

DECISION OF THE WORKERS' COMPENSATION APPEAL TRIBUNAL

WCAT Decision Number: A2500568
WCAT Decision Date: May 1, 2026
Panel: Meghan Maddigan

Introduction

- [1] The worker, a daycare worker, was injured at work in March 2023 when she fell while assisting a child. The Workers' Compensation Board¹ (Board) accepted the worker's claim for a right wrist sprain/strain, right ankle sprain/strain, right shoulder contusion, and right hip and thigh contusion. The worker received temporary wage-loss and health care benefits.
- [2] The worker was enrolled in a Pain and Medication Management Program (PMMP) and while returning home on November 22, 2023 from a session, she was a passenger in a taxi that was involved in a motor vehicle accident (MVA).
- [3] The worker asked the Board to accept that she sustained a concussion as a compensable consequence of her claim.
- [4] On April 5, 2024, the Board sent the worker a decision letter in which they denied the acceptance of a concussion under the worker's claim, as a compensable consequence of the March 2023 injury. The Board also determined that the worker's compensable sprains/strains, and contusions resolved by April 14, 2024 and, as a result, concluded the worker's wage-loss benefits. As the worker's conditions had resolved, the Board also denied the worker a referral its Long Term Disability Services department and for Vocational Rehabilitation Services.
- [5] The worker requested a review of that decision and was represented. The worker's representative specifically requested a review of the aspect of the decision that related to the worker's concussion, asking that the Board find that it was a compensable condition under her claim. The employer participated in the review and was represented by counsel.
- [6] On February 18, 2025, the Review Division issued decision *Review Reference #R0326118* where they confirmed the Board's decision and found that the worker's concussion was not a compensable condition under the worker's claim.
- [7] The worker appealed this decision to the Workers' Compensation Appeal Tribunal (WCAT) and the employer continued to participate. Both parties are represented.

¹ operating as WorkSafeBC

Preliminary Issues

- [8] The worker's representative indicated at the beginning of the hearing on November 12, 2025 that he needed to request assistance with additional evidence in order to proceed. In particular, the worker's representative stated that he required the qualifications of Dr. Choi, a Board medical advisor, as well as additional documents from the Board.
- [9] With respect to Dr. Choi, I asked the worker's representative whether he had done his own search with the College of Physicians and Surgeons. He said that he had but was unsuccessful. During the hearing, I was able to locate these qualifications successfully online and the worker's representative agreed it was available.
- [10] The representative then raised the concern that he would not be able to make any submissions without additional documents from the Board. In particular, he was looking for daily reports from the PMMP and adjudicator notes concerning how a decision was made to approve the cost of taxi expenses. The worker's representative conceded that he had never asked the Board for these documents and had no evidence that they existed. However, his position was that if they did exist, they would be relevant and he would need them. He initially appeared to be asking to delay the hearing but ultimately concluded that he would need to request them and be able to provide written submissions afterwards.
- [11] We proceeded with the hearing on November 12, 2025. We clarified the issue that was before me in this appeal was whether the worker had sustained a concussion as a compensable consequence in her claim and the parties agreed. This is consistent with what the worker had filed in her notice of appeal before WCAT as well as what the worker had raised at the Review Division. The worker gave her evidence, answering questions from her representative, the employer's counsel, and myself.
- [12] After closing evidence for the hearing, the worker's representative raised a new issue, namely whether the worker's original compensable injuries had ever resolved. While this issue was decided in the Board's original decision letter, the worker had not raised it in her request for review and therefore the review officer did not deal with it in his decision letter. The employer's counsel pointed out that the worker's representative's timing in raising this introduced a potential prejudice to the employer. I ultimately decided to allow the worker to make submissions on the new issue but to reconvene the hearing so that both parties would have an opportunity to review the matter and lead evidence from the worker regarding the new issue raised.
- [13] The worker's representative then wrote to the Board requesting the documents and stating that hearing was being reconvened in part to allow time for the documents. The worker's representative also advised WCAT that he may not be able to proceed with the rescheduled hearing unless he received the documents.
- [14] I convened a prehearing conference on December 8, 2025 with the representatives in attendance. I clarified that while the worker was welcome to explore whether the documents existed if she chose, I did not require them and was not prepared to delay the hearing any further. I also confirmed again the intended scope of the second hearing was only to hear

evidence in relation to the new issue and the requested documents did not appear to be relevant to the new issue.

