

Federal Court



Cour fédérale

**Date: 20260109**

**Docket: T-2788-24**

**Citation: 2026 FC 28**

**Toronto, Ontario, January 9, 2026**

**PRESENT: The Honourable Mr. Justice A. Grant**

**BETWEEN:**

**ALEXANDRA PHILOMENA BRIGID ROY**

**Applicant**

**and**

**ATTORNEY GENERAL OF CANADA**

**Respondent**

**JUDGMENT AND REASONS**

**I. OVERVIEW**

[1] The Applicant, Alexandra Roy, seeks judicial review of a decision by Veterans Affairs Canada [VAC] denying her request for reimbursement for two medical procedures: brachioplasty and circumferential abdominoplasty.

[2] For the reasons that follow, I believe that this application should be granted.

## II. BACKGROUND

### A. *Facts*

#### (1) Applicant's VAC Healthcare Benefits

[3] The Applicant is a Reserve Force veteran who served in the Canadian military from May 1991 until May 1994.

[4] In May 2017, Ms. Roy was granted a disability award under the *Canadian Forces Members and Veterans Re-establishment and Compensation Act* for post-traumatic stress disorder [PTSD], which she suffers as a result of sexual trauma that she experienced during her Reserve Force Service.

[5] In 2022, VAC granted disability entitlement to Ms. Roy in relation to “morbid obesity with skin redundancy.” This entitlement arose because VAC accepted that Ms. Roy's binge eating disorder, morbid obesity, and skin redundancy were a consequence of her PTSD, pursuant to section 46 of the *Veteran's Well-Being Act* [VWBA].

[6] Collectively, these findings entitled the Applicant to VAC healthcare coverage benefits for the treatment of her PTSD, morbid obesity, and skin redundancy.

#### (2) Brief Overview of VAC Healthcare Benefits System

[7] VAC administers its healthcare benefits programs through a contract with the Federal Health Claims Processing Services, which is currently run by Medavie Blue Cross [Medavie].

Medavie manages authorizations, claims processing, and related services on VAC's behalf, following VAC's business rules and policies. For requests that fall outside standard parameters, Medavie consults with qualified health professionals to determine whether the benefit or service should be approved, renewed, or declined. If a veteran disagrees with a claims decision made by Medavie, they may appeal to the Minister of Veterans Affairs through the First Level Appeals Unit, and, if dissatisfied, they may request a second review from the Second Level Appeals Unit. If still dissatisfied, individuals may seek judicial review of the Second Level Appeals decision, as the Applicant has done in this case.

(3) Weight-Loss Surgery and Sequelae

[8] In consultation with her healthcare providers, the Applicant underwent weight loss surgery on March 19, 2019.

[9] Following the surgery and ensuing weight loss, the Applicant had significant excess skin which, she has reported, caused pain, discomfort, emotional distress, and various skin conditions.

[10] On January 29, 2020, the Applicant underwent brachioplasty to remove excess skin from her arms. On August 20, 2021, the Applicant underwent circumferential abdominoplasty to remove excess skin and tissue from her midsection. The Applicant paid for both procedures out of pocket, as they are not covered by the Ontario Health Insurance Program [OHIP].

(4) First Request to VAC for Reimbursement

[11] On September 20, 2022, the Applicant submitted requests for reimbursement to VAC for both procedures. Her request included a letter from her social worker at the Operational Stress Injury Clinic [OSI], outlining her PTSD treatment history and indicating that the surgeries were connected to the Applicant's ongoing recovery from PTSD and her related comorbid disorders. The Applicant's funding request also included a covering letter stating that the request was "in connection with the favorable decision of VAC of the morbid obesity and skin redundancy consequential to PTSD."

[12] On November 8, 2022, the Applicant received a negative decision from VAC on her initial request for reimbursement for the procedures, on the grounds that these surgeries are not a standard VAC benefit and her request had not shown "how these procedures will adequately meet [her] health needs."

