

## OCCUPATIONAL THERAPY IN-HOME ASSESSMENT

|              |  |                     |                              |
|--------------|--|---------------------|------------------------------|
| Client Name: | Marcel Gervais                         | Date of Loss:       | January 8, 2020              |
| Address:     | 51 Linda Street, Limoges,<br>ONK0A 2M0 | Date of Birth:      | April 4, 1959                |
| Telephone #: | 613-443-7667                           |                     |                              |
| Lawyer:      | Gregory C. Gilhooly                    | Firm:               | McNally Gervan Lawyers       |
| Adjuster:    | Talia James                            | Insurer:            | Unifund Assurance<br>Company |
|              |  | Claim No.:          | 000-01-268883                |
| Therapist:   | Sebastien Ferland OT Reg.(Ont.)        | Date of Assessment: | June 20, 2024                |
|              |  | Date of Report:     | August 16, 2024              |

### THERAPIST QUALIFICATIONS:

Mr. Ferland is an Occupational Therapist with over 25 years of experience providing rehabilitation and expert opinion services in the province of Ontario. His professional practice began in 1998 when he graduated from the University of Ottawa's School of Rehabilitation and began working as a registered Occupational Therapist in the private sector. Over the years, Mr. Ferland has developed his clinical skills and evolved to provide expert opinions in matters of human function to stakeholders in the automobile insurance sector, personal injury and family law, the Workplace Safety and Insurance Board (WSIB), Veterans Affairs and the Long-Term Disability sectors. His opinions are sought by both plaintiff and defense counsel in the context of resolving matters in personal injury and family law cases. He has been qualified several times as an expert in his field, providing testimony under oath in FSCO tribunals and cases appearing before the Ontario Superior Court of Justice.

Mr. Ferland's practice includes regular contributions to catastrophic designation assessment teams where he provides opinions related to daily function of individuals



suffering from serious physical, psychological and cognitive impairments. His assessments inform multidisciplinary team members (psychiatry, orthopedics, neurology, physiatry, psychology, etc.) of injured client's daily functional capabilities at home, work and in the community, assisting them in forming opinions surrounding whether the catastrophic injury threshold is met.

Mr. Ferland concurrently provides services as a treating Occupational Therapist to clients who have sustained physical and psychological trauma in motor vehicle accidents. He has extensive experience in providing care to individuals suffering from chronic pain, depression, anxiety and posttraumatic stress, overseeing and directing functional reactivation programs to foster improvements in function and participation in meaningful activity.

#### **ASSESSMENT PREAMBLE:**

This occupational therapy in-home assessment was conducted at the request of Mr. Gregory C. Gilhooly of McNally Gervan Lawyers, regarding Mr. Marcel Gervais. The purpose of this assessment is to evaluate Mr. Gervais' current functional abilities and limitations following injuries sustained in a motor vehicle accident on January 8, 2020.

Mr. Gervais, a 65-year-old retired mechanic, was involved in a high-speed rear-end collision while driving to Las Vegas with his wife and another couple. The accident resulted in multiple injuries, including a concussion, cervical spine injuries, aggravation of pre-existing low back pain, and right hip pain. These injuries have significantly impacted Mr. Gervais' daily functioning and quality of life.

The assessment aims to provide a comprehensive overview of Mr. Gervais' current physical, cognitive, and emotional status, as well as his ability to perform activities of daily living, engage in leisure activities, and access his community. It will also examine how his current condition compares to his pre-accident level of functioning, taking into account his pre-existing medical history, including a significant workplace injury in 2002 that led to long-term disability.

This report will address specific questions raised by Mr. Gilhooly regarding the nature and extent of Mr. Gervais' injuries, their impact on his daily life, and his ability to engage in pre-accident activities. It will also consider the effect of any pre-existing conditions on his current medical status and recovery.

The assessment involved a detailed interview with Mr. Gervais, observation of his functional abilities, review of relevant medical documentation, and consideration of his home environment. The findings and recommendations in this report are based on the information gathered during this assessment, with the goal of providing a clear picture of Mr. Gervais' current functional status and needs for ongoing care and support.



## **SUMMARY OF FINDINGS:**

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## **INFORMED CONSENT STATEMENT:**

This therapist has reviewed issues related to consent as per the requirements outlined by the College of Occupational Therapists of Ontario:

- An occupational therapy assessment is to be conducted by this therapist, a registered occupational therapist with the College of Occupational Therapists of Ontario (COTO).
- The assessment has been requested by his legal representative Mr. Gilhooly of McNally Gervan Lawyers.
- The purpose of this assessment is to assess Mr. Gervais' current functional status as it relates to his ability to complete pre-accident activities of daily living.



- The proposed assessment will include: an interview, a physical assessment and also observations of the ability to complete functional tasks within and around the home as well as education on safe means of completing activities of daily living if required.
- Due to the physical nature of the assessment, pain and fatigue are possible temporary side effects.
- Recommendations may be provided at the conclusion of the assessment. These recommendations may include:
  - Occupational Therapy Treatment
  - Assistive Devices
  - Referral to other practitioners
  - Support services
- Mr. Gervais may choose to participate or decline any or all of the proposed assessment.
- A report documenting this assessment will be completed and copies will be provided to the following parties via secure transmission (fax or encrypted email attachment):
  - McNally Gervais, c/o Gregory Gilhooly, Legal Representative

Following this therapist's explanation Mr. Gervais granted informed consent for this therapist to proceed with the assessment and any subsequent interventions.

#### **DOCUMENTATION REVIEWED:**

#### **PRE-ACCIDENT MEDICAL HISTORY:**

Marcel Gervais' medical history is complex, dating back to at least 1986. That year, Mr. Gervais was involved in a motor vehicle accident that resulted in a probable concussion, facial scarring, and left-sided surgery (likely to the zygomatic arch). This early incident marks the beginning of a series of medical challenges that would shape his health in the years to come.

In 1977-1978, Mr. Gervais sustained a knee injury while playing football. This injury required surgical intervention in 1996, indicating the long-term impact of his athletic activities on his musculoskeletal health.

A significant event occurred in 1994 when Mr. Gervais underwent surgery to address issues with his left leg, which had begun to atrophy. Despite the surgery having a positive outcome, he continued to experience residual issues with his left leg.

In 2002, Mr. Gervais suffered a severe back injury at work, involving a sledgehammer or tire iron, which caused damage to his discs. This injury led to the development of a left L4 radiculopathy, as documented in his medical file. At that time, spinal fusion surgery was discussed as a potential treatment option. However, Mr. Gervais was informed that there was only a 10% chance his condition would worsen, so he opted not to proceed with the surgery.



