

@B00000227,MAIC
@1
@Z20000621
@2

Indexed as:
E.O.M. (Re)

IN THE MATTER OF an appeal by E.O.M.
AICAC File No.: AC-00-32

@3

[2000] M.A.I.C.A.C.D. No. 21

@4

Manitoba Automobile Injury Compensation Appeal Commission
J.F.R. Taylor, Q.C. (Chairperson), Y. Tavares,
and F.L. Cox
Heard: June 19, 2000.
Decision: June 21, 2000.
(13 paras.)

@6

Issues(s) :

Whether chiropractic benefits terminated prematurely.

@5

Relevant Sections:

Sections 138 and 184(1)(b) of the MPIC Act and Section 5
of Manitoba Regulation No. 40/94.

@8

Appearances:

Manitoba Public Insurance Corporation ('MPIC') was represented
by T. Strutt.

The appellant, E.O.M., was represented by her son, A.M.

@7

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] At the commencement of the hearing of her appeal,
A.M. advanced three issues on behalf of his mother: the first
related to travel expenses, but had not yet been the subject
of a decision by E.O.M.'s adjuster at MPIC and was not,
therefore, within the mandate of this Commission; the second
was a claim for her compensation for the pain and discomfort
suffered by E.O.M. but, when it was explained to E.O.M. that
these are not covered by the Personal Injury Protection Plan,
that facet of the claim was withdrawn; the third, and only
substantive claim before this Commission, therefore, is

whether MPIC was justified in terminating payments for chiropractic treatments after September 15th, 1999.

[para2] The only person from whom E.O.M. has been receiving care since being injured in a motor vehicle accident on January 29th, 1997, is Dr. Gilbert Bohemier, a doctor of chiropractic, who first saw her on February 26th, 1997. At that juncture, Dr. Bohemier indicated his belief that E.O.M. could work full duties and maintain all her usual activities. He prescribed spinal manipulations two to three times per week until the end of July 1997, at which point he intended to re-evaluate the situation.

[para3] In subsequent treatment plan reports, Dr. Bohemier (on June 16th, 1997) estimated a discharge date in March of 1998, then September 30th, 1998, then January of 1999, then April 30th, 1999, then May 31st, 1999, until, on May 31st, 1999, Dr. Bohemier was estimating a discharge date of September 30th, 1999.

[para4] At that point, MPIC, which had approved all of the extensions briefly referred to above, decided to refer E.O.M. to Dr. Brian Lecker for an independent chiropractic examination.

[para5] Dr. Lecker saw E.O.M. on July 5th, 1999. He agreed that she had sustained a soft-tissue strain-type injury to the various regions of her spine, along with an apparent strain to her knees and left hand, with an injury to her chest and ribs. He found that, clinically, E.O.M. did have some limitation of her cervical and thoraco-lumbar ranges of motion due, in part, to underlying degenerative changes. He noted a prior history of lower back and left hip trouble which had required chiropractic care.

[para6] Dr. Lecker recommended that E.O.M. could benefit from appropriate exercises for her cervical dorsal area to help increase her range of motion and alleviate some of the muscular component to her problem. He also recommended that she should try to increase her physical activity levels, although that should be proportionate to her own capabilities. For general health purposes, including factors associated with her spine, Dr. Lecker felt that E.O.M. could benefit from weight reduction.

[para7] With respect to chiropractic treatment, Dr. Lecker felt that E.O.M. was "very close to maximum therapeutic benefit." He felt, however, that some treatment should be directed to the soft-tissue structures in E.O.M.'s cervical dorsal region. Since she had indicated that she was sometimes sore after cervical adjustments, and in light of her delayed recovery, Dr. Lecker felt that an alternative adjustive procedure ought to be considered. If no significant

improvement had been obtained over the next four to eight weeks, said Dr. Lecker, she would probably have reached a plateau and maximum medical improvement.

[para8] As a result of Dr. Lecker's recommendations, MPIC advised Dr. Bohemier on July 15th, 1999, that the Corporation would pay for further chiropractic care, once per week, for the following four to eight weeks, with an anticipated discharge date of September 15th, 1999.

[para9] By September 15th, 1999, E.O.M. had received about 120 chiropractic adjustments from Dr. Bohemier and had, by her own testimony, reached a plateau. She did not feel that she was improving at all but, rather, that visits to Dr. Bohemier at a frequency of at least once per month were necessary for her to maintain mobility as well as control pain.

[para10] Dr. Lecker and MPIC's chiropractic consultant, Dr. Tim Pethrick, have both expressed the view that E.O.M. has attained maximum therapeutic benefit and that further chiropractic treatments are unlikely to be of benefit to her. We concur. The evidence strongly supports that view, which is also borne out by the Clinical Guidelines for Chiropractic Practice in Canada, adopted by both the Canadian and Manitoba Chiropractic Associations. E.O.M. has testified that the type and frequency of treatments she has received from Dr. Bohemier have remained essentially unchanged for approximately three years, until mid-September of 1999, despite an apparent absence of improvement for, at the very least, the last 12 months or more.

[para11] In his report of October 12th, 1999, Dr. Bohemier writes of "recurring trigger point phenomena". E.O.M., in her own testimony, spoke of continuing episodes wherein her neck and upper back will "seize up".

[para12] Sections 138 and 184(1)(b) of the MPIC Act read as follows:

Corporation to assist in rehabilitation

138 Subject to the regulations, the corporation shall take any measure it considers necessary or advisable to contribute to the rehabilitation of a victim, to lessen a disability resulting from bodily injury, and to facilitate the victim's return to a normal life or reintegration into society or the labour market.

Powers of commission on appeal

184(1) After conducting a hearing, the commission may

.....

(b) make any decision that the corporation could have made.

[para13] We find that, although, MPIC's adjuster and Internal Review Officer were correct in finding that further chiropractic treatment from Dr. Bohemier was no longer justifiable as a medical necessity, E.O.M. does appear still to be experiencing some sequelae from her motor vehicle accident. Therefore, by virtue of the obligations reflected in Section 138 of the Act, and pursuant to the powers contained in Section 184(1)(b), we are prepared to order that E.O.M. be referred to Dr. Valsa Daniels of the Section of Physical Medicine and Rehabilitation in the Department of Medicine at the University of Manitoba, at the Rehabilitation Hospital at 800 Sherbrook Street, Winnipeg, for further assessment and for such recommendations for the treatment of any aspect of her present condition that Dr. Daniels may attribute to E.O.M.'s motor vehicle accident and as Dr. Daniels may deem appropriate. This Commission will make the appropriate arrangements with Dr. Daniels's office; her report, when received, will be shared with both parties and, if further treatment is recommended in that report, will be referred back to MPIC's case manager to be given effect.

@1

@XQL @XUpdate: 20001010
qp/d/qlrds
@H
MVRT
@1<QLDATE C=20001010 U=20010501>