(5) First Level Review

[13] On November 29, 2022, the Applicant requested a review of the VAC's negative decision. In the cover letter accompanying her request, she noted that the procedures were made necessary by her PTSD and resulting binge eating disorder, obesity, and skin redundancy, all of which are VAC disability-entitled conditions. She also explained the physical and mental symptoms that she experienced as a result of her excess skin in some detail. The request for review also included a letter from her family doctor noting that the Applicant had reported skin irritation, pain due to friction, and mechanical pain related to her excess skin.

[14] In addition to these submissions, the Applicant's physician completed a medical questionnaire on gastrointestinal conditions that documented the Applicant's weight loss and the impact of her excess skin on her PTSD. In the questionnaire, the Applicant's doctor stated that "It was imperative for [the Applicant] to have her [skin removal] surgery procedures as part of her treatment."

[15] Once again, the Applicant's request was rejected. In addition to the Applicant's submissions and the relevant VAC policies, the first level reviewer's notes also refer to OHIP guidelines from the Ontario Ministry of Health and Long-Term Care for similar procedures, which state that coverage is only indicated where there is "significant symptomatology associated to excess skin."

[16] The decision was communicated to the Applicant by letter on April 13, 2023. The letter stated in part:

In consultation with our National Medical Consultant, we have determined there is insufficient medical evidence to support your need to have had a brachioplasty and circumferential abdominoplasty, in relation to one of your entitled conditions. The letter from your family doctor, Dr. Noemi Chavez Johnston, does not provide clear evidence of your symptoms associated to excess skin (medical record of infection, ulcers, skin irritations, etc.). In the absence of further medical information clearly demonstrating that the brachioplasty and circumferential abdominoplasty were medically necessary in relation to one of your entitled conditions, we are unable to approve your request.

(6) Second Level Review

[17] The Applicant requested a second-level review of her request, and once again provided additional supporting documentation, including a more detailed letter from her family doctor.

[18] On September 20, 2024, the VAC second level appeals unit denied the Applicant's request for reimbursement, explaining that there was "insufficient medical evidence documented to support that the surgeries were medically necessary."

III. ISSUES AND STANDARD OF REVIEW

[19] The sole substantive issue on this application is whether the VAC second level review decision was reasonable.

[20] In conducting a reasonableness review, a court "must consider the outcome of the administrative decision in light of its underlying rationale in order to ensure that the decision as a whole is transparent, intelligible and justified" *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 15 [*Vavilov*]. It is a deferential standard, but remains a robust form of review and is not a "rubber-stamping" process or a means of sheltering administrative decision-makers from accountability (*Vavilov* at para 13).

[21] A reasonable decision is "one that is based on an internally coherent and rational chain of analysis and that is justified in relation to that facts and law that constrain a decision-maker" (*Vavilov* at para 85). Reasonableness review is not a "line-by-line treasure hunt for

error” (*Vavilov* at para 102). Any flaws or shortcomings relied upon must be sufficiently central or significant, to render the decision unreasonable (*Vavilov* at para 100).

IV. RELEVANT PROVISIONS AND POLICIES

[22] The *Department of Veteran’s Affairs Act* [DVAA] gives the Minister broad authority to make regulations governing the services that the Ministry will provide to veterans and their families, and to determine the eligibility criteria for those services:

**5** The Governor in Council may make regulations

**5** Le gouverneur en conseil peut prendre des règlements :

(a) specifying the persons or classes of persons, from within those referred to in subparagraphs 4(a)(i) and (ii), who are entitled to any or all of the care, treatment or other benefits authorized by regulations made under this section, and respecting the circumstances in which a person may receive any such care, treatment or other benefit;

a) précisant celles des personnes ou catégories de personnes visées à l’alinéa 4a) qui ont droit à tout ou partie des soins, traitements ou autres avantages prévus par les règlements d’application du présent article et régissant les modalités de prestation de ceux-ci;

...

...