- [15] I then held the second oral hearing on January 7, 2026. The worker testified under oath again. I allowed the parties to send in written submissions after the hearing. Unfortunately, there was an issue with the worker's representative's submissions, which I will address below.

Issue(s)

- [16] The issues in this appeal are:

- Should the worker's claim be accepted for a concussion as a compensable consequence of her accepted injuries under the claim?
- Is the worker entitled to temporary wage-loss benefits beyond April 14, 2024 for her right wrist sprain/strain, right ankle sprain/strain and multiple contusions?
- Is the worker entitled to a referral to Long Term Disability Services for her right wrist sprain/strain, right ankle sprain/strain and multiple contusions?

Jurisdiction

- [17] WCAT has exclusive jurisdiction to inquire into, hear, and determine all those matters and questions of fact, law, and discretion arising or required to be determined in an appeal before it (section 308 of the *Workers Compensation Act* (Act)). It is not bound by legal precedent (section 303(1) of the Act). WCAT may confirm, vary, or cancel the appealed decision.
- [18] Section 303(5) of the Act states that if the appeal tribunal is hearing an appeal respecting the compensation of a worker and the evidence supporting different findings on an issue is evenly weighted in that case, WCAT must resolve that issue in a manner that favours the worker.
- [19] WCAT must make its decision on the merits and justice of the case, but in so doing, it must apply a policy of the board of directors of the Board that is applicable in the case. The Board's *Rehabilitation Services and Claims Manual, Volume II*, contains the published policy applicable to this appeal.

Background and Evidence

- [20] On March 6, 2023, the worker was taking a potty-training child to the washroom. The worker was holding the child as they were resisting. The child hit their head to the worker's chest, and the worker lost her balance. The worker held the child and fell backward, breaking the stool that helps children to get up to the toilet seat and landing on the right side of her body.
- [21] The worker went to the emergency room after the fall at work and was assessed by Dr. Moe, an emergency room physician. Dr. Moe ordered an x-ray and Dr. Murray, a radiologist, reported that the worker's x-ray showed no fractures or soft tissue swelling although he did note that the

worker's right shoulder had findings in keeping with rotator cuff calcific tendinitis. Dr. Moe diagnosed the worker with contusions and recommended Tylenol and Advil as needed.

- [22] On March 13, 2023, the worker followed up with Dr. Shojaei, a family doctor, who noted that she was complaining of right shoulder pain, right ankle pain, right hip pain, and right hand pain. Dr. Shojaei diagnosed the worker with soft tissue injuries and contusions. Dr. Shojaei estimated that the worker would be able to return to work in 14 to 20 days.
- [23] In April 2023, the worker reported to Dr. Oveisi, her family doctor, that her right ankle, mid upper back and right shoulder pain had all resolved but that she still had some right wrist pain and right pelvis pain. Dr. Oveisi ordered further x-rays. In May 2023, the worker started having pain in her lower back and Dr. Oveisi questioned a herniated disc or spondylolisthesis. Dr. Oveisi suggested an MRI but did not complete the requisition.
- [24] On June 6, 2023, the worker was assessed by Dr. Baron, a sports medicine physician, as part of a Medical and Return to Work Planning assessment. After a thorough examination, Dr. Baron concluded that the worker's injuries were only soft tissue sprain/strains and contusions. Dr. Baron recommended an occupational rehabilitation 2 (OR2) program and concluded that an MRI was not indicated based on her clinical examination of the worker. The worker began the OR2 program in July 2023.
- [25] By July 5, 2023, the worker was reporting to Dr. Oveisi that she was doing much better and had less pain and more range of movement. By August 2023, the worker had reported to her family doctor that she still had some pain from her work injuries but sometimes felt that her "abdominal low pain" was more of an issue and spoke about feeling like she needed to see family from out of country to get better. The worker then traveled out of country and noted an increase in her pain after her return.
- [26] The worker returned to participate in the OR2 program in September 2023 and was discharged as of October 20, 2023 as able to return to work with considerations. The worker was still reporting ongoing pain and psychosocial factors.
- [27] The worker was then enrolled in the PMMP. Although the worker was initially taking the bus to the PMMP, she asked the Board to pay for transportation using a taxi. The Board approved this expense.
- [28] During the oral hearing, the worker testified about how she felt that she was struggling to take the bus to the PMMP initially because she felt tired and noticed bumps on the journey. The worker testified that she discussed her concerns with the PMMP providers and they had suggested she could ask for a taxi. Although she originally testified that it was the PMMP providers who had arranged the taxi, she later agreed that she sent the email to the Board requesting the taxi. She stated that she has no firm recollection of events before November 2023.