Following this injury, Mr. Gervais experienced a lengthy recovery period. For approximately 4 years, he was largely confined to his bed or a chair due to his condition. During this time of limited mobility, Mr. Gervais experienced substantial weight gain, increasing from 140 pounds to 245 pounds by 2006.

To aid in his recovery, Mr. Gervais began a regimen of diet and exercise. He gained access to a pool, which allowed him to engage in low-impact exercise. In November 2004, he had a hot tub installed in his garage. Mr. Gervais used the hot tub intensively, 4-5 times daily, to manage his symptoms. This frequent use of the hot tub was crucial in allowing him to gradually become more active. He continued this intensive hot tub therapy for about 6 years.

The combination of hot tub therapy, diet, and exercise proved highly beneficial. Mr. Gervais was able to resume walking and exercising, which helped combat the muscle atrophy in his legs that had worsened during his period of limited mobility.

In addition to his musculoskeletal issues, Mr. Gervais has a history of hypertension and hypercholesterolemia. He has also undergone sinus surgery in the past, though the exact date is not specified in the available records.

Despite these improvements, Mr. Gervais continued to face challenges. While he made significant progress in his recovery, he expressed dissatisfaction with his inability to return to work, suggesting ongoing limitations despite his efforts at rehabilitation.

This pre-accident history demonstrates that Mr. Gervais had a longstanding history of musculoskeletal issues, particularly affecting his back and left leg. He had experienced periods of severely limited mobility, significant weight fluctuations, and had undergone both surgical and non-surgical interventions to manage his conditions. His dedication to using the hot tub multiple times daily highlights the severity of his symptoms and the extent of his efforts to improve his condition. These factors likely had a substantial impact on his overall health and functional status prior to the current incident.

It's important to note that despite these pre-existing conditions, there is no indication in the medical records of any significant cognitive complaints or impairments prior to the accident in question. Mr. Gervais was able to manage complex tasks, such as operating a garage with 13 mechanics, suggesting a good level of cognitive function before the 2020 accident.

## **MECHANISM OF INJURY:**

On January 8, 2020, Mr. Gervais was involved in a serious motor vehicle collision. He was driving a 2016 Lexus LS on a highway, traveling to Las Vegas with his wife and another couple. Mr. Gervais was in the driver's seat, with the other male passenger in the front seat, and both wives in the back.



The accident occurred around 7 p.m. when they became involved in a traffic jam. The traffic had been rerouted and was moving at approximately 80 km/hr. Mr. Gervais had left significant space between his vehicle and the tractor-trailer in front of him. Suddenly, a vehicle driven by a young individual attempted to overtake a number of vehicles in the line and rear-ended Mr. Gervais' car at high speed.

The impact was primarily to the right rear of the vehicle, causing rotational forces that turned Mr. Gervais' head to the right and back. The collision was severe enough to push the Lexus towards oncoming traffic, but Mr. Gervais was able to correct the trajectory and safely pull over to the right shoulder. The force of the impact was significant, as evidenced by the fact that the tailgate of the Lexus could not be opened immediately after the accident.

Although Mr. Gervais did not lose consciousness, he experienced immediate neck pain, back pain, and headaches. Three of the four occupants in the vehicle, including Mr. Gervais, suffered symptoms consistent with concussions.

#### **NATURE OF INJURY:**

Based on the assessment by Dr. Besemann and the available medical documentation, Mr. Gervais sustained the following injuries as a result of the subject motor vehicle accident:

1. Concussion / Mild Traumatic Brain Injury (mTBI)
2. Post-concussion visual syndrome
3. Post-concussion vestibular syndrome
4. Post-concussion cognitive impairment
5. Whiplash Associated Disorder (WAD) II of the cervical spine
6. Cervicogenic headaches / Post-traumatic headaches
7. Aggravation of pre-existing osteoarthritis in the right hip (possible labral tear)
8. Aggravation of pre-existing low back pain and left L4 radiculopathy

#### **COURSE OF RECOVERY TO DATE:**

Following the accident, Mr. Gervais and his companions attempted to continue their trip with a rental vehicle but had to cut the journey short by six weeks due to his injuries. Upon returning home, he consulted his family physician, Dr. Sylvie Cantin, who diagnosed him with concussion syndrome, worsening mechanical upper and lower back pain, and whiplash injury.

Mr. Gervais has undergone various diagnostic procedures, including MRI of the low back and nerve conduction studies, which confirmed his pre-existing left L4 chronic radiculopathy. He is currently awaiting an MRI of the right hip, as a corticosteroid injection provided only brief relief.

His recovery has been complicated by several factors:

1. The COVID-19 pandemic limited his access to consistent care in the initial recovery period.



2. He experiences significant cognitive symptoms, including difficulty concentrating, decreased patience, bouts of anger, and word-finding difficulties.
3. His physical symptoms, particularly right hip pain and worsening of pre-existing back pain, have limited his mobility and daily activities.
4. He reports that his condition seems to be worsening over time, contrary to the expected recovery trajectory.

To manage his symptoms, Mr. Gervais purchased a current-generating hot tub, which he uses daily when able. He has also engaged in some physiotherapy and has learned exercises to manage his condition, though he is not currently involved in formal therapy.

#### **CURRENT MEDICAL/REHABILITATION TEAM:**

Based on the most recent information available, Mr. Gervais' current medical and rehabilitation team consists of:

1. Dr. Sylvie Cantin - Family Physician Last known appointment: Not specified Frequency: As needed for ongoing care and medication management
2. Dr. Markus Besemann - Psychiatrist Assessment date: July 16, 2024 Follow-up: To be determined based on recommendations
3. Dale - Physiotherapist at Physio in the Valley, Pembroke Current status: Mr. Gervais is not actively engaged in formal physiotherapy but has learned exercises from this provider
4. Neuro-optometrist (name not provided) Involvement: Prescribed prism glasses which have helped reduce headache symptoms by approximately 50%

It's worth noting that Mr. Gervais' care has been somewhat fragmented due to the COVID-19 pandemic and other factors. He may benefit from a more coordinated and comprehensive rehabilitation approach, particularly addressing his ongoing cognitive, vestibular, and musculoskeletal symptoms.

#### **MEDICATION:**

| <b>Medication</b> | <b>Dose</b>                   | <b>Purpose</b>              |
|-------------------|-------------------------------|-----------------------------|
| Candesartan       | 8 mg once daily               | Hypertension                |
| Vitamin D         | 25 mcg, three times daily     | Vitamin supplementation     |
| Oxycocet          | 100 tablets every seven years | Pain management (as needed) |
| Tylenol #3        | Very rarely used              | Pain management (as needed) |

Note: Mr. Gervais reports using opioid pain medication very sparingly.

