

IN CONVERSATION

with Darcy Merkur...

Attendant Services and Public Policy

By Peter Athanasopoulos

As you all know, attendants provide assistance with activities of daily living such as bathing, grooming, physical routines and so much more.

With attendant services, people with spinal cord injuries and others with mobility issues benefit from greater independence and better health outcomes. Simply put, these services are essential to our quality of life.

On January 20th, in partnership with the Personal Injury Alliance, SCI Ontario hosted its first Public Policy Summit and webinar, *Enhancing Inclusion: Attendant Services in Ontario*. The event featured a keynote speech from His Honour David C. Onley, Lieutenant Governor of Ontario, on the importance of attendant services, along with a fascinating panel of experts discussing the trials and tribulations of attendant services. The intent of this summit was to gather the disability community with governmental decision makers to provide a true reflection of the challenges and opportunities in Ontario regarding attendant services.

We sat down with Darcy Merkur, a partner with personal injury law firm Thomson, Rogers, to talk about attendant services and the public policy process. Darcy's firm is one of the three Personal Injury Alliance law firms, along with McLeish Orlando and Oatley, Vigmond.

PA *Why does the Personal Injury Alliance support our work – including the area of attendant services?*

DM We have had a long history with SCI Ontario and we are very passionate about the great work you do. We believe that people with spinal cord injuries are entitled to compensation under the fullest extent of the law. In the case of private insurance and other settlements, these can include attendant services over a set period of time depending on the nature and level of injury. But many people do not have access to these kinds of settlements: they deserve supports from the public healthcare system in the communities where they live and provided in a manner that adheres to independent living principles. The PIA is in the business of law because we want to make a difference. Our partnership with SCI Ontario enables us to work collectively on a shared vision. We believe that public policy often presents obstacles that prevent individuals living with SCI from achieving maximum recovery, financial security, and from achieving their own goals. SCI Ontario and the PIA will affect more change in a shorter period of time through uniting our efforts and mobilizing the goodwill, knowledge, and influence of significant stakeholders in the broader SCI community.

PA *What are some rights and responsibilities recipients have of publicly funded attendant services?*

DM These vary by program and by provider. I encourage all users of attendant services to become familiar with the *Home Care Bill of Rights under the Home Care and Community Services Act (1994)*. Some rights include: to be free from abuse, to have privacy respected, to have a say in

the services that are provided, and to consent – or refuse – services. Attendant Services is not a privilege... it is a vital necessity! If you need these services, you should not have to wait for them.

PA *But some people do...*

DM Yes, this is true. And not fair. That is another reason why we are working with you to try to highlight to our governments that attendant services is a vital concern. We want to encourage SCI stakeholders to advocate for systemic change so that people can receive the services that they need.

PA *What are some recent changes to attendant services funded by third-party (motor vehicle accident) insurance benefits?*

DM The Ontario government has made an unfortunate legislative change that negatively impacts the SCI community when it comes to the issue of attendant services. By way of quick background, anyone hurt in any way by a vehicle in Ontario is eligible for no-fault accident benefits. The extent of the benefits available varies depending on the severity of the injury. Serious spinal cord injuries are commonly considered a 'catastrophic impairment' within the meaning of the current legislation. But while a 'catastrophic impairment' entitles a claimant to up to \$1 million in attendant services benefits, the legislation now requires the attendant services provider to have to deal with an 'economic loss' in providing the service before they can be compensated by the benefit insurer. Many individuals who wanted their family members to provide personal support services in the early stages of their injuries were able to have them receive compensation for providing these services. This is no longer the case. Even more concerning is the possibility that the Ontario government narrows the definition of a 'catastrophic impairment' to reduce the number of SCI claims that qualify for these necessary benefits. Thankfully, SCI Ontario, with the support of the PIA, is monitoring the proposed changes.

PA *To conclude, why do you believe it's important for all citizens to be engaged with elected officials?*

DM It's not enough to have a right: people have to exercise them. Members of Provincial Parliament and other elected officials hear from many people with many needs. If we don't work together to make the case – clearly and consistently – for the changes we need, public policy is not likely to change for the better. It's important to remember that recent funding announcements for attendant services didn't just happen: it took persistence and hard work. The PIA philosophy has always been person-centered services and our devotion to our clients goes way beyond advancing their claims and goes directly towards making their lives better. For more information about our work, visit our website at www.pialaw.com.

PA *Thanks very much for the information. I'm sure our readership will find it useful.*

A report of the Public Policy Summit will be released on the Public Policy Program website (www.sciontario.org/publicpolicy) in March 2014. Readers are invited to click Join Us in the Public Policy section of the website to receive customized updates regarding our work. A video of the entire summit will also be produced and posted on the site.

The Public Policy Program continues to work towards systemic change in the area of attendant services. We would appreciate you submitting your stories online at www.sciontario.org/myASstory. We are collecting these stories to demonstrate the impact of the lack of service for individuals as well as positive, successful experience of others. We will share these stories with the Ministry of Health and Long Term Care. Please note, due to the large volume of calls we cannot take your submissions over the phone. ●