- [29] On November 22, 2023, the worker was traveling home from the PMMP program when the taxi she was in was involved in a minor accident with another taxi. The taxi driver's report indicated that he was making a left in an intersection when he hit another car in the intersection but there was no damage to either vehicle. The driver noted that he only reported the incident because the worker asked him to. He would later estimate that he was driving at approximately 30 kilometres an hour when the accident occurred.
- [30] During the oral hearing, the worker stated that she did not remember the speed that the taxi was traveling when it was in the collision. She confirmed that the airbags did not deploy. The worker stated that she did not get out of the taxi to know if either car sustained damage.
- [31] On November 24, 2023, the worker went to an urgent care centre due to a headache, nausea, and neck pain. The worker reported that she had been a rear passenger in a "T-bone"² accident but denied any head trauma. She was diagnosed with a concussion.
- [32] On November 29, 2023, the worker was taken by ambulance to the emergency room after she had an incident at home. She was assessed by Dr. Hann, an emergency room physician, and the worker reported that she had a concussion in a motor vehicle accident one week earlier and was now experiencing a worsening headache, double vision, progressive dizziness with balance changes, and new onset confusion. Dr. Hann ordered a CT scan of the worker's head and noted that it showed no acute trauma. Dr. Khosa, the radiologist, noted that the worker's CT scan did show mild cerebral atrophy, more than would be expected for the worker's age and a basal ganglia calcification that would likely be a meningioma. Dr. Hann discussed concussion protocols with the worker and wrote her a note to be off work from November 29 to December 13, 2023.
- [33] There was some discrepancy in the evidence concerning the nature of this incident. The worker initially reported to the Board, with the assistance of her sister, that she had a fall at home. This was the description she used during the first hearing. The worker later revised this to indicate that it was not a fall but rather that she had felt dizzy and had laid down.
- [34] On December 8, 2023, the worker was discharged from the PMMP because of not attending the program after the MVA. The report authors noted that the worker had only attended for one and half weeks before her MVA but had been reporting improvements to her functioning.
- [35] On January 3, 2024, the worker reported the MVA to the Insurance Corporation of British Columbia (ICBC) and indicated that she had sustained a concussion. The worker then began receiving healthcare benefits from ICBC for a concussion and for cervical and thoracic sprain/strains.
- [36] On January 31, 2024, the worker was seen by Dr. Nazari, a neurologist, "with regards to a history of concussion and headaches." Dr. Nazari noted that the worker had been seen previously with regards to a history of lower back pain and white matter changes in her brain as evidenced by an MRI. The worker updated Dr. Nazari by reporting the fall that she had at work

² All quotations reproduced as written.

and then the subsequent car accident. Dr. Nazari reviewed the worker's MRI results and noted that she has two meningiomas which were likely benign. Dr. Nazari also reviewed the worker's results from her lumbar and pelvis MRI and noted both were normal. Dr. Nazari noted the worker's reported symptoms ranging from headaches, lower back pain, eye redness, chest pain, forgetfulness, and fatigue. There is no mention of the worker's ankles or wrists.