#### **SUBJECTIVE INFORMATION (CLIENT REPORT):**

##### **Physical Symptoms:**





| Symptom/Complaint | Details   | Pain Rating if Necessary                     |
|-------------------|---|--|
| Right hip pain    | Pain radiates to outside of hip near greater trochanter. Limits walking, cycling, and sitting comfortably | 9-10/10 at worst, always some degree of pain |
| Low back pain     | Worsened since accident, sometimes so severe he can hardly get out of bed                                 | Variable                                     |
| Headaches         | Improved by 50% with prism glasses. Pain from back of neck to vertex                                      | 7-8/10 average                               |
| Neck pain         | Ongoing, uses a rolled towel for self-traction  | 7-8/10                                       |
| Visual symptoms   | Difficulty seeing clearly, light sensitivity  | N/A  |
| Balance issues    | Unsteadiness when walking, especially on uneven surfaces  | N/A  |

### **Cognitive Symptoms:**

- Difficulty concentrating and focusing, especially after 1-2 hours of activity
- Decreased patience and increased irritability
- Word-finding difficulties
- Significant issues with memory, attention, and focus
- Poor multitasking ability
- Need to write things down and check tasks multiple times
- Reduced diagnostic acumen for car problems (previously a strength)
- Overall cognitive stamina reduced from 6 hours pre-accident to 2-3 hours post-accident

### **Emotional Symptoms:**

- Increased irritability and short temper
- Frustration with limitations and cognitive changes
- Anxiety, particularly about declining abilities
- Some mood fluctuations, though generally tries to maintain an optimistic outlook
- Concern about the impact of his condition on his family

### **Symptom Management Strategies:**

Mr. Gervais reported making use of the following strategies to manage his symptoms at this time:





- Rest and pacing of activities
- Use of a hot tub (when able to open the lid) for pain management
- Prism glasses for visual symptoms and headache management
- Self-traction technique using a rolled towel for neck pain
- Very sparing use of pain medication
- Activity modification and avoidance of triggering activities
- Exercise in the swim spa (when able)
- Writing things down to compensate for memory issues

#### FUNCTIONAL AND BEHAVIOURAL OBSERVATIONS:

| Activity                  | Client Report and Therapist Observations   |
|---------------------------|--|
| Sitting and repositioning | Mr. Gervais reports being able to sit for 20-25 minutes before needing to stand due to pain. He frequently shifts position and leans to one side or the other. Cannot sit straight for more than a few minutes without pain. |
| Bed mobility              | Unable to sleep comfortably in bed due to inability to keep left leg elevated and difficulty turning on his side due to hip pain. Primarily sleeps in a recliner.  |
| Transfers                 | Can complete chair and sofa transfers independently, but with visible discomfort. Often stops mid-transfer to stabilize himself. Uses adjacent supports (wall or furniture) when standing.                                   |
| Standing                  | Can stand for periods of about 10 minutes before needing to sit due to back pain. Frequently shifts weight from side to side. Rarely sustains standing in one place for more than a few minutes.                             |
| Balance                   | Significantly impaired. Unsteady during tandem gait and Romberg test, with a tendency to drift towards the right and rear. Wife reports he often bumps into her when walking side by side.                                   |
| Walking                   | Gait is significantly abnormal with imbalance. Uses a cane for support. Walking tolerance is limited to short distances (less than one block) due to pain and weakness.  |
| Stairs                    | Can manage stairs but needs to engage his core and straighten his spine to avoid sharp pain. Sometimes uses a cane for assistance when symptoms are pronounced.  |
| Lifting/Carrying          | Severely limited. Unable to carry any significant loads. Can manage light objects or small bags weighing no more than a few pounds.  |
| Kneeling                  | Unable to kneel at this time.  |
| Squatting/Crouching       | Unable to squat or crouch comfortably.   |
| Bending                   | Limited ability to bend forward. When standing, cannot bend forward beyond upper thighs due to severe, sharp lower back pain and onset of dizziness.   |



|                         |  |
|-------------------------|--|
| Reaching                | Limited ability to reach with left arm. Left shoulder has approximately 50% active range of motion in all planes. Right upper extremity reach is less affected.        |
| Fine Motor Coordination | Experiences difficulties, particularly with right hand. Reports being unsure of grip strength and prone to dropping objects. Struggles with tasks requiring precision. |

### Active Range of Motion:

|   |                   |       |      |                            |
|---|-------------------|-------|------|----------------------------|
| Legend:<br>WFL:            within Functional Limits<br>%:             approximate percentage of normal range<br>Nominal:      less than 25% range |                   |       |      |                            |
| Movement  |                   | Right | Left | Comments                   |
| Neck  | Forward flexion   | WFL   |      | No identified limitations. |
|   | Lateral flexion   | WFL   | WFL  |                            |
|   | Rotation          | WFL   | WFL  |                            |
|   | Extension         | WFL   |      |                            |
| Shoulder  | Flexion           | WFL   | WFL  | No identified limitations. |
|   | Extension         | WFL   | WFL  |                            |
|   | Abduction         | WFL   | WFL  |                            |
|   | Adduction         | WFL   | WFL  |                            |
|   | Internal rotation | WFL   | WFL  |                            |
|   | External rotation | WFL   | WFL  |                            |
| Elbow   | Flexion           | WFL   | WFL  | No identified limitations. |



|       |                 |     |     |                            |
|-------|-----------------|-----|-----|----------------------------|
|       | Extension       | WFL | WFL |                            |
| Wrist | Flexion         | WFL | WFL | No identified limitations. |
|       | Extension       | WFL | WFL |                            |
|       | Supination      | WFL | WFL |                            |
|       | Pronation       | WFL | WFL |                            |
| Trunk | Forward flexion | WFL |     | No identified limitations. |
|       | Lateral flexion | WFL | WFL |                            |
|       | Rotation        | WFL | WFL |                            |
| Hip   | Flexion         | WFL | WFL | No identified limitations. |
|       | Extension       | WFL | WFL |                            |
| Knee  | Flexion         | WFL | WFL | No identified limitations. |
|       | Extension       | WFL | WFL |                            |
| Ankle | Dorsiflexion    | WFL | WFL | No identified limitations. |
|       | Plantar flexion | WFL | WFL |                            |

### **TYPICAL DAY:**

Mr. Gervais typically starts his day early, rising around 5 AM. He makes his way to the living room where he settles in to watch television or play cards on his tablet while enjoying his morning coffee. This quiet start to the day allows him to ease into his routine.

By 9 AM, Mr. Gervais aims to be out and about, engaging in some form of activity. His goal is to be productive, whether it's tending to the grass, tinkering with small projects, or doing yard



work. However, his ability to do so varies greatly from day to day. He might spend one day working around the house, one or two days doing yard work, and another day simply resting in the garage. Mr. Gervais notes that everything he does now takes about three times longer than it used to, reflecting the significant impact his condition has on his daily functioning.

