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## CASE SUMMARY: DENYING YOUR INSURED'S TREATMENT PLAN? YOU BETTER BE ABLE TO JUSTIFY WHY!

An insurer that is required to provide reasons for a decision must provide meaningful reasons to allow the insured to determine whether to challenge the decision.

### **Insurance law – Automobile insurance – Statutory provisions – Duties and liabilities of insurer – Practice – Appeal**

*Hedley v. Aviva Insurance Company of Canada*, [2019] O.J. No. 4775, 2019 ONSC 5318, Ontario Superior Court of Justice, September 23, 2019, H.E. Sachs, A.D. Kurke and R.M.R. Bell JJ.

The insured injured his lower back and neck in a motor vehicle accident. His occupational therapist submitted treatment and assessment plans for statutory benefits under the Statutory Accident Benefits Schedule, O. Reg. 34/10 (the "Schedule") to the insurer. The insurer denied the plans on the basis that it was unable to determine whether the recommendations were reasonably required to treat the insured's injuries but did not provide more detail for its refusal to pay. The insurer requested an insurer's examination, pursuant to s. 38(8) of the Schedule. The insured refused to attend the insurer's examination because the insurer did not explain its reasons for refusing the treatment plan.

The insured unsuccessfully applied to the License Appeal Tribunal. However, the tribunal's decision was reversed on reconsideration as the insurer's reasons for denying the treatment plans were found to be inadequate. Aviva appealed to the Superior Court of Justice. The court found that where an insurer is required to provide reasons, they must be meaningful in order to permit the insured to decide whether or not to challenge the insurer's determination. As the insurer had failed to provide reasons for its denial, its appeal was dismissed.

This case was digested by [Jaeda B. Lee](#), and first published in the LexisNexis® Harper Grey Insurance Law Netletter and the Harper Grey Insurance Law Newsletter. If you would like to discuss this case further, please contact Jaeda B. Lee at [jlee@harpergrey.com](mailto:jlee@harpergrey.com).