- [37] On February 2, 2024, the worker had a phone call with her case manager, with the assistance of an interpreter, and reported that she was feeling really bad with pain in her right neck, her whole right side of her body including her right shoulder, right neck, right arm, right leg, and both shoulders. She also communicated that she had been found to have a brain tumour. The worker clarified during the oral hearing that she now understands that she has a condition that is different from a brain tumour but at the time, she did not have all of the information.
- [38] On February 27, 2024, the worker emailed ICBC to ask for urgent psychiatric supports and expenses to help her children with housework. The worker's ICBC contact asked that she seek a decision letter from the Board to clarify whether there was any relation to her workplace incident.
- [39] She reported that she could not drive or walk far and that she regularly became dizzy. She also reported that when in the shower, the water triggers pain.
- [40] On February 28, 2024, the worker reported to her case manager on the phone with the assistance of an interpreter. The worker stated that she was receiving kinesiology treatments and would be starting physiotherapy. She stated that she is experiencing blurry vision, and rib and neck pain. The case manager confirmed that there was no rib injury accepted on the worker's file. The case manager asked the worker about attending the PMMP and the worker said that she was not ready.
- [41] On March 6, 2024, the worker had a phone conversation with her case manager, with the assistance of an interpreter, about returning to the PMMP. The case manager felt the PMMP could be helpful, but the worker was concerned that she would be bothered by music, noise, lights, and crowded areas. The worker reported that she had developed a burning sensation in her right eye and that since the MVA her face goes numb and she is losing control of her jaw when she has strong emotions. She reported that she now gets confused and has started noticing she was stuttering. She did say that her headaches were better.
- [42] On March 8, 2024, Dr. Choi had a phone conversation with Dr. Nazari about the worker. Dr. Nazari stated he felt it was possible that the worker had sustained a mild concussion from the MVA. Dr. Nazari commented that he was supportive of the PMMP to help her manage her pain symptoms. He did not feel there were any contraindications or restrictions to her participating in the PMMP but noted she may have subjective limitations while participating (i.e., fatigue, headaches).
- [43] On April 4, 2024, Dr. Choi provided an opinion on the worker's condition based on her review of the worker's file, medical records and her conversation with Dr. Nazari. Dr. Choi confirmed that the confirmed injuries on the claim included soft tissue injuries and contusions. Dr. Choi

estimated that the worker's soft tissue injuries would have been expected to resolve in four to six weeks and that her contusions would have been expected to resolve in two to three weeks.

- [44] Dr. Choi was also asked to review the evidence from the worker's November 2023 MVA. Dr. Choi concluded that the worker was unlikely to have sustained a concussion during the MVA because the mechanism of injury was not consistent with a concussion.
- [45] Dr. Choi also commented on the impact of the worker's non-cancerous brain tumour diagnosis. Dr. Choi noted that the worker's symptoms might have included headaches, focal-neuro deficits, vision changes, and hearing loss. Dr. Choi also commented that some people may feel a lot of stress and anxiety with the diagnosis, particularly if they do not fully understand it.
- [46] Finally, Dr. Choi was asked to consider whether the worker should receive any further treatment at that time. Dr. Choi concluded that no further treatment was warranted as it would not benefit the worker. Dr. Choi noted the worker's complaints of chronic pain and concluded that it may be resulting from psycho-social issues and the worker's concerns about her tumour. Dr. Choi stated that the worker's soft tissue injuries and contusions had resolved, and the worker was capable of returning to work.