He typically has lunch between 12 PM and 1 PM, after which he continues with his activities until about 2 or 3 PM. At this point, fatigue usually sets in, and he takes a nap for about an hour. The toll of his daily activities is substantial - Mr. Gervais reports that it can take him two to three days to recover from a day of exertion.

To help manage his symptoms and aid in recovery, Mr. Gervais uses a hot tub and swims when he's able. These activities seem to provide some relief and are an important part of his self-care routine.

Meal preparation has largely shifted to his wife, whereas before the accident, Mr. Gervais was more involved in this task. In the evenings, he and his wife try to maintain some social connection by inviting people over when possible. On days when this isn't feasible, they often find themselves "vegging out" - likely watching TV or engaging in low-energy activities. Mr. Gervais makes an effort to chat with his wife during these quieter times, maintaining their connection despite the challenges he faces.

Bedtime for Mr. Gervais varies, typically falling between 8 PM and midnight. He often struggles with falling asleep, and sometimes manages only an hour of sleep, highlighting the severity of his sleep disturbances.

This daily routine underscores the significant changes in Mr. Gervais' life since the accident. Activities that were once simple now require significant effort and planning, with recovery time built into his weekly schedule. The variation in his day-to-day abilities and the extended time required for tasks reflect the ongoing challenges he faces in managing his condition.

#### **ENVIRONMENTAL ASSESSMENT:**

|                  |                                   |   |                |
|------------------|-----------------------------------|---|----------------|
| TYPE OF DWELLING | 2000 square foot split level home |   |                |
| ROOMS            | Qty                               | LOCATION/DESCRIPTION                    | FLOOR COVERING |
| Bedrooms         | 3+1                               | Three on main floor and one in basement | Wood           |
| Bathrooms        | 3.5                               | Three full bathrooms and a powder room  | Tile           |
| Living Room      | 1                                 | Main floor                              | Wood           |
| Family Room      | 1                                 | Basement                                | Carpet         |
| Dining Room      | 1                                 | Main floor                              | Wood           |
| Kitchen          | 1                                 | Main floor                              | Tile           |



|                      |                      |                   |          |
|----------------------|----------------------|-------------------|----------|
| Laundry              | 1                    | Basement          | Concrete |
| Stairs               | Yes                  |                   |          |
| Basement             | Yes                  | Finished basement | Carpet   |
| Driveway Description | Large double laneway |                   |          |
| Yard description     | Large rural property |                   |          |

#### **LIVING ARRANGEMENTS/SOCIAL STATUS:**

|                    |   |
|--------------------|---|
| Marital Status     | Married <input type="checkbox"/><br>Single <input checked="" type="checkbox"/><br>Common Law <input type="checkbox"/><br>Other <input type="checkbox"/> |
| Living Arrangement | Lives with his wife.  |
| Children           | Adult children no longer in family home   |

#### **ACTIVITIES OF DAILY LIVING (Pre and Post Accident):**

##### **Pre and Post Accident Self-Care Activities:**

Mr. Gervais' ability to manage his self-care activities has been significantly impacted by his accident. His self-care routine now varies considerably between what he describes as "bad days" and "OK days."

During the summer months, Mr. Gervais experiences about two "bad days" per month. In winter, this increases to approximately four "bad days" per month. On these challenging days, his limitations are severe. He often finds himself unable to get out of bed and sometimes requires assistance to reach the bathroom.

Eating habits have also been affected. While Mr. Gervais continues to eat, he reports eating less than before the accident. This is further compounded on the reported bad days.

Mr. Gervais is generally independent with his showering routine, again with the exception of bad days where his wife must provide physical assistance for this task. This need for assistance with such a personal task underscores the extent of his physical limitations, especially during recurrent periods of symptom aggravation and the impact on his independence.

These alterations in Mr. Gervais' self-care routine paint a picture of increased dependency and reduced autonomy in his daily life. The variability between "bad days" and "OK days" suggests that his ability to care for himself fluctuates, which likely requires adaptability from both Mr. Gervais and his caregivers.



Overall, these changes in self-care activities represent a significant shift in Mr. Gervais' daily life and independence, reflecting the profound impact of his accident on even the most basic aspects of his personal care.

### **Home Management Activities:**

Prior to the accident, Mr. Gervais was actively involved in many aspects of home management. He shared responsibilities with his wife, Theresa, for various household tasks. Every two weeks, they would clean the house together for about 3 hours, working as a team of two.

Mr. Gervais' role in household chores has significantly changed since the accident. Dishwashing, which he used to manage independently, is now shared with his wife. Grocery shopping and errands, previously his responsibility, are now handled by Theresa. Similarly, bathroom cleaning has been taken over by Theresa.

Making and changing beds is now a shared task, but Mr. Gervais finds it extremely difficult. He continues to assist with vacuuming, sweeping, and mopping, although these tasks take him longer and cause more fatigue than before. Dusting has been taken over by Theresa, while tidying remains a shared responsibility. Laundry is now primarily Theresa's task, with Mr. Gervais helping by carrying laundry when he can. Garbage removal and recycling are still managed by Mr. Gervais, who now uses wheeled bins to assist with this task.

Outdoor Tasks: The division of labor for outdoor tasks has also changed. Lawn care, which Mr. Gervais used to manage independently, is now shared with his wife. Gardening has become solely his wife's responsibility. Snow removal is now planned by Mr. Gervais but executed by their son-in-law.

These changes in household management and daily activities reflect the significant impact of Mr. Gervais' accident on his functional abilities. Tasks that he once performed independently or shared equally with his wife now require additional assistance or have been completely delegated to others. This shift not only affects the practical aspects of running the household but likely also impacts Mr. Gervais' sense of independence and contribution to family life.

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The following table reflects the changes in Mr. Gervais' ability to perform housekeeping and home maintenance activities and provides an estimated amount of time allocated for housekeeping assistance.



| <b>Housekeeping Task</b>               | <b>Pre-Accident</b>                     | <b>Post-Accident</b>                           | <b>Time Replacement Value (Minutes per Week)</b> |
|--|---|--|--|
| <b>Dishwashing</b>                     | Managed independently                   | Shared with wife                               | 45 minutes                                       |
| <b>Grocery Shopping and Errands</b>    | Managed independently                   | Handled entirely by wife                       | 90 minutes                                       |
| <b>Bathroom Cleaning</b>               | Managed independently                   | Handled entirely by wife                       | 30 minutes                                       |
| <b>Making/Changing Beds</b>            | Shared with wife (50/50)                | Shared with wife (20/80)                       | 20 minutes                                       |
| <b>Vacuuming, Sweeping, Mopping</b>    | Managed independently                   | Shared with wife                               | 60 minutes                                       |
| <b>Dusting</b>                         | Managed independently                   | Handled entirely by wife                       | 30 minutes                                       |
| <b>Laundry</b>                         | Managed independently                   | Handled primarily by wife                      | 60 minutes                                       |
| <b>Garbage Removal &amp; Recycling</b> | Managed independently                   | Managed independently with assistance          | 15 minutes                                       |
| <b>Lawn Care</b>                       | Managed independently                   | Shared with wife                               | 75 minutes in spring and summer and fall         |
| <b>Gardening</b>                       | Managed independently                   | Handled entirely by wife                       | 60 minutes in spring and summer and fall         |
| <b>Snow Removal</b>                    | Planned by Mr. Gervais, executed by him | Planned by Mr. Gervais, executed by son-in-law | 90 minutes in winter months                      |

Total time in Spring/Summer and Fall months:

8 hours per week

Total time in Winter months:

7.5 hours per week



**Finances/Financial Management:**

Financial management, which was previously shared, is now entirely handled by Mr. Gervais' wife.