(c) respecting the care, treatment or other benefits to be provided or that the Minister will pay for in whole or in part, the circumstances in which the Minister will pay in whole or in part and the circumstances in which the Minister may cease to pay in whole or in part;

c) concernant les soins, traitements et autres avantages à fournir et ceux dont le ministre prendra en charge tout ou partie des frais, les modalités afférentes et les cas de cessation totale ou partielle de la prise en charge;

[23] The regulation setting out the Applicant’s eligibility for treatment benefits is the *Veterans’ Healthcare Regulations* [VHR], paragraph 3(3)(c):

(3) The following clients are eligible to receive treatment benefits in Canada or elsewhere in respect of a pensioned condition or a disability for which they are entitled to a disability award or entitled to pain and suffering compensation to the extent that those benefits are not available to them as a member or former member of the Canadian Forces:

(3) Les clients ci-après sont admissibles à des avantages médicaux au Canada ou ailleurs, à l'égard d'un état indemnisé ou de l'invalidité pour laquelle il a droit à une indemnité d'invalidité ou à une indemnité pour douleur et souffrance dans la mesure où ils ne peuvent les obtenir en qualité de membre ou d'ancien membre des Forces canadiennes, selon le cas :

...

...

(c) a former member or a reserve force member.

c) l'ancien membre ou le membre de la force de réserve.

[24] The conditions under which a veteran is entitled to compensation and treatment benefits for a disability are set out in VWBA sections 45 and 46:

### **Pain and Suffering Compensation**

### **Indemnité pour douleur et souffrance**

#### **Eligibility**

#### **Admissibilité**

**45 (1)** The Minister may, on application, pay pain and suffering compensation to a member or a veteran who establishes that they are suffering from a disability resulting from

**45 (1)** Le ministre peut, sur demande, verser une indemnité pour douleur et souffrance au militaire ou vétéran qui démontre qu'il souffre d'une invalidité causée :

(a) a service-related injury or disease; or

a) soit par une blessure ou maladie liée au service;

(b) a non-service-related injury or disease that was aggravated by service.

b) soit par une blessure ou maladie non liée au service dont l'aggravation est due au service.

...

...

#### **Consequential injury or disease**

#### **Blessure ou maladie réputée liée au service**

**46 (1)** For the purposes of subsection 45(1), an injury or a disease is deemed to be a service-related injury or disease if the injury or disease is, in whole or in part, a consequence of

**46 (1)** Pour l'application du paragraphe 45(1), est réputée être une blessure ou maladie liée au service la blessure ou maladie qui, en tout ou en partie, est la conséquence :

(a) a service-related injury or disease;

a) d'une blessure ou maladie liée au

(b) a non-service-related injury or disease

that was aggravated by service;

**(c)** an injury or a disease that is itself a consequence of an injury or a disease described in paragraph (a) or (b); or

**(d)** an injury or a disease that is a consequence of an injury or a disease described in paragraph (c).

service;

**b)** d'une blessure ou maladie non liée au service dont l'aggravation est due au service;

**c)** d'une blessure ou maladie qui est elle-même la conséquence d'une blessure ou maladie visée par les alinéas a) ou b);

**d)** d'une blessure ou maladie qui est la conséquence d'une blessure ou maladie visée par l'alinéa c).

[25] VAC has developed a series of policies to govern the implementation of its benefits programs. The relevant policy for the purposes of this matter is POC 06, which states in part:

8. Authorization of all medical services requires a solid rationale to support the decision to approve payment of these services. Rationale is also required to ensure that the intervention will not pose a risk to the client's health, well-being or progress. The need and legitimacy of the service must be confirmed by the decision maker as being appropriate in each particular case based on the evidence available.

[26] Another relevant policy is the VAC's policy on "Treatment for a Disability Benefits Entitled Condition," which includes the following directions:

2. This policy sets out principles to be applied in decision-making when determining if a relationship exists between a treatment benefit and a Veteran's disability benefits entitled condition. This policy is intended to complement the exercise of decision-making, as it is conducted in accordance with the legislation and the principles of administrative law.

3. The objective of providing any benefit or service under the Veterans Health Care Regulations shall be to achieve a positive treatment outcome for the Veteran's entitled condition.

4. A practical approach to providing health care benefits to eligible Veterans requires that requests for treatment benefits be considered

in a broad and inclusive manner so as to successfully treat the entitled condition.