Reasons and Findings

Credibility and Reliability

- [47] The employer's representative has raised issues with the credibility and reliability of the worker's evidence. He has submitted that the worker's testimony involved several contradictions, inconsistencies, and statements that were later proven to be false. For example, during the first oral hearing, the worker stated that the treatment providers at the PMMP had requested that she be provided with a taxi to the program. She then stated that she could not really remember anything before November 2023. Then she was shown a copy of an email that she had sent to the Board requesting the taxi and she stated that she did remember sending it. The worker's representative has since submitted that the worker could not have written the email because the English was too sophisticated for her skill level.
- [48] The employer's counsel also pointed to the worker's testimony concerning her fall in November 2023 as further evidence of problems with her reliability. The worker reported to the Board that she had a fall at home in November 2023 shortly after the taxi incident where she had to be taken by ambulance to the hospital. She also described this during the first oral hearing. The worker then later revised her evidence to say that it was not a fall but rather that she felt dizzy. The worker's representative has indicated that this may be the result of a translation issue.
- [49] The employer's counsel cited *R. v. Paterson*, 2017 BCSC 536 cited with approval in WCAT A1902917 2020 CanLII 4811 (BCWCAT). I also reference Justice Blake's summary of the legal principles of credibility and reliability in *Heirat v. Heidari*, 2024 BCSC 1438:

[25] Credibility and reliability are separate concepts. Credibility relates to honesty and the willingness to speak truthfully, whereas reliability relates to a

party's ability to accurately observe, recall and recount the events in issue: *Radacina v. Aquino*, 2020 BCSC 1143 at paras. 94–95. A party whose evidence is not credible cannot give reliable evidence on the same issue. Credibility is not, however, a proxy for reliability, as a credible witness may nonetheless be unreliable: *R.L. v. M.L.*, 2024 BCSC 106 at para. 107 [R.L.], citing *R. v. Morrissey* (1995), 22 O.R. (3d) 514 at 526, 1995 CanLII 3498 (C.A.); *Siever v. Interior Health Authority*, 2021 BCSC 880.

[26] The starting point in a credibility assessment is to presume truthfulness. However, when a party's evidence "is demonstrably inaccurate the challenge from an assessment perspective is to identify the likely reason for the inaccuracy in a cautious, balanced and contextually sensitive way": *Hardychuk v. Johnstone*, 2012 BCSC 1359 at para. 10 [*Hardychuk*].

[50] Justice Blake goes on to explain that in assessing reliability, the decision-maker should consider "whether the witness lacks the perceptive, recall or narrative capacity to provide reliable testimony and whether he or she may be unconsciously indulging in the human tendency to "reconstruct and distort history in a manner that favours a desired outcome" ..." (*Heirat* at paragraph 27). By contrast, when assessing credibility, a decision-maker should consider whether the witness is choosing to lie out of self interest.

[51] I also observed inconsistencies in the worker's evidence and note that her testimony sometimes did not harmonize with independent evidence. While I do not find that the worker was intentionally misleading in her evidence, I find that the worker's evidence is not reliable. During the hearing, the worker said that she has not been able to remember much of anything since her MVA in November 2023. I accept that the worker had struggled to remember details. As a result, I will give the worker's evidence limited weight.

Compensable Consequence: Concussion

[52] The representatives both led evidence and provided submissions concerning the worker's incident in the taxi and whether she had in fact sustained a concussion during the incident. I understand the worker's position to be that she did sustain one and that the employer questions whether a concussion could have been possible in an incident where the air bags did not deploy and there was no damage to the vehicles. I also note that the Board originally denied the worker's claim on the basis that the evidence did not support that the worker had sustained a concussion during the MVA and Dr. Choi's opinion that a concussion was unlikely given the mechanism of injury.

[53] I have not found it necessary to engage in these submissions. This is because I have first considered whether any injury sustained during the MVA could be compensable. I find that even if the worker had sustained a concussion, it would not have been compensable, in any event. I will explain this further below.