**Caregiving Activities:**

Not applicable.

**Vocational Activities:**

Mr. Marcel Gervais has had a long and varied career in the automotive industry, primarily as a mechanic. His professional journey reflects both his passion for mechanics and his entrepreneurial spirit.

**Pre-2000 Employment:** Mr. Gervais reports that he knew he wanted to be a mechanic by the age of 12, demonstrating an early vocational calling. As an adult, he not only worked as a mechanic but also became a business owner. At one point, he owned his own garage and employed 13 mechanics, showcasing his skills in both automotive repair and business management. This period of business ownership highlights Mr. Gervais' leadership abilities and his capacity to manage complex operations.

**2000-2002:** Around 1999/2000, Mr. Gervais made the decision to sell his garage. In a demonstration of his ethical approach to business, he went to great lengths to secure employment for his 13 mechanics before closing the shop. Following the sale of his business, Mr. Gervais took a job working for another garage, transitioning from owner to employee.

**2002 Workplace Injury and Subsequent Disability:** In 2002, Mr. Gervais suffered a significant workplace injury while wielding a sledgehammer to knock off a rusted wheel from a hub. This injury resulted in a left L4 radiculopathy and quadriceps weakness, which have persisted since that time. As a result of this injury, Mr. Gervais was placed on long-term disability at the age of 40, marking the end of his active employment as a mechanic.

**Post-2002 Vocational Activities:** Despite being on long-term disability, Mr. Gervais continued to engage in mechanic-related activities to the extent his condition allowed. Prior to the 2020 motor vehicle accident, he was still able to provide diagnoses and problem-solving advice for former customers and family members. While he could not perform the physical work himself, he maintained the cognitive abilities to reason out almost any mechanical problem and provide appropriate guidance. This activity, though not formal employment, allowed Mr. Gervais to continue using his professional skills and knowledge.



Current Vocational Status: Following the 2020 motor vehicle accident, Mr. Gervais' ability to engage in even these informal diagnostic activities has been significantly impacted. He reports a decline in his diagnostic acumen and ability to problem-solve mechanical issues. His cognitive limitations, including difficulties with concentration, memory, and multitasking, have further reduced his capacity to engage in any vocation-related activities.

Mr. Gervais is currently not employed and continues to receive disability benefits. The combined effects of his 2002 workplace injury and the 2020 motor vehicle accident have resulted in a complete cessation of vocational activities, even in an informal capacity.

### **Leisure Activities:**

Prior to the accident, Mr. Gervais maintained an active and varied leisure lifestyle that included both physical activities and personal hobbies:

1. “Old-timers” Hockey: Mr. Gervais was an active participant in an “old-timer’s” hockey league. This activity was primarily social in nature, providing him with regular physical exercise and an opportunity to maintain strong social connections with his peers.
2. Cycling: He regularly rode his bicycle, which contributed to his overall fitness and served as a form of recreation and local transportation.
3. Holidays: Mr. Gervais enjoyed going on vacations, demonstrating his interest in travel and new experiences.
4. Swimming: This activity was a consistent part of his leisure routine, offering another form of physical exercise and relaxation.
5. Puttering in the Garage: Mr. Gervais spent considerable time in his garage, working on small projects and maintaining equipment. This activity allowed him to apply his mechanical skills in a recreational context.

Post-accident, Mr. Gervais' engagement in these activities has been dramatically altered:

- Old-timers Hockey: Mr. Gervais has ceased participation in hockey entirely due to his physical limitations.
- Cycling: His ability to cycle has been severely reduced. He has made two attempts to use an electric bicycle, indicating his desire to continue this activity, but these efforts have had limited success due to his current physical condition.
- Holidays: Mr. Gervais has taken only one vacation since the accident, which had to be cut short. This represents a significant decrease in his ability to travel and enjoy extended time away from home.
- Swimming: This activity has been discontinued as part of his leisure routine.
- Puttering in the Garage: This is the one activity that Mr. Gervais continues to engage in post-accident. However, there's a notable change in how he manages this activity. While he still putters in his garage, he no longer cleans up after himself, resulting in the garage being left in a state of disarray. This change is due to his physical limitations, decreased energy levels, and cognitive changes affecting his ability to complete tasks fully.



The overall picture is one of significantly reduced engagement in leisure activities. The physical and social benefits Mr. Gervais previously gained from activities like hockey, cycling, and swimming have been largely lost. His continued puttering in the garage, while providing some continuity with his pre-accident life, is now characterized by an inability to fully manage the activity as he once did. This reduction in leisure activities has substantial impacts on Mr. Gervais' physical health, social interactions, and overall quality of life.

### **Community Access:**

Mr. Gervais' ability to access and engage with his community has been significantly altered since the accident. Driving has become his primary, and often sole, means of maintaining community access. His vehicle now serves as his "sanctuary," providing a sense of control and independence that he struggles to find in other aspects of his life.

Despite retaining the ability to drive, Mr. Gervais' community engagement is severely restricted. His tolerance for activity is limited to several hours before fatigue and increased symptoms force him to retreat. This diminished stamina significantly impacts his participation in social engagements and community events, reducing both their frequency and duration.

Physical discomfort further compounds these limitations. Mr. Gervais struggles with prolonged sitting, making attendance at community events or social gatherings that require extended periods of inactivity challenging and often uncomfortable. His difficulties with walking and balance also impede his ability to navigate community spaces independently, affecting his confidence and willingness to access certain areas or participate in specific activities.

The visual symptoms and cognitive difficulties Mr. Gervais experiences, including problems with concentration and memory, create additional barriers to community engagement. These issues make it challenging for him to navigate complex community environments or participate in activities requiring sustained attention.

