

FSCO arbitration comments on reliability of reports of independent assessors:

- The insurer must evaluate the claimant from a "holistic perspective". This means being wary of opinions from specialists that are limited to their specific areas and conclusions from their independent perspectives. In other words, even if there are reports saying that there are no physical problems, and reports that there are no psychological problems, this does not mean that there are no problems at all when you consider the claimant as a whole person (even though there are no "whole person" expert reports).
- The insurer must tie all of the evidence together to determine whether the treatment is "necessary in any meaningful sense" for the claimant. This seems to mean that the claimant's own view should be given more weight than that of insurance assessors.
- The insurer must take into account all the dimensions of the claimant's life. For example, it is not appropriate to consider that for most of the year (including the period when the accident occurred), the claimant has a sedentary student life, when he also does heavy work between semesters.
- The insurer should be wary of a report that states a conclusion without an analysis of why the treating practitioner's recommendation should be rejected. "It is ... not rationally sufficient for an insurer to blindly parrot conclusions contained in independent examinations as rationales for denying accident benefit claims. Conclusions carry no rational weight apart from the data and warrants which rationally support them."
- "It is incumbent upon insurers to take the independent assessments which they obtain and review them to determine how well the conclusions therein are supported by sound reasoning."
- The arbitrator warned insurers of the risks of relying on short reports.

- The arbitrator rejected a report that concluded that the assessor was "unable to recommend" further treatment.
- "Useful expert reports are those which help the ultimate decision maker, whether circumstantially, that is an insurance adjuster or an adjudicator, to understand the evidence in support of, as well as challenging, the conclusion that a claimed benefit is reasonable and necessary. Reports that only record the evidence on one side of the case are generally unhelpful; they do very little to assist the ultimate decision maker in understanding the complexity of the situation."
- The arbitrator was not prepared to accept a physiatrist's "bald statement" that there is "insufficient evidence" for the clinical value of proposed treatment in the absence of a list of the research that was reviewed.
- The Decision also states, "This is necessarily a two way street and it applies equally to section 24 assessments which applicants obtain."