

Automobile Injury Compensation Appeal Commission

**IN THE MATTER OF an Appeal by H.R.
AICAC File No.: AC-01-135**

PANEL: Mr. Mel Myers, Q.C., Chairperson
Ms. Yvonne Tavares
Hon. Armand Dureault

APPEARANCES: The Appellant, H.R., represented herself;
Manitoba Public Insurance Corporation ('MPIC') was
represented by Mr. Mark O'Neill.

HEARING DATE: June 26, 2002

ISSUE: Entitlement to reimbursement of personal care assistance
expenses.

RELEVANT SECTIONS: Section 131 of The Manitoba Public Insurance Corporation
Act (the 'MPIC Act') and Section 2 and Schedule A of
Manitoba Regulation 40/94

**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

The Appellant, H.R., was involved in a motor vehicle accident on December 22, 2000, wherein she sustained injuries to her right knee, hips and lower back. She is appealing the Internal Review Decision of December 12, 2001, which denied her reimbursement of any personal care assistance expenses.

The Appellant is claiming reimbursement for five hours per month of housecleaning services. She submits that the injuries which she sustained in the motor vehicle accident have prevented her from being able to carry out heavy household chores and, therefore, she believes that she is

entitled to reimbursement of the expenses which she has incurred to hire someone to come to her home to take care of those duties.

Counsel for MPIC submits that the Appellant does not qualify for reimbursement of personal care expenses pursuant to the MPIC Act and Regulations, as she does not score high enough on the Grids in order to qualify for assistance. Accordingly, counsel for MPIC submits that the decision of the Internal Review Officer, dated December 12, 2001, should be upheld and the Appellant's appeal dismissed.

The relevant sections of the MPIC Act and Regulations are as follows:

Section 131 of the MPIC Act:

Reimbursement of personal assistance expenses

131 Subject to the regulations, the corporation shall reimburse a victim for expenses of not more than \$3,000. per month relating to personal home assistance where the victim is unable because of the accident to care for himself or herself or to perform the essential activities of everyday life without assistance.

Section 2 of Manitoba Regulation 40/94:

Reimbursement of personal home assistance under Schedule A

2 Subject to the maximum amount set under section 131 of the Act, where a victim incurs an expense for personal home assistance that is not covered under *The Health Services Insurance Act* or any other Act, the corporation shall reimburse the victim for the expense in accordance with Schedule A.

Section 131 of the MPIC Act provides for reimbursement of personal assistance expenses, subject to the Regulations. Section 2 of Manitoba Regulation 40/94 provides that MPIC shall reimburse a victim for an expense for personal home assistance in accordance with Schedule A. Schedule A provides a method of evaluating the needs of the victim regarding personal and home care assistance. Points are assigned to areas of need on an evaluation grid. They are totalled to determine the qualifying percentage of expenses that is then applied to the maximum provision under Section 131 of the Act. The Appellant would have to score a minimum of five

points on the grids in order to qualify for reimbursement of personal care assistance. If the score is less than five, no reimbursement of expenses is provided. The grids completed by the occupational therapist, Ms. Julie Zimmerman, on October 3, 2001, demonstrated a score of one for the Appellant, because of her inability to perform housecleaning duties.

We find that MPIC correctly applied the provisions of the MPIC Act and Regulations when determining the Appellant's entitlement to reimbursement of personal care assistance expenses. Neither MPIC nor this Commission has any discretion to change the provisions of the MPIC Act, and we are required to apply the Act as we find it.

Accordingly, for these reasons, the Commission dismisses the Appellant's appeal and confirms the decision of MPIC's Internal Review Officer, bearing date December 12, 2001.

Dated at Winnipeg this 2nd day of July, 2002.

MEL MYERS, Q.C.

YVONNE TAVARES

HON. ARMAND DUREAULT