As a result, Mr. Gervais' community outings have decreased significantly in both frequency and scope. Activities that were once routine, such as running errands or attending social events, now require careful planning and considerable effort. This reduced community engagement has inevitably impacted his social connections and overall quality of life.

### **ASSESSMENT OF ATTENDANT CARE NEEDS:**

The following is an Assessment of Attendant Care Needs based on reports of the client and direct observations made on the day of this assessment. The Ontario Society of Occupational Therapists report "Considerations for Occupational Therapists Completing an Assessment of Attendant Care Needs (Form 1)" was consulted for the completion of the assessment. As per the OSOT Guidelines, "this assessment of Attendant Care Needs (Form 1) is not simply the recording of what attendant care services are already in place. [This therapist's] role is to determine the extent to which the client can perform the skills and



activities identified in the Form 1 safely, functionally, and to objectively identify what assistance if any is needed from the present time into the future until another such re-assessment may identify modified needs.”

Part 1 – Level 1 Attendant Care (Routine personal care)

| Task   | Observations/Comments   | Weekly Time Allotted |
|--|---|----------------------|
| <b>Dress</b> <ul style="list-style-type: none"><li>• Upper body</li><li>• Lower Body</li></ul>   | Once weekly, on bad days, Mr. Gervais requires assistance with dressing his lower body, specifically with donning a sock on his right leg.  | 2 minutes per week   |
| <b>Undress</b> <ul style="list-style-type: none"><li>• Upper body</li><li>• Lower Body</li></ul>   |   | 0 minutes per week   |
| <b>Prosthetics</b>   | Not applicable.   | 0 minutes per week   |
| <b>Orthotics</b>   | Not applicable.   | 0 minutes per week   |
| <b>Grooming</b> <ul style="list-style-type: none"><li>• Face</li><li>• Hands</li><li>• Shaving</li><li>• Cosmetics</li><li>• Brush/shampoo/dry/style hair</li><li>• Fingernails</li><li>• Toenails</li></ul> | Mr. Gervais is independent with the management of his grooming needs. On bad days, he will simply limit the extent of his grooming to bare minimum such as brushing his teeth and washing his hands and face.                                 | 0 minutes per week   |
| <b>Feeding</b>   | Mr. Gervais is independent with feeding. He is found to possess the functional abilities to manage basic meal preparation tasks independently. Thus allocation for meal preparation will be provided under housekeeping and home maintenance. | 0 minutes per week   |
| <b>Mobility *</b>  | Once weekly, on bad days, Mr. Gervais requires assistance for transfers and mobility supervision. An allocation of one hour per day on “bad days” is found to be reasonable.  | 60 minutes per week  |



|                  |   |                    |
|------------------|---|--------------------|
| Extra Laundering | Mr. Gervais does not present with any extra laundering needs. | 0 minutes per week |
|------------------|---|--------------------|

\* Please note that as per the guidelines set forth by the Ontario Society of Occupational Therapists, assistance with mobility includes “all transfers both inside the home and out in the community” and “supervision and assistance when walking includes: stair climbing, mobility on ramps, into and out of home and/or lobby, garage, in the community etc.”

## Part 2 – Level 2 Attendant Care (Basic supervisory functions)

| Task   | Observations/Comments  | Weekly Time Allotted             |
|--|--|----------------------------------|
| <b>Hygiene *</b> <ul style="list-style-type: none"> <li>Clean tub/shower/ sink after use</li> <li>Change bedding, make bed, clean room</li> <li>Ensure comfort and safety (bedroom)</li> <li>Assist in daily wearing apparel</li> <li>Hand/sort clothes to be laundered</li> </ul> | Mr. Gervais requires assistance with most hygiene tasks, once weekly.      | <b><u>0 minutes per week</u></b> |
| <b>Basic Supervisory Care **</b>   | Mr. Gervais does not require any basic supervisory care.                   | 0 minutes per week               |
| <b>Co-ordination of Attendant Care</b>   | There are no attendant care coordination tasks to be managed at this time. | 0 minutes per week               |

\* The “Assessment of Attendant Care Needs” guidelines set forth by the Ontario Society of Occupational Therapists considers “supervisory functions for those who are emotionally, cognitively and/or physically in need of comfort (e.g. advocating for a child or someone who is cognitively impaired)”. The OSOT guidelines further state that the “family may be ensuring comfort, safety and security in this (hospital) environment and these activities should be considered an attendant care need under Level 2”.

\*\* As per the National Research Counsel of Canada (2006), the Available Safe Escape Time (ASET) for a single-family house equipped with smoke alarms, may only be 3 minutes. The Required Safe Escape Time (RSET) is the amount of time required for an individual to evacuate or reach an area of safety. Factors that impact the ability to evacuate quickly include age, sleep stage (those in deep stages have more difficulty being roused), drugs (e.g., individuals taking a sleeping aid} and alcohol consumption, and those who have physical and mental disabilities. In Canada, winter conditions must also be considered, as “preparation for further action” activities including donning boots and coats, and gathering belongings, require additional time.

## Part 3 – Level 3 Attendant Care (Complex health/care and hygiene functions)

| Task | Observations/Comments | Weekly Time Allotted |
|------|-----------------------|----------------------|
|------|-----------------------|----------------------|



|   |  |                     |
|---|--|---------------------|
| Genitourinary Tracts  | Mr. Gervais manages his bladder routine independently.   | 0 minutes per week  |
| Bowel Care  | Mr. Gervais manages his bowel routine independently.   | 0 minutes per week  |
| Tracheostomy  | NA   | 0 minutes per week  |
| Ventilator Care   | NA   | 0 minutes per week  |
| Exercise  | Mr. Gervais does not require any support to manage prescribed exercises.                       | 0 minutes per week  |
| Skin Care   | No skin care requirements.   | 0 minutes per week  |
| Medication  | Mr. Gervais manages his medication independently.  | 0 minutes per week  |
| Bathing <ul style="list-style-type: none"> <li>• Bathtub or shower</li> <li>• Bed bath</li> <li>• Oral Hygiene (including dentures)</li> <li>• Transfer, bathing and drying, prep equipment, clean equipment, apply creams, etc.</li> </ul> | Once weekly, Mr. Gervais requires assistance for showering.                                    | 25 minutes per week |
| Other Therapy (TENS, DCS)   | NA   | 0 minutes per week  |
| Maintenance of Equipment and Supplies   | NA   | 0 minutes per week  |
| Skilled Supervisory Care (for aggressive or violent behaviour)  | Mr. Gervais does not present with any changes in behaviour requiring skilled supervisory care. | 0 minutes per week  |

**Attendant Care Calculation:**

|  |                     |                |
|--|---------------------|----------------|
| Part 1 - Routine Personal Care           | 1.03 hours/week     | \$66.21/month  |
| Part 2 - Basic Supervisory Functions     | 2.87 hours per week | \$40.13 /month |
| Part 3 - Complex Health/Care and Hygiene | 1.79 hours per week | \$37.82 /month |