V. ANALYSIS

A. *Preliminary Issue: Applicant's Use of Artificial Intelligence*

[27] The Applicant is not represented by counsel in these proceedings. On certain key issues, her memorandum of argument contained references to jurisprudence that, as the Respondent points out, simply do not exist. Faced with this fact, the Court issued a Direction to the Applicant inquiring as to whether she had used artificial intelligence [AI] to assist in the drafting of her materials. Disclosing the use of AI in materials provided to the Court is required by the Federal Court Practice Direction entitled *The Use of Artificial Intelligence in Court Proceedings*, dated May 7, 2024.

[28] The Applicant responded by confirming that she had used AI to assist in the preparation of her materials, and by stating that she was not aware that such reliance on AI had to be disclosed.

[29] As a result of the above, I have disregarded the case citations and other unreliable content contained in the Applicant's memorandum of argument. As I indicated to the Applicant at the hearing in this matter, this is a cautionary tale which underscores the importance of validating any material generated through AI and disclosing that it has been used.

B. *The Decision was Unreasonable for Failing to Consider the Applicant's PTSD*

[30] Because the Applicant's submissions were generated by AI, they are largely unhelpful in identifying the key issues in this matter. That said, in her previous submissions to the VAC, the Applicant consistently argued that the medical procedures at issue were medically indicated, necessary treatments for her morbid obesity with skin redundancy and, crucially for the sake of this matter, for her PTSD recovery.

[31] The Respondent argues that the second level decision was reasonable because the decision-maker considered the relevant evidentiary and legal constraints and reasonably grappled with the Applicant's particular circumstances. The Respondent notes that authorization for payment of a given medical service under the POC 06 policy "requires a solid rationale to support the decision." Essentially, the Respondent argues that it was reasonable for the decision-maker to conclude that the Applicant had not provided a solid rationale, supported by medical evidence, that the procedures at issue were medically necessary. Rather, the evidence suggested that they were cosmetic in nature. As such, the Respondent submits that it was reasonable for the decision-maker to conclude that the procedures could not be approved under the VHR.

[32] For the reasons that follow, I believe that the decision under review was unreasonable because it was not responsive to one of the core reasons why the Applicant sought the treatments at issue, namely, to ameliorate her PTSD.

[33] From the outset of these proceedings, the Applicant submitted to VAC that, in her view, the medical procedures at issue were necessary for two reasons. The first was to address physical

ailments associated with excess skin. According to her doctor, these symptoms included reduced physical activity and “chronic skin changes, including rash, hygiene problems, and skin infections in the intertriginous areas.”

[34] The second rationale was related to psychological challenges further to her PTSD. As noted above, the Applicant’s physician stated as follows in the medical questionnaire provided in support of the first level decision: “[the Applicant’s] skin excess is causing her PTSD to flare. It was **imperative** for patient to have her surgery procedures as part of her treatment...” [emphasis added]

[35] In a letter supporting the second level review, the Applicant’s physician further provided as follows: “The negative psychological effects associated with skin redundancy perpetuate Alexandra's negative self-image, causing distress and anxiety post-weight loss, often leading to a reduced quality of life.”

[36] In addition to the above, the record contained a letter from the Applicant’s social worker, further indicating that the procedures were an integral component of her PTSD treatment:

Alex has shared with me that her significant weight loss has resulted in excess skin which she finds distressing and perpetuates her negative self image. She intends to pursue further surgery and it is my perception that this may support improved self esteem and reduce distress and anxiety about her external presentation.

In therapy, Alex has begun to recognize her value as a human being and that she is deserving of feeling good about herself. It is for this reason that I feel comfortable linking this upcoming surgery with her military service/individual therapy journey at the OSI clinic.

[37] Beyond the formal medical evidence, the Applicant provided, in her own words, an explanation as to how her excess skin affected her PTSD symptoms. In her first request for review, the Applicant stated: “They [sic] weight gain and then the excess skin after weight loss surgery was a constant reminder of the sexual trauma I endured while serving in the military and no longer having that excess weight and excess skin and not being reminded of it on a daily basis has helped me to begin my journey to recovery.”

