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Indexed as:  
M.M.C. (Re)

IN THE MATTER OF an appeal by M.M.C.  
AICAC File No.: AC-99-52

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[1999] M.A.I.C.A.C.D. No. 47

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Manitoba Automobile Injury Compensation Appeal Commission  
J.F.R. Taylor, Q.C. (Chairperson), L. Goodspeed, and  
C. Settle, Q.C.  
Heard: October 7, 1999.  
Decision: November 22, 1999.  
(18 paras.)

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Issues(s):  
Whether Appellant entitled to further chiropractic  
treatments.

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Relevant Sections:  
Section 136(1) of the MPIC Act and Section 5(a) of  
Manitoba Regulation No. 40/94.

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Appearances:  
Manitoba Public Insurance Corporation ('MPIC') represented by  
Joan McKelvey.  
The appellant, M.M.C., appeared on her own behalf.

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MAIC NOTE: THIS DECISION HAS BEEN EDITED TO PROTECT THE  
PERSONAL HEALTH INFORMATION OF INDIVIDUALS BY REMOVING  
PERSONAL IDENTIFIERS AND OTHER IDENTIFYING INFORMATION.

#### REASONS FOR DECISION

[para1] M.M.C., the Appellant, was injured in a motor  
vehicle accident on the 18th of August, 1995 when the front of  
the truck being driven by her father collided with the side of  
another vehicle that was improperly crossing its path.  
M.M.C.'s mother, when signing the application for compensation  
on her behalf, noted only "Passenger injured in MVA. Sore  
back, right knee, broken toe left foot".

[para2] A report from M.M.C.'s chiropractor, Dr. Lori

Petrilli, dated August 23rd, 1995, diagnoses "acute cervical thoracic sprain/strain and mid-dorsal strain". She prescribed spinal manipulative therapy three times a week for three to four weeks, but indicated that M.M.C. was capable of resuming her main occupation as a student.

[para3] On December 6th, Dr. Petrilli reported

Cervical cephalgia due to whiplash; patient has good days and bad days; 50% improvement; no mid-dorsal discomfort.

She prescribed spinal manipulative therapy, soft tissue therapy and neck strengthening exercises to stabilize the area. She felt that treatments were indicated at three times per week for an indefinite period.

[para4] A memorandum from the adjuster on MPIC's file, dated April 3rd, 1996, indicates that M.M.C.'s father said "Since [M.M.C.] saw the chiropractor in B.C. she has been much better. She doesn't even feel the need to see a chiropractor here so, hopefully, that will continue."

[para5] However, on September 4th, 1996, Dr. Petrilli was reporting

Patient still gets frequent headaches and neck discomfort. Right cervical rotation and left lateral flexion are restricted due to myofascial and joint restriction. Resisted cervical ranges are full and painful and strength improves with physiotherapy and home exercises.

Dr. Petrilli diagnosed "vertebral subluxation complex with associated cervical cephalgia, and a Grade 2 Whiplash Associated Disorder". She prescribed two spinal adjustments per week, to be reduced to one weekly as soon as possible. Meanwhile, M.M.C. was to maintain her usual activities and work full duties in her capacity as a student.

[para6] A further report from Dr. Petrilli of February 5th, 1997 reflects much the same clinical status as before, although M.M.C.'s headaches had apparently decreased from daily to once or twice per week "usually brought on by physical activity such as gym....". In addition to regular spinal manipulations, Dr. Petrilli recommended continuing with strengthening exercises from physiotherapist and "regular sports activities to strengthen".

[para7] On May 30th, 1997, M.M.C.'s adjuster at MPIC wrote to Dr. Petrilli, approving a treatment plan of three treatments per week for three weeks, two per week for two weeks and one per week for six weeks thereafter, with a discharge date of August 4th, 1997. The plan itself had been

developed by Dr. Petrilli. However, both M.M.C. and her mother wrote to MPIC on July 8th, 1997 in support of an application for an internal review of the foregoing decision. M.M.C.'s adjuster had discussions with Dr. Petrilli and with M.M.C.'s mother during the ensuing weeks, from which it seemed apparent that Dr. Petrilli believed that M.M.C.'s headaches were primarily of a migraine type and the adjuster felt that, if migraines were M.M.C.'s primary problem, they appeared to be a medical problem rather than one that would succumb to chiropractic manipulation.

[para8] In response to an inquiry from M.M.C.'s adjuster at MPIC, Dr. Van Wyk, her family physician, assessed M.M.C. on October 10th, 1997 and his report of that date says, in part:

.....Approximately three days after the (motor vehicle accident).....she consulted a chiropractor with some relief, however she had almost daily headaches at this time which appeared to be more tension-type muscular headaches than migraine headaches which she had suffered from in the past. She distinguishes between the two headaches in that her migraines were associated with nausea and were apparently more unilateral than these headaches, which are bilateral starting in the low neck and work their way over to the front of the head.

.....She sees a chiropractor three times a week and a physiotherapist twice a week, both of which give her approximately 24 hours relief of symptoms prior to having to undergo the same treatments again. She also uses a considerable amount of Advil, which her mother has been trying to reduce. I certainly concur with this, in that these medications can lead to medication-induced headaches on a prolonged basis.