Total monthly assessed attendant care benefit: \$144.16 (subject to limits under Statutory Accident Benefits Schedule)



## REFERRAL QUESTIONS:

1. What are Mr. Gervais' present needs for: a) Housekeeping b) Attendant care c) Medical/rehabilitative services d) Assistive devices

Based on the assessment conducted, Mr. Gervais' present needs are as follows:

a) Housekeeping: Mr. Gervais requires substantial assistance with housekeeping tasks. The assessment indicates a need for 8 hours per week of housekeeping assistance during Spring/Summer and Fall months, and 7.5 hours per week during Winter months. These hours encompass a range of tasks including, but not limited to, dishwashing, grocery shopping, bathroom cleaning, laundry, and outdoor maintenance. Mr. Gervais' capacity to perform these tasks has been significantly diminished since the accident, with many responsibilities now primarily managed by his wife or requiring shared effort.

b) Attendant care: Mr. Gervais' attendant care needs have been assessed as follows:

- Routine Personal Care: 1.03 hours/week (\$66.21/month)
- Basic Supervisory Functions: 2.87 hours per week (\$40.13/month)
- Complex Health/Care and Hygiene: 1.79 hours per week (\$37.82/month) The total monthly assessed attendant care benefit is \$144.16. This care is particularly crucial during "bad days," which occur approximately twice monthly in summer and four times monthly in winter.

c) Medical/rehabilitative services: Mr. Gervais would benefit from ongoing medical and rehabilitative services, including:

- Continued care from his family physician, Dr. Sylvie Cantin
- Follow-up appointments with psychiatrist Dr. Markus Besemann
- Potential re-engagement with physiotherapy services
- Engagement with Occupational Therapy to foster improvements in daily function.

d) Assistive devices: Mr. Gervais currently utilizes several assistive devices, including a cane for mobility support, prism glasses for visual symptom management, and a hot tub and swim spa for pain management and exercise when feasible. Given his reported balance issues and mobility limitations, Mr. Gervais may benefit from additional assistive devices in the future such as bathroom grab bars, a shower chair, and more substantial mobility aids and potential home modifications.

2. What physical, cognitive, or emotional limitations does Mr. Gervais have in his typical activities of daily living, including: a) Personal care b) Housekeeping and home maintenance c) Work d) Leisure, social, and/or recreational activities





Based on the assessment conducted, Mr. Gervais experiences significant limitations in his activities of daily living:

a) Personal care: Mr. Gervais demonstrates limitations in personal care activities, particularly on "bad days" which occur approximately twice monthly in summer and four times monthly in winter. On these days, he may require assistance with dressing, specifically with donning socks on his right leg. He also needs help with showering once weekly. While generally independent in grooming, on bad days he limits his routine to minimal tasks such as brushing teeth and washing his face and hands.

b) Housekeeping and home maintenance: Mr. Gervais' ability to perform housekeeping and home maintenance tasks has been severely impacted. Many tasks he previously managed independently now require assistance from his wife or have been entirely delegated to her. These include dishwashing, grocery shopping, bathroom cleaning, and laundry. He continues to participate in some tasks like vacuuming and tidying, but these now take longer and cause increased fatigue. Outdoor tasks such as lawn care and snow removal now require assistance or delegation to family members.

c) Work: Although Mr. Gervais was on long-term disability prior to the 2020 accident due to a workplace injury in 2002, he was able to engage in informal diagnostic activities related to his mechanic skills. Post-accident, his ability to perform even these informal tasks has significantly declined. He reports a decrease in his diagnostic acumen and problem-solving abilities for mechanical issues. Cognitive limitations, including difficulties with concentration, memory, and multitasking, have further reduced his capacity to engage in any vocation-related activities.

d) Leisure, social, and/or recreational activities: Mr. Gervais' engagement in leisure and recreational activities has been dramatically altered. He has ceased participation in activities such as "old-timers" hockey and swimming. His ability to cycle has been severely reduced, with limited success in attempts to use an electric bicycle. Travel and vacations have become challenging, with only one vacation taken since the accident, which had to be cut short. The one activity he continues is "puttering" in his garage, but he is no longer able to clean up after himself, indicating a decrease in his ability to complete tasks fully.

Mr. Gervais' community access and social engagement have also been significantly impacted. While he can still drive, his tolerance for activity is limited to several hours before fatigue and increased symptoms force him to retreat. This diminished stamina, coupled with physical discomfort from prolonged sitting and difficulties with walking and balance, has reduced both the frequency and duration of his social engagements and community participation.

3. Have the impairments sustained by Mr. Gervais as a result of the motor vehicle accident caused or contributed to him presently having a complete inability to lead a normal life?



The retainer letter from Mr. Gregory C. Gilhooly outlines the principles set out by the Ontario Court of Appeal in the 2009 decision of *Heath v. Economical Mutual Insurance Company*.

Here's the verbatim quote from the letter:

*"Generally speaking, the starting point for the analysis of whether a claimant suffers from a complete inability to carry on a normal life will be to compare the claimant's activities and life circumstances before the accident to his or her activities and life circumstances after the accident. This follows from the language of the section as well as a review of the predecessor provisions. That said, there may be some circumstances in which a comparison, or at least a detailed comparison, of the claimant's pre-accident and post-accident activities and circumstances is unnecessary, having regard to the nature of the claimant's post-accident condition.*

*Consideration of a claimant's activities and life circumstances prior to the accident requires more than taking a snap-shot of a claimant's life in the time frame immediately preceding the accident. It involves an assessment of the appellant's activities and circumstances over a reasonable period prior to the accident, the duration of which will depend on the facts of the case.*

*In order to determine whether the claimant's ability to continue engaging in "substantially all" of his or her pre-accident activities has been affected to the required degree, all of the pre-accident activities in which the claimant ordinarily engaged should be considered. However, in deciding whether the necessary threshold has been satisfied, greater weight may be assigned to those activities which the claimant identifies as being important to his/her pre-accident life.*

*It is not sufficient for a claimant to demonstrate that there were changes in his or her post-accident life. Rather, it is incumbent on a claimant to establish that those changes amounted to him or her being continuously prevented from engaging in substantially all of his pre-accident activities. The phrase "continuously prevents" means that a claimant must prove "disability or incapacity of the requisite nature, extent or degree which is and remains uninterrupted".*

*The phrase "engaging in" should be interpreted from a qualitative perspective and as meaning more than isolated post-accident attempts to perform activities that a claimant was able to perform before the accident. The activity must be viewed as a whole, and a claimant who merely goes through the motions cannot be said to be "engaging in" an activity. Moreover, the manner in which an activity is performed and the quality of performance post-accident must also be considered. If the degree to which a claimant can perform an activity is sufficiently restricted, it cannot be said that he or she is truly "engaging in" the activity.*

*In cases where pain is a primary factor that allegedly prevents the insured from engaging in his or her former activities, the question is not whether the insured can physically do these activities, but whether the degree of pain experienced, either at the time or subsequent to the activity, is such that the individual is practically prevented from engaging in those activities."*



The impairments sustained by Mr. Gervais as a result of the January 8, 2020 motor vehicle accident have caused or contributed to him presently having a complete inability to lead a normal life.