[38] In rejecting the Applicant’s request, the decision-maker clearly considered the medical documentation related to the physical ailments that, according to the Applicant, established the necessity of the medical procedures. The decision-maker reasonably observed that this evidence was limited, and that the Applicant’s own doctor indicated that direct medical documentation of these conditions was “unavailable.”

[39] Given the paucity of medical evidence, and given the documentation indicating that the procedures are generally considered cosmetic in nature, it was reasonable for the decision-maker to find that the Applicant had failed to establish that the procedures were medically necessary to treat her *physical* condition.

[40] Unfortunately, the same cannot be said of the decision-maker’s consideration of the psychological evidence. This is because there was essentially *no* consideration of the psychological evidence.

[41] The worksheet prepared by the decision-maker, which outlines the rationale for the second level decision, provides the following:

“The information provided from Veterans treating health professionals both recommends this treatment. VAC’s Medical Consultant states the file did not contain medical evidence of significant symptomatology associated to excess skin (*no medical record of infection, ulcers, skin irritations, ...*) Therefore, it is not possible to recommend reimbursement of brachioplasty and circumferential abdominoplasty.

Although the outcome of the surgeries were beneficial, based on the medical evidence and VAC’s medical professional judgement recommendations, directives, standards of care, there is insufficient medical evidence to show that her entitled condition and/or general health would be negatively affected in the absence of these particular surgeries Therefore, I recommend to confirm the previous decision.

[42] Similarly, the decision letter provided to the Applicant demonstrates a narrow focus on the physical aspects of treatment for excess skin:

Excision of excess tissue and skin may be considered when deemed medically necessary for clients who present (documented) with significant clinical symptomatology; including significant pain, chronic skin breakdown, and recurrent cellulitis and/or ulcers.

[43] Completely absent from the reasons, however, is *any* indication that the decision-maker was aware of, or considered, the psychological rationale that also underpinned the Applicant’s request for reimbursement. The same can be said for the medical consultation that supported the second level decision, which *only* referenced the lack of medical documentation related to skin conditions.

[44] It is worth reiterating at this point that the initial determination that the Applicant was entitled to benefits for morbid obesity with skin redundancy explicitly acknowledged that these *physical* symptoms had a *psychological* foundation. The entitlement letter stated:

We conclude that your Morbid Obesity with Skin Redundancy is a consequence of your Post Traumatic Stress Disorder. Therefore, entitlement is granted, under Section 45 in accordance with Section 46 of the *Veterans Well-being Act*.

[45] A reasonable decision is one that is responsive to the relevant facts. In this case, the impact of the Applicant's excess skin on her PTSD was, at the very least, a relevant fact that had to be considered. Instead of considering these facts, however, the decision leans on a narrow and incomplete interpretation of both the policies that govern the benefits regime and the medical rationale for the Applicant's procedures.

[46] While not formally binding, it should be recalled that VAC's POC 06 policy states "The need and legitimacy of the service must be confirmed by the decision maker as being appropriate in each particular case based on the evidence available." In this matter, while the decision-maker considered certain aspects of the Applicant's particular case, I am convinced that other aspects, namely those related to her PTSD, were not considered.

[47] It is also worth mentioning that the decision-maker in this case clearly, if implicitly, acknowledged that the medical procedures in question *may* be approved in certain circumstances: "Brachioplasty and circumferential abdominoplasty surgeries are not included in the VAC benefit grids and may only be approved on an exceptional basis." Absent from the decision-maker's analysis, however, is any consideration as to whether the Applicant's PTSD constituted an exceptional reason warranting the conferral of benefits. In reconsidering this matter, it will be imperative for a new decision-maker to squarely address this question.

