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Indexed as:
M.L. (Re)

IN THE MATTER OF an appeal by M.L.
AICAC File No.: AC-00-33

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[2000] M.A.I.C.A.C.D. No. 35

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Manitoba Automobile Injury Compensation Appeal Commission
J.F.R. Taylor, Q.C. (Chairperson), Y. Tavares, and
J. Palamar

Heard: August 28, 2000.
Decision: September 15, 2000.
(10 paras.)

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Issues(s):

Whether chiropractic treatments terminated prematurely.

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Relevant Sections:

Section 136 of the MPIC Act; Section 5 of Manitoba
Regulation 40/94.

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Appearances:

Manitoba Public Insurance Corporation ('MPIC') represented by
Joan McKelvey.

The appellant, M.L., 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] The Appellant, M.L., was involved in a motor vehicle accident on December 12, 1996. She was the driver of a 1985 Mercury Cougar travelling south on Highway #7. The driving conditions were poor and, when she applied her brakes to slow down her vehicle started to spin and collided with a vehicle parked on the side of the road. Her vehicle sustained damage to the rear corner panel on the passenger side.

[para2] She attended at the Selkirk Hospital the following day complaining of pain in her neck and left side ribs with coughing. She was examined, prescribed muscle relaxants and

released. The diagnosis provided was "whiplash". She continued to experience pain and symptoms throughout the following months, although she was able to self-manage until she decided to attend a chiropractor, Dr. Henry Pops, for treatment on July 17, 1997. Dr. Pops initially classified the injury as a Grade IIIa Whiplash Associated Disorder and proposed a treatment schedule with decreasing visits over time with an estimated discharge date of July 31, 1998. This treatment plan was approved by MPIC subject to monitoring of improvement by way of periodic progress reports and updated Oswestry/Vernon-Mior scales (inventory scores) to be provided.

[para3] The Appellant continued to attend Dr. Pops throughout 1997, 1998 and much of 1999 due to the continuing symptoms she was experiencing. Subsequent progress reports were provided by Dr. Pops to MPIC, with each report proposing an extended treatment plan. Throughout her treatment, the Appellant was able to work full duties and was classified as having full function with symptoms.

[para4] At the request of MPIC, arrangements were made for the Appellant to attend an independent chiropractic examination by Dr. Brian Lecker on July 23, 1999. In his report to MPIC dated July 28, 1999, Dr. Lecker concluded that:

- "4. With respect to treatment, I suspect that she has reached maximum therapeutic benefit and essentially, maximum medical improvement, relative to injuries from the accident of December 12th, 1996. Subsequently, I would question the need for further chiropractic care as it relates to her car accident. Notwithstanding, she could likely benefit from a time-framed lumbar stabilization program followed by self-management."

[para5] Based on Dr. Lecker's report, MPIC decided to terminate coverage for the Appellant's chiropractic care as of September 7, 1999.

[para6] At the hearing of her appeal, the Appellant sought re-instatement of benefits covering chiropractic care. She indicated that she continues to attend for chiropractic treatment with Dr. Pops because of continuing pain in her lower back and neck. Further, she argued that throughout her treatment she has merely followed the advice of her caregiver, Dr. Pops, who has consistently recommended continuing chiropractic treatment.

[para7] Counsel for MPIC argued that chiropractic treatment for the Appellant has exceeded the recommended treatment parameters set out in the Clinical Guidelines for Chiropractic Practice in Canada. Further, she submitted that the failure to demonstrate continuing improvement with chiropractic treatment over a period of six weeks (as had been

demonstrated with no change in the Appellant's inventory scores in the period from May 1998 to July 1999) signifies maximum medical improvement from chiropractic care.

[para8] In order to qualify for funding under the Personal Injury Protection Plan contained in the MPIC Act and Regulations, expenses must be incurred by a victim because of the accident and must be medically required. In the case at hand, the Appellant has received over 200 chiropractic treatments since beginning therapy with Dr. Pops, yet there has been little indication of a reduction in symptomatology as treatment has continued. Indeed according to Dr. Lecker, there has been no documented improvement in at least the twelve months prior to the date of his examination of the Appellant.

[para9] The Clinical Guidelines for Chiropractic Practice in Canada contain some recommended time-frames within which maximum chiropractic benefit may usually be anticipated, both for 'normal' and for more difficult cases. The Guidelines indicate that continued failure to show additional improvement over any period of six weeks of treatment, should result in patient discharge or appropriate referral, or the patient will be deemed as having achieved maximum therapeutic benefit.

[para10] The facts of the case at hand, including the rather extensive amount of chiropractic treatments undertaken by the Appellant coupled with the lack of improvement in her condition, lead us to the conclusion that the Appellant has likely reached maximum therapeutic benefit and, essentially, maximum medical improvement from chiropractic care. We are of the opinion that MPIC was justified in terminating payments for further chiropractic care for M.L. on September 7th, 1999, as it did. Nevertheless, we feel that Dr. Lecker's recommendation that the Appellant could likely benefit from a time-framed lumbar-stabilization program would be of assistance to the Appellant in the self-management of any residual injuries from the motor vehicle accident. Therefore, we find that MPIC should arrange for such a program for the Appellant at the Corporation's expense, if she chooses to participate in it.

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