] Against this, the Appellant has provided anecdotal evidence of improvement, particularly in her speech and balance. Her observations are supported by her friend's evidence and that of the Nurse Practitioner. But none of these witnesses suggested specific improvements or how these improvements are related to the cranial sacral therapy, other than that they are observed shortly after the therapy is provided.

[28] The Appellant, however, has provided an explanation. While she unquestionably believes that cranial sacral therapy has beneficial results to her physical condition, her focus was on the motivation and encouragement that the RMT offered. In the course of her evidence, the Appellant referred to the fact that for her, after treatment, the weight of the world was lifted and that she felt confidence that enabled her to try things she wouldn't otherwise. Tellingly, when asked how much her improvement could be attributed to cranial sacral therapy and how much to her own drive, hard work and exercise, the Appellant responded that the rehabilitative therapists had said she was at maximum recovery some years back whereas cranial sacral therapy inspires her to improve. She said words to the effect, "I do it but the desire and belief that I can is with [the RMT]." In this manner, she credits 80% of her recent recovery and improvement to the RMT.

[29] We believe the Appellant is right when she says "I do it". While the RMT credits the therapy for the improvements, she does so without reference to the other activities and exercise that the Appellant has undertaken. While the Nurse Practitioner appears to credit the therapy for some of the improvements she has observed, she also does so without direct reference to the impact of the Appellant's other activities and exercise.

[30] However, the Nurse Practitioner goes further when she says that the treatment motivates the Appellant to strive to improve her health in all respects – psychological, physical and emotional – and that it improves her outlook. It appears to us that the Nurse Practitioner's primary conclusion is that the improvement lies not in the therapy but in the work the Appellant does. The Nurse Practitioner's view, like the Appellant's, is that the therapy provides the motivation to do the hard work that leads to improvements.

[31] We are supported in our view that the improvements and rehabilitation are the result of the Appellant's hard work, rather than the cranial sacral therapy. The Appellant testified

that early in 2008, she had a three week holiday in British Columbia and, during that time, wasn't able to walk on the treadmill. She said when she got home, she was out of shape and her balance was not as good as it had been. With exercise after her return, she was regaining some of the improvement that had been lost.

[32] On the other hand, there is no evidence of regression during those times that the Appellant was unable to attend for cranial sacral therapy. The evidence suggests, on the contrary, that improvements have been consistent as long as she was physically active and engaged in exercise and other activities.

[33] We are satisfied that the evidence has not established that cranial sacral therapy actually led to improvements in the Appellant's physical condition and capabilities. We are satisfied, however, that the therapy - and specifically the RMT who administers it - provides motivation that encourages those improvements.

[34] We do not need to consider whether this motivational impact is rehabilitative for purposes of section 110 quoted above for reasons that follow. While we accept that the therapy has provided motivation to a person who has not been given much hope or motivation elsewhere, we also believe that the Appellant will continue to work for her recovery even without the motivation currently offered through cranial sacral therapy. She has maintained her diligence despite infrequent visits to RMT. While she believes that the therapy and the therapist provide 80% of her motivation, we are satisfied that the Appellant is giving the therapist far too much credit. The Appellant has demonstrated since the day of the accident that she is going to do whatever she thinks necessary to improve and we do not believe that attitude was engendered from anyone or anything besides the Appellant herself. When asked specifically what she would do if her appeal was not successful, the Appellant candidly stated that she would still do her exercises and would probably go to acquasize. This establishes that the motivation to work hard lies in the Appellant and not with any particular therapist.

[35] Given this evidence, the Appellant has not satisfied her onus to show that SGI's decision was not reasonable. SGI could reasonably conclude that the benefits alleged are

motivational only and that the actual benefit is derived from the hard work the Appellant has taken toward her recovery.

### **MISCELLANEOUS**

[36] In closing, we note that had this appeal gone forward based on SGI's initial denial which was made in advance of its consultant's opinion, our conclusion might have been different. It seems to us that in reaching a decision reasonably, SGI is required to consider all relevant information available at the time and apply it to the individual case. It is not generally enough to simply state, as did its Personal Injury Representative on at least one occasion, that SGI does not cover sacral cranial therapy.

[37] We recognize that SGI faces numerous requests involving alternative medical treatments, some of which may not have been studied in depth. We recognize that there may be an inclination to dismiss some of the more unusual of these but the inclination must be submerged in an honest, scientific approach in each case. While some of the alternative treatments are never shown to be therapeutic and some are eventually shown to have no scientific or therapeutic basis at all, some are eventually shown to achieve real and measurable benefit. In this regard, we are reminded that many years ago, chiropractic and acupuncture treatment were viewed skeptically whereas today, they are generally accepted and are funded by SGI as therapeutic and rehabilitative in appropriate cases.

[38] We also note reports – the most recent being December 2003 – that conclude the Appellant has reached maximum medical improvement. It appears to us that she has made many improvements since this report was written, most notably the ability to walk short distances unsupported – a goal that was dismissed as unrealistic in the 2003 report. We don't know if these improvements, while clearly significant individual accomplishments, are significant or merely incremental in the context of the Appellant's overall condition and capabilities. But even if merely incremental, that does not mean that they are not rehabilitative for purposes of 110. We reject SGI's argument that since the Appellant is at maximum medical improvement, no treatment is rehabilitative and remind SGI that the definition in section 110 includes treatment and rehabilitation measures that contribute to an Appellant's rehabilitation or improve her condition.

**CONCLUSION**

[39] SGI's decision letter dated December 30, 2005 is upheld.

**COSTS**

[40] As the Appellant has not been successful in her appeal, she is not entitled to recover her expenses or receive a refund of her appeal fee.

**Dated** at Saskatoon, Saskatchewan, on March 12, 2008.

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Barbara Tomkins, Chair

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Joy Dobko, Commission Member

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Jane Lancaster, Q.C., Commission Member