

[Cite as *In re Dicke*, 2003-Ohio-4983.]

IN THE COURT OF CLAIMS OF OHIO
VICTIMS OF CRIME DIVISION

IN RE: CHRISTINE L. DICKE	:	Case No. V2002-51940
CHRISTINE L. DICKE	:	<u>ORDER OF A THREE-</u>
Applicant	:	<u>COMMISSIONER PANEL</u>
(1995-57803)	:	
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{¶1} On supplemental, the Attorney General granted the applicant an award in the amount of \$80.00. However, the Attorney General denied the dental claim pursuant to R.C. 2743.60(D) contending that the applicant had dental coverage with Delta Dental. On reconsideration, the Attorney General granted the applicant an award in the amount of \$5.00. The Attorney General stated that the applicant failed to prove the purported dental and chiropractic expenses were related to the criminally injurious conduct. The applicant appealed the Attorney General’s Final Decision.

{¶2} The applicant, applicant’s counsel and an Assistant Attorney General attended the hearing and presented testimony, exhibits and oral argument for this panel’s consideration. Ms. Dicke testified that she worked for the Ohio Department of Transportation for 12 years as a transportation manager without injury. The applicant stated that in 1995 she was assaulted and sustained a severe head injury. The applicant explained that for a long period of time she underwent constant physical therapy. Ms. Dicke stated that she sustained injury primarily to her upper torso as a result of the assault. The applicant asserted that when she finished physical

therapy she was advised to continue physical exercise in order to further improve her health. Ms. Dicke asserted that she still suffers sporadic but intense spinal pain for which she sought chiropractic treatment from Dr. Reilly. When questioned about other back injuries, the applicant admitted that she had sustained an unrelated lower back injury while exercising for which she sought treatment, but not with Dr. Reilly.

{¶3} With respect to the dental bill, the applicant testified that she originally went to Dr. Anderson one month after the criminally injurious conduct. The applicant stated that she was informed that her tooth, at that time, was not dead. However, the applicant asserted that about six months later she was told that the tooth was dead and that she needed treatment. The applicant testified that she attempted the least evasive techniques first to no avail. The applicant stated that she had no dental troubles prior to the criminally injurious conduct and that the assault caused her resulting dental issues.

{¶4} Applicant's counsel argued that, based on the testimony and exhibits submitted, the applicant is entitled to both reimbursement of the chiropractic and dental expenses as well as any related work loss incurred from attending the said sessions. Counsel moved to introduce Exhibit A, Dr. Anderson's letter from Whetstone Dental Group, and Exhibit B, Dr. Reilly's letter, both of which counsel asserted proves that the applicant incurred their respective expenses as a result of the criminally injurious conduct.

{¶5} The Assistant Attorney General conceded that the applicant incurred the claimed dental expense. However, the Assistant Attorney General maintained that the applicant failed to prove that all of Dr. Reilly's chiropractic services were related to the criminally injurious conduct. The Assistant Attorney General asserted, in light of the applicant's admission of a

previous lower back injury sustained while exercising, that perhaps some of Dr. Reilly's services did not focus on the applicant's upper torso since (1) the applicant had previously been seen by a different chiropractor, (2) she did not see Dr. Reilly until three years after the assault, and (3) there is no information concerning whether Dr. Reilly knew about the applicant's previous lower back injury.

{¶6} From review of the file and with full and careful consideration given to all the information presented at the hearing, this panel makes the following determination. Based upon the applicant's testimony and the exhibits submitted, we find the applicant incurred additional economic loss. With respect to the chiropractic expense, we find it reasonable that the applicant sought treatment from Dr. Reilly strictly for her criminally injurious conduct related injury. According to Exhibit B, Dr. Reilly's letter, the applicant sought treatment from him as a result of the numerous flare ups of her ribs and thoracic spine caused by the 1995 assault. The applicant testified that the assault injury primarily involved her upper torso region. Dr. Reilly indicated that many times a severe injury, like Ms. Dicke's, creates scar tissue leaving a person hypersensitive or suffering from fibromyalgia type symptoms that would cause a person to seek ongoing treatment.

{¶7} As far as the dental bill is concerned, we find based upon the applicant's testimony and Dr. Anderson's letter, Exhibit A, that the applicant properly incurred the Whetstone Dental Group expense. Dr. Anderson stated that all the trauma to and all the treatment for the applicant's tooth began as a result of the criminally injurious conduct.

{¶8} The applicant also asserted that she sustained work loss when she attended her chiropractic and dental appointments. Again, we find it reasonable that the applicant would have

incurred work loss in order to attend these sessions. Therefore, the November 8, 2002 decision of the Attorney General shall be modified from \$5.00 to grant the applicant a total award for the Reilly Chiropractic expense, Whetstone Dental Group expense as well as any work loss the applicant incurred from attending her chiropractic and dental sessions.

{¶9} IT IS THEREFORE ORDERED THAT

{¶10} 1) The November 8, 2002 decision of the Attorney General shall be MODIFIED from \$5.00 to grant the applicant a total award for the Reilly Chiropractic expense, Whetstone Dental Group expense as well as any work loss the applicant incurred from attending her chiropractic and dental sessions;

{¶11} 2) This case shall be remanded to the Attorney General for calculation and payment of the award;

{¶12} 3) This order is entered without prejudice to the applicant's right to file a supplemental compensation application pursuant to R.C. 2743.68;

{¶13} 4) Costs are assumed by the court of claims victims of crime fund.

CLARK B. WEAVER, SR.
Commissioner

DALE A. THOMPSON
Commissioner

KARL H. SCHNEIDER
Commissioner