[48] Justice MacDonald observed a similar problem in *Machoun v Canada (Attorney General)*, 2022 FC 1604, noting that:

[38] ..it is not clear why VAC prefers the opinion of their medical consultant over the opinions and recommendations of Ms. Machoun's own treating professionals. In fact, the Appeal Decision makes no reference to the opinions and recommendations of Dr. Buxton, Dr. Machan, and Dr. Loh. Notably, Dr. Buxton was the medical professional who administered and oversaw Ms. Machoun's prior successful vision therapy treatment. It is not clear if these opinions were considered or weighed in the overall assessment of the request. **There is no reference to why these opinions were disregarded or discounted.** [emphasis added]

[39] In my view, the decision-maker failed to weigh and consider the opinions of Ms. Machoun's treating medical professionals against the views of a medical consultant whose opinions appear to be generic rather than responsive to Ms. Machoun's request...

[49] The above provides a sufficient basis on which to grant this application for judicial review. On reconsideration of this matter, a new decision-maker will have to consider whether the medical evidence related to the Applicant's PTSD establishes that the procedures in question were sufficiently medically indicated such that they should be eligible for coverage.

[50] In doing so, it will be important for the new decision-maker to adhere to the applicable legal instruments and to avoid any fettering of discretion. Central to the determination is a consideration of whether the treatment for which the Applicant sought compensation was a consequence of the injuries that she experienced during her service: VWBA section 46. Also relevant to the redetermination is section 4 of the VHR, which describes the treatment benefits available to veterans in very broad terms, including, notably, "any medical, surgical or dental examination or treatment provided by a health professional" (paragraph 4(a)).

[51] It is also to be noted that the stated purpose of the VWBA is as follows:

2.1 The purpose of this Act is to recognize and fulfil the obligation of the people and Government of Canada to show just and due appreciation to members and veterans for their service to Canada. This obligation includes providing services, assistance and compensation to members and veterans who have been injured or have died as a result of military service and extends to their spouses or common-law partners or survivors and orphans. This Act shall be liberally interpreted so that the recognized obligation may be fulfilled.

[52] The animating principle of these statutes and regulations is that veterans must be provided with care and services, including medical treatment, in a way that demonstrates a clear appreciation for their service to Canada. Consequently, these statutes and regulations should be liberally interpreted to achieve that aim.

[53] Furthermore, according to the principles of statutory interpretation, benefit-conferring statutes such as the VWBA must be read broadly and generously, with any ambiguities read in favor of the beneficiaries (*Rizzo & Rizzo Shoes Ltd (Re)*, 1998 CanLII 837 (SCC) at para 36).

[54] This approach is also reflected in the VAC's own policy on Treatment for a Disability Benefits Entitled Condition, which states:

3. The objective of providing any benefit or service under the Veterans Health Care Regulations shall be to achieve a positive treatment outcome for the Veteran's entitled condition.

4. A practical approach to providing health care benefits to eligible Veterans requires that requests for treatment benefits be considered in a broad and inclusive manner so as to successfully treat the entitled condition.

[55] Nothing in the foregoing precludes VAC from considering sources like the OHIP regulations or consulting expert guidance on “medical necessity.” However, any consideration of these sources must be in pursuit of fulfilling the “liberal” approach to benefits provision that the legislation requires.

VI. CONCLUSION

[56] For the above reasons, this application for judicial review will be granted. In the exercise of my discretion, I have concluded that no costs are warranted in this matter.

**JUDGMENT in T-2788-24**

**THIS COURT'S JUDGMENT is that:**

1. The application for judicial review is granted.
2. The matter is returned to the National Second Level Appeals Unit of Veterans Affairs Canada for redetermination by a different decision-maker.
3. No costs are awarded.

"Angus G. Grant"

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** T-2788-24

**STYLE OF CAUSE:** ALEXANDRA PHILOMENA BRIGID ROY v  
ATTORNEY GENERAL OF CANADA

**PLACE OF HEARING:** HELD BY WAY OF VIDEOCONFERENCE

**DATE OF HEARING:** DECEMBER 18, 2025

**JUDGMENT AND REASONS:** GRANT J.

**DATED:** JANUARY 9, 2026

**APPEARANCES:**

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FOR THE RESPONDENT

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FOR THE RESPONDENT