- [54] The Act provides in section 134(1) that if a worker's injury arises out of and in the course of a worker's employment, the Board will pay compensation. This can include injuries that are determined to be a "compensable consequence" of the worker's original injuries.
- [55] In this case, the worker is asking that I find that she sustained a concussion as a compensable consequence because she was traveling from treatment. Her representative has submitted that I should consider her time in the taxi as a necessary extension of her treatment.
- [56] Policy item C3-22.10 guides adjudicators in situations where the worker was injured during travel. The policy explains that the places of treatment, appointment or rehabilitation that a worker attends because of a compensable injury are considered equivalent to the worker's place of employment. Therefore, travel to and from the places of treatment are considered comparable to the worker's regular commute to and from work. For this reason, if the worker sustains an injury during the course of this travel, it is generally not compensable.
- [57] In describing the types of examples that are contemplated, the policy lists travel such as going to the office of their treating doctor for examination or treatment and "traveling to undergo a course of treatments, whether at the office of a medical specialist, the out-patient department of a hospital, a physiotherapist's office, or any other type of health care provider." I find that travel for treatment at the PMMP would fit within the description of traveling to undergo a course of treatments at a health care provider.
- [58] The policy explains that the general rule may not apply when the worker is being transported to a hospital immediately after an injury, is in a treatment-related vehicle or for "exceptional travel" that is not part of the worker's regular treatment.
- [59] The worker was not being transported for an emergency purpose. The worker's representative has suggested that the PMMP program is a specialized, Board-approved rehabilitation program requiring structured and repeated attendance and would therefore qualify as exceptional travel. I have reviewed the policy for exceptional travel and noted that the examples include travel to a hospital to be admitted as an in-patient, travel to specialized treatment that requires living away from home, travel for a specialized one-time examination or second-opinion examination, and other more unusual appointments. It is clear to me that the policy was not intended to include treatment at a regular program as "exceptional travel." I find that the worker's taxi journey did not constitute "exceptional travel" under policy C3-22.00.
- [60] The worker's representative has suggested that the worker's ride in the taxi is what was contemplated by the policy exception for a "treatment-related vehicle" because the Board paid for the taxi service. The policy describes a treatment-related vehicle is one where the vehicle is provided by an institution engaged in the provision of treatment or similarly provides a vehicle for the conveyance of treatment. The worker was not in a vehicle provided by the treatment provider or even arranged by the treatment provider. There was nothing specific about the worker's taxi that was specific to the worker's treatment – it was a standard taxi. The worker requested the taxi directly from the Board without the involvement of the treatment providers. I do not find that it was a treatment-related vehicle.

[61] The vice chair in *WCAT Decision A2402220* considered a similar argument concerning a worker who was injured in a taxi that was paid for by the Board while traveling to a doctor's appointment. The vice chair stated,

[41] The worker submits that because WorkSafeBC paid for the taxi, the mode of transportation would be considered one provided by an institution. C3-22.10, at B. 2. provides that a further injury sustained in a vehicle that is provided by an institution engaged in the provision of treatment may be compensable.

[42] In the circumstances here, I find that the fact that WorkSafeBC paid for the taxi does not change the nature of the travel or make the travel exceptional. The worker traveled in a taxi, a Prius, which was not a treatment-related vehicle, such as an ambulance. I find that the worker's travel by taxi is analogous to travel by personal vehicle. I recognize the worker required taxi transportation because of his right shoulder impairment. That fact alone is insufficient to bring the circumstances within the scope of exceptional travel³.

[62] I agree and adopt the vice chair's reasoning in *WCAT Decision A2402220*. The fact that the Board paid for the worker's taxi is insufficient to bring the circumstances within the scope of exceptions to the travel policy.

The worker's injuries as of April 14, 2024

[63] For the reasons that follow, I find that the worker is not entitled to temporary wage-loss benefits beyond April 14, 2024 or a referral to Long Term Disability Services, for her right wrist sprain/strain, right ankle sprain/strain, and multiple contusions. I find that the worker's compensable right wrist sprain/strain, right ankle sprain/strain, and contusions had all resolved by April 14, 2024.

[64] Policy item C5-33.00 of the RSCM II provides that to be eligible for wage-loss benefits, a worker must have a physical or psychological impairment that temporarily disables the worker from earning full wages at the work at which the worker was employed. It was under this policy that the worker's claim was originally accepted for the payment of temporary wage-loss benefits.