In summary, I do not think she suffers from migraines at this time and feel that her headaches likely are related to the motor vehicle accident. There may be a significant amount of myofascial pain and in this regard I suspect that a psychiatrist's intervention might be fruitful. I thus have taken the opportunity in (sic) referring her to Dr. Dubo who, incidentally, is also treating her father.....

[para9] A report from Dr. Dubo to MPIC's internal review officer, dated October 8th, 1998, tells us that he has seen M.M.C. first on March 12th, 1998 when he had performed a spray and stretch treatment for her cervical muscles. He reviewed her on April 15th when she had told him she had been headache-free for four days - the longest time that she had gone without a headache since her accident. He had carried out another spray and stretch treatment for her cervical muscles on April 15th and then referred her to PAR Services

for more frequent and regular spray and stretch treatments, as well as education in her own, passive, self-stretching exercise to be carried out at home. The intent, said Dr. Dubo, was to instigate treatment that would lead to self-management without the need for frequent treatments to any health care provider, including chiropractor. Previous chiropractic treatments had given her very transient relief.

[para10] Dr. Dubo went on to report that M.M.C. had been assessed at PAR Services in mid-July and had begun treatment there on July 29th with a spray and stretch treatment for cervical muscles and education in self-stretching exercises.

[para11] On August 5th, 1998 she had not attended; on August 11th she had cancelled her appointment; on August 19th she had further treatment including instruction in using light weights to strengthen trapezius muscles; on August 26th, 1998 she had cancelled and rescheduled for August 27th, but had cancelled that as well. On October 6th, 1998 she had an appointment with Dr. Dubo and a physiotherapist for re-evaluation and decisions for the future, which she had failed to attend.

[para12] Dr. Dubo said that effective treatment had not been provided since M.M.C. had only attended a couple of sessions. Her parents obviously had no faith in the treatments he prescribed. Trigger point needling and stretch procedures were not arranged since M.M.C. was apparently fearful of that type of treatment and did not want to consider it. Since previous chiropractic treatment had not led to any major, lasting improvement, Dr. Dubo advised that the best treatment would seem to be self-stretching exercise and the use of Advil which relieved her headaches within one-half hour.

[para13] Meanwhile, M.M.C. had been referred by MPIC to Dr. Brian Lecker for an independent chiropractic examination. He met with her on April 21st, 1998. His report outlines a thorough assessment, culminating in a finding that "her present problems relate to ongoing soft tissue neck pain extending into the upper dorsal muscles with cervicogenic headache phenomena". Her ranges of motion were not impeded and no nerve root nor other neurological signs were detected. Dr. Lecker recommended:

1. more in the way of therapeutic spinal exercise, twice daily, on a preventative basis. Aside from the passive, assisted neck stretches, cervico isodynamic resisted neck exercises along with scapular extension stretches would be beneficial;
2. M.M.C. should be more cognizant of her posture, as she had a tendency to slouch forward;

3. after about 255 chiropractic treatments, M.M.C. had indicated that her neck was not any better and her headaches had not improved significantly. Dr. Lecker felt that M.M.C. had reached maximum therapeutic benefit and that further treatment of the same modalities would not alter her residual symptom expressions.

Mrs. C. was apparently undecided about proceeding with spray and stretch for M.M.C. although this, in Dr. Lecker's opinion, would certainly have been "a viable option especially if it is associated with cervical stabilization exercises". Failing that, Dr. Lecker recommended consultation with a neurologist having an interest in headache phenomena.

[para14] We had been provided with a series of excellent, complete reports by Dr. Petrilli. There is no doubt at all that, under Dr. Petrilli's care, M.M.C. achieved substantial improvement (50%, she says) during the first six months of her treatments and, by M.M.C.'s own reports, a further 30% by February of 1998. From that point on, however, and despite M.M.C.'s reports to Dr. Petrilli that she could see a further 60% improvement on October 29th, 1998 and a further 70% improvement on January 11th, 1999, those self-assessments seem to be clearly at odds with what M.M.C. reported to Dr. Lecker in April of 1998.

[para15] M.M.C. was still, at that time of the hearing of her appeal, receiving two adjustments per week from Dr. Petrilli - or so she testified. Dr. Petrilli herself, in a report to this Commission of August 10th, 1999, says that M.M.C. was attending for care on average once per week, depending on her level of activity and headache frequency which she reports to be "one to three times per week". Dr. Petrilli was recommending "continued benefits of two times per month to be reassessed every six months".

[para16] While we respect Dr. Petrilli's dedication to the care of her patient, we are not convinced that, on a balance of probabilities, further chiropractic care will have any therapeutic benefit for M.M.C.; the number and frequency of whose passive, spinal adjustments has already far exceeded anything approaching the norm.

[para17] We find that, on a reasonable balance of probabilities, the program suggested by Dr. Dubo (with such modifications, if any as may be called for as a result of the delay in the application of that program) is more likely to produce lasting benefits if adhered to faithfully by M.M.C. Psychological intervention may well be an integral part of any such revised program. However, we refrain from embodying those comments in any formal order of this Commission, since

the only issue before us is whether MPIC was justified in terminating its payments for further chiropractic care. We find that the insurer was so justified.

[para18] We are therefore obliged to dismiss M.M.C.'s appeal.

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