Translated from the original French

Social Affairs Section

In matters of compensation

Date: October 4, 2021

Neutral citation: 2021 QCTAQ 1077

File: SAS-M-292044-1911

Presiding Administrative Judges:

KARL LEFEBVRE

MICHÈLE RANDOIN

J. T.

Applicant

v.

SOCIÉTÉ DE L'ASSURANCE AUTOMOBILE DU QUÉBEC

Respondent

DECISION

1. The applicant contests a review decision rendered by the respondent (the SAAQ) on September 12, 2019. That decision upheld the refusal to reimburse the cost of replacing a hot plate and a built-in oven.
2. The SAAQ argues that they are specialized household appliances for which only the reimbursement of the initial purchase is covered by the home adaptation guideline. The replacement cost is borne by the citizen.
3. The applicant submits that the guideline is logically incoherent and that had it not been for his accident, he could have purchased standard and possibly less expensive household appliances.

BACKGROUND

1. The applicant was the victim of a motor vehicle accident in 1988 when he was 16 years old. The accident caused a thoracic spine fracture, which resulted in a paraplegia.
2. On May 30, 2005, an occupational therapist prepared a home modifications report in the context of an adaptation of the applicant’s future home. In terms of the layout of the kitchen, the report recommended, in particular, the installation “[translation] “of a built-in oven (with side opening door)” and [translation] “a hot plate (with front-mounted controls)”.[[1]](#footnote-1)
3. These recommendations were accepted by the SAAQ, which, in 2006, agreed to pay for these household appliances.[[2]](#footnote-2)
4. On May 3, 2019, the applicant submitted an invoice of $3,226.17 to be reimbursed for a new built-in oven and a hot plate.
5. At the hearing, the applicant explained that he wanted to replace his oven, which had become less efficient over time, and purchase an induction hot plate, which he considers safer.
6. The SAAQ refused to authorize the reimbursement on the ground that [translation] “the guideline concerning home adaptation provides for only one purchase with regard to household appliances”.[[3]](#footnote-3) This decision was upheld on review, hence this proceeding.

GUIDELINE

1. The Tribunal reproduces below the relevant excerpts of the home adaptation guideline.[[4]](#footnote-4)
2. The definition of a specialized household appliance is found in section 5.1.4.1:

[translation]   
Specialized household appliance: A household appliance is defined as specialized when it has special features necessary for its use by the accident victim. For example, a hot plate with front-mounted controls, a built-in oven with side opening, and a front-loading washer and dryer. Refer to 5.2.5.2 for the eligibility requirements.

1. Later, section 5.2.5.2, concerning adaptation to meet permanent needs, states:

[translation]   
Persons can be reimbursed:

…

up to the maximum amount established, for the purchase of specialized household appliances deemed essential to the person’s autonomy, without which the person would not be able to carry out the task (the person must be able to carry out the entire activity independently and accomplish it frequently);”

1. The guideline adds, still in section 5.1.4.1:

[translation]

Only the first purchase is reimbursed if the original appliances cannot be used independently and safely by the person. If there are no original appliances, the reimbursement for the difference in cost due to the special features of the appliance is admissible.

…

The accident victim is responsible for the maintenance, replacement, and transfer, in the event of a move, of his or her specialized household appliances. In the event of a transfer of a built-in oven and the hot plate, the restoration of damaged parts is excluded and is a matter of agreement between the vendor and the new owner. When these appliances are sold with the house, their replacement is not eligible for reimbursement.

1. Finally, in section 5.2.9 concerning maintenance, repair or replacement, there is a specific exclusion for certain adaptations:

The following are excluded:

…

Expenses incurred for the maintenance, repair or replacement of specialized household appliances and standard equipment;

ANALYSIS AND REASONS

1. The Tribunal is not bound by the home adaptation guideline adopted by the SAAQ under s. 83.7 of the *Automobile Insurance Act*[[5]](#footnote-5) (the *AIA*). In fact, it is an administrative guideline that has no force of law and was adopted by this body to facilitate decision-making by its officers, while ensuring greater consistency and uniformity.
2. This guideline alleged in support of the decision rendered by the SAAQ cannot, however, be dismissed out of hand. In fact, as the Court of Appeal recalled in *Procureur général c. P.F*,[[6]](#footnote-6) the Tribunal must be able to give the reasons for its decision to set aside an administrative policy or guideline adopted by a body as part of its decision.
3. Section 83.7 of the *AIA* grants wide discretion to the SAAQ allowing it to “take any necessary measures to contribute to the rehabilitation of a victim, to lessen or cure any disability resulting from bodily injury and to facilitate his return to a normal life or his reintegration into society or the labour market.” Under this provision, the SAAQ has adopted various guidelines as a decision-making framework regarding rehabilitation issues, including the one alleged in this case.
4. This guideline was adopted by the SAAQ, the body responsible for the implementation of this government program, and its content is based on its special knowledge of the issues in this area because of the many decisions it makes in this regard. The SAAQ decided, in particular, to reimburse the cost of installing specialized household appliances, but not the cost of their replacement. This decision generally applies to all citizens filing an application with the SAAQ.
5. The applicant alleges that it is not logical that the SAAQ covers the initial costs of these household appliances, but not the cost to replace them, even though they remain essential for his condition. He does not claim that his situation is special or that the application of the guideline to him imposes different consequences from those suffered by other citizens in general.
6. In the context of its decision, the guideline can serve as a reference for the Tribunal if it considers its content relevant and justified because it is compatible with the purpose of the legislation. If this is not the case, or if the applicant’s situation presents a special characteristic that justifies setting aside the guideline, then the Tribunal can set it aside.
7. In brief, the Tribunal must render the appropriate decision under s. 83.7 of the *AIA* while taking into account the parameters established by the SAAQ to guide it in its   
   decision-making. However, in the applicant’s situation there is no reason to make a decision that sets aside these parameters, which apply generally to citizens in this kind of situation. In addition, there is no evidence that the guideline breaches the *AIA*. The implementation of a compensation program such as the one set out in this *Act* involves choices about what can and cannot be covered.
8. Accordingly, in the absence of proof that the choice made in the guideline is not justified with regard to s. 83.7 of the *AIA*, and since in the applicant’s situation there is no reason to set it aside, the Tribunal finds that the applicant is not entitled to the reimbursement of the cost of replacing his specialized household appliances.

**FOR THESE REASONS, the Tribunal:**

**DISMISSES** the proceeding.

KARL LEFEBVRE, a.j.t.a.q.

|  |  |
| --- | --- |
|  | MICHÈLE RANDOIN, a.j.t.a.q. |

Boisvert, Gauthier

Mtre Édouard Pretty

Counsel for the respondent

1. Administrative record at 202. [↑](#footnote-ref-1)
2. Administrative record at 215. [↑](#footnote-ref-2)
3. Administrative record at 456. [↑](#footnote-ref-3)
4. Exhibit I-1. [↑](#footnote-ref-4)
5. CQLR, c. A-25. [↑](#footnote-ref-5)
6. 2020 QCCA 1220. [↑](#footnote-ref-6)