[65] Once a worker's claim has been accepted for temporary wage-loss benefits, the Board will then reassess as the condition changes over time to assess the degree of impairment. As changes occur, the evidence may support that a worker is still temporarily disabled, fully recovered or has a residual permanent disability.

[66] In some instances, a worker will be deemed to be fully recovered and their condition found to have resolved. In this circumstance, the worker will no longer be entitled to either wage-loss or healthcare benefits.

³ A2402220 (Re), 2025 CanLII 127826 (BC WCAT), <<https://canlii.ca/t/kgxv4>>, retrieved on 2026-04-27

- [67] In other cases, the worker's condition will be found to remain temporarily impairing (either totally or partially). A worker who is found to still be temporarily disabled will be entitled to temporary wage-loss benefits.
- [68] Finally, a worker's condition may be neither resolved nor temporarily disabling; instead, it may have plateaued and become permanent. Policy C5-34.00 explains how to determine when a compensable injury has plateaued as permanent. Section 195 of the Act allows for the payment of a permanent partial disability benefit where a worker incurs a permanent disability as a result of an accepted injury or condition.
- [69] In this case, the Board determined that the worker was not entitled to further benefits for her right wrist sprain/strain, right ankle sprain/strain, and multiple contusions after April 14, 2024.
- [70] During the oral hearing, I asked the worker's representative which of the worker's injuries were unresolved. He initially submitted that they all were unresolved but when I pressed further, the representative agreed that the worker's contusions had resolved. However, in his written submissions, he had again expanded his submission to include a broader range of injuries such as a chest wall injury and a right shoulder injury.
- [71] The worker's representative went on to ask that I find that the worker is entitled to further benefits because she continued to have functional impacts as of April 14, 2024 including thoracic pain and breathing limitations, fatigue and reduced tolerance for activity, ongoing hip and back pain, and sexual functioning impacts. He also suggested that the decisions before me should have factored in psychological consequences.
- [72] I note that Dr. Baron was asked in June 2023 to assess the worker in person to confirm which injuries she had sustained during the workplace incident. Dr. Baron concluded that the worker's only injuries were sprain/strains and contusions.
- [73] Having reviewed the evidence, I note that the worker's complaints after her MVA are varied but do not appear to relate to her original accepted injuries. For example, in February 2024, the worker advised her case manager that she was struggling with pain in her neck and ribs along with dizziness. In March 2024, the worker expressed concern about attending PMMP due to sensitivity to noise and light as well as problems with her jaw and confusion.
- [74] The scope of this appeal is restricted to the specific injuries accepted on the file which were clearly described in the April 5, 2024 Board letter as:
- A sprain/strain of the right wrist;
 - A sprain/strain of the right ankle;
 - Contusion to the right shoulder; and
 - Contusion to the right hip and thigh.

- [75] These are the only injuries that I will consider the status of as of April 14, 2024. Should the worker wish to ask the Board to adjudicate the acceptance of any other injuries, she may contact the Board. However, the only injuries that were considered in the existing Board decisions are those accepted on the claim.
- [76] The worker's representative did not lead evidence directly with respect to the injuries accepted. Instead, he led evidence of other symptoms from the worker and, at most, referred to the worker's ongoing pain concerns which appear to involve many body parts and are not specific to the worker's ankle or wrist.
- [77] The best evidence available to me concerning the status of the worker's compensable injuries is found in the medical opinion of Dr. Choi. Dr. Choi not only provided the typical recovery periods for sprain/strains and contusions, she also specifically commented that the worker's soft tissue injuries had resolved, as had her contusions. I accept Dr. Choi's evidence in this regard and note that she had the benefit of the worker's medical file and details concerning both the original workplace incident, as well as the MVA before her.
- [78] The worker's representative has questioned Dr. Choi's opinion and credentials and suggested that her opinion should not outweigh that of Dr. Nazari from March 8, 2024. I understand this reference to be the notes from the telephone conversation that Dr. Choi and Dr. Nazari had when Dr. Nazari commented that he thought it was possible that the worker may have sustained a concussion during the MVA. There was no indication that this conversation involved a discussion of the worker's soft tissue injuries. I have no reason to question Dr. Choi's qualifications and note that the College of Physicians and Surgeons of British Columbia list her as a practicing family physician with Certification in the College of Family Physicians of Canada who has been practicing since 2007. Dr. Choi had access to the worker's full medical records on file, as well detailed descriptions of the mechanisms of injury. I give weight to Dr. Choi's opinion with respect to the resolution of the worker's compensable injuries.