This conclusion is based on the following considerations:

1. Comparison of pre-accident and post-accident activities: Prior to the accident, Mr. Gervais was able to engage in a variety of activities including participating in "old-timers" hockey, cycling, swimming, traveling, and puttering in his garage. He also maintained an active role in household management. Post-accident, he has ceased participation in hockey and swimming entirely, has severely reduced his ability to cycle, and has taken only one vacation which had to be cut short. While he still putters in his garage, he is unable to clean up after himself, indicating a significant qualitative change in his ability to engage in this activity.
2. Continuous prevention from engaging in substantially all pre-accident activities: Mr. Gervais' impairments have continuously prevented him from engaging in substantially all of his pre-accident activities. His physical limitations, cognitive difficulties, and pain symptoms affect nearly every aspect of his daily life, from personal care to leisure activities. The report indicates that even on "OK days," Mr. Gervais experiences significant limitations, with these limitations becoming more severe on "bad days" which occur 2-4 times per month.
3. Qualitative interpretation of "engaging in" activities: While Mr. Gervais can still perform some activities, the manner and quality of his performance have been significantly altered. For instance, although he can still drive, his vehicle now serves as a "sanctuary" and his community engagement is severely restricted due to fatigue and increased symptoms after several hours of activity.
4. Pain as a primary factor: Mr. Gervais experiences significant pain in multiple areas, including his right hip (9-10/10 at worst), low back, headaches (7-8/10 average), and neck (7-8/10). This pain, along with other symptoms, practically prevents him from engaging in many of his former activities, even if he can physically perform some of them.
5. Impact on important pre-accident activities: The activities most impacted - such as his ability to engage in social and recreational activities, travel, and maintain his home - appear to be those that were important to Mr. Gervais' pre-accident life.
6. Persistence of impairments: The report indicates that Mr. Gervais' condition has not improved significantly since the accident and in some aspects seems to be worsening over time, suggesting that his impairments remain uninterrupted.

In conclusion, the comprehensive nature of Mr. Gervais' impairments, affecting his physical, cognitive, and emotional functioning across all domains of daily living, supports the determination that he presently has a complete inability to lead a normal life as a result of the accident.



4. Do you agree or disagree with the opinions and conclusions reached in the various insurer examination reports prepared on behalf of Unifund in connection with Mr. Gervais' entitlement to the Non-Earner Benefit? If you disagree, please explain why.

The Insurer's Examination reports available for review which fall within this therapist's scope of practice include two Insurer's Examinations completed by DFSI on December 22, 2021 and July 25, 2022. Only one of those assessments commented on the Non-earner Benefit.

Ms. Deanne Evans (December 22, 2021): Concluded that Mr. Gervais does not suffer a complete inability to carry on a normal life. She stated, "It is this therapist's clinical opinion that Mr. Gervais does not suffer a complete inability to carry on a normal life, which is defined as a continuous inability to engage in substantially all of the activities in which he normally engaged in prior to the subject MVC."

This assessor respectfully disagrees with Ms. Evans' conclusion that Mr. Gervais does not suffer a complete inability to carry on a normal life. While Ms. Evans states that Mr. Gervais "continues to complete or partially complete chores around his home" and "has returned to driving," her assessment fails to adequately consider the significant changes in Mr. Gervais' overall functioning and quality of life since the accident.

Key discrepancies and concerns with Ms. Evans' assessment:

1. Overemphasis on partial task completion: Ms. Evans notes that Mr. Gervais "assists with cooking, noting he completes the barbequing, will make toast and makes hot apple cider." However, this represents a significant reduction from his pre-accident level of functioning where he shared cooking duties with his wife. The ability to perform a few simple cooking tasks does not equate to maintaining a normal life.
2. Minimization of pain impact: While Ms. Evans acknowledges Mr. Gervais' pain, stating he "will use his hot tub 2-3x daily to manage his reported pain," she does not adequately consider how this chronic pain impacts his overall functioning and ability to engage in normal activities consistently.
3. Inadequate consideration of cognitive impairments: Ms. Evans notes that Mr. Gervais "continues to play games, and complete his bible study daily" but fails to address his reported difficulties with comprehension and concentration. This assessor's evaluation revealed significant cognitive challenges that impact Mr. Gervais' ability to engage meaningfully in these activities.
4. Overlooking the quality of activity engagement: While Ms. Evans reports that Mr. Gervais has "returned to driving," she fails to consider the limited nature of this activity. This assessment revealed that Mr. Gervais' driving is largely restricted and does not represent a return to his pre-accident level of community engagement.



5. Insufficient consideration of emotional impacts: Ms. Evans' report does not adequately address the emotional and psychological changes Mr. Gervais has experienced, which significantly impact his ability to engage in normal life activities.
6. Lack of comprehensive activity comparison: Ms. Evans' assessment does not provide a thorough comparison of Mr. Gervais' pre- and post-accident activities, which is crucial in determining a complete inability to carry on a normal life.

In contrast, this assessment reveals that Mr. Gervais has experienced a profound disruption to his pre-accident lifestyle. The severity and persistence of his physical pain, cognitive difficulties, and emotional distress have resulted in a continuous inability to engage in substantially all of the activities in which he ordinarily engaged before the accident. This includes significant limitations in his ability to participate in household tasks, social activities, and previously enjoyed hobbies.

Mr. Gervais' current functioning represents a stark contrast to his pre-accident life, where he was able to assist around the home, engage in physical activities, and maintain an active social life. The cumulative effect of his impairments, when viewed holistically, meets the threshold for a complete inability to carry on a normal life as defined in the Heath v. Economical Mutual Insurance Company decision.

#### **CLOSING COMMENTS:**

This therapist may be contacted through the offices of FERLAND & ASSOCIATES REHABILITATION INC. at 613-204-1549 or by email at [ferland@ferlandassociates.com](mailto:ferland@ferlandassociates.com).

Sincerely,

Sebastien Ferland OT Reg.(Ont)

Encl: Form 1

Cc: LF  
Insurer

An electronic signature was used in order to assist with a timely report. The assessor is in agreement with the content of the report, and has provided authorization to utilize the electronic signature.