Inaccurate Law and Policy

- [79] The worker's representative has made submissions that contain references to sections of the law and policy which do not exist.
- [80] The worker's representative submitted that section 22 of the Act and Policy C3-21.10 of the RSCM II stand for the proposition that the Board "must adjudicate whether each accepted injury, individually and collectively, has resolved functionally." This principle was key to his submissions.
- [81] Under the current Act, section 22 is in the Occupational Health and Safety provisions and concern a worker's duty to take reasonable care to protect their own health and safety as well as that of their coworkers. The former section 22 of the Act also deals with a matter not at issue in this appeal.

- [82] With respect to the policy referenced, there is no policy C3-21.10. There is a policy C3-21.00, which deals with when extra-employment activities, such as sport competitions, may be part of employment. That policy has nothing to do with the matters under appeal and indeed nothing to do with the point the worker relies on it for. The worker also references “policy C3-13.00”. Again, there is no policy item C3-13.00.
- [83] The employer’s counsel identified the erroneous references and went to considerable effort in his submissions to help clarify matters. He pointed out that one of the results of the erroneous law and policy was that the employer did not have notice of what authority that the worker was relying on for the assertion that an adjudication of “functional” recovery is required by law, or what, if any, qualitative threshold must be met by the Board to satisfy that adjudicative requirement.
- [84] When the employer’s counsel pointed out the error in his submissions, the worker’s representative responded by suggesting it was a numbering issue. However, the issue is beyond that of misnumbering. The worker’s representative has relied on a legal principle that was not simply numbered incorrectly but instead has relied on law and policy that does not exist.
- [85] I am not aware of any foundation for the principle that the Board must adjudicate whether each accepted injury, individually and collectively, has resolved functionally. I suspect that the worker’s representative has relied on artificial intelligence to generate arguments for his submissions and has not verified the accuracy of those submissions. This is concerning. I note here that the MRPP item 21.2.2 (e) states that:
- A representative must be prepared. Being prepared includes being familiar with their client’s evidence and position on the appeal, as well as the relevant Board file(s) and the relevant law, policy, and precedent decisions.
- [86] The worker’s representative has not demonstrated that he is familiar with the relevant law and policy. By putting forward authorities that misrepresent the law and policy, the worker’s representative has created confusion, delay, and considerable additional work. Further, I am unaware of what submissions the worker would make with respect to the actual law and policies that do exist. In this way, the worker, the employer and the tribunal have all been negatively impacted.
- [87] I understand that the worker’s representative is not legally trained. However, as a representative who regularly appears before this tribunal, he has an obligation to represent his clients fairly and without prejudice. I strongly encourage the worker’s representative to ensure that all future work he submits to WCAT reflects the accurate law and policies.

Conclusion

- [88] I deny the worker’s appeal and confirm the review officer’s decision in *Review Reference #R0326118*. I find that the worker did not sustain a concussion as a compensable consequence of her workplace injuries.

[89] I further find that the worker's right wrist sprain/strain, right ankle sprain/strain, right shoulder contusion, and right hip and thigh contusion resolved by April 14, 2024. As a result, the worker is not entitled to temporary wage-loss benefits beyond April 14, 2024 and she is not entitled to a referral to Long Term Disability Services.

Expenses

[90] The parties did not request any appeal expenses, and I am not aware of any. I have not made any orders with respect to appeal expenses.

Meghan Maddigan
Vice Chair