

Automobile Injury Compensation Appeal Commission

**IN THE MATTER OF an Appeal by F.S.
AICAC File No.: AC-00-135**

PANEL: Ms. Yvonne Tavares, Chairperson
Ms. Barbara Miller
Mr. Bill Joyce

APPEARANCES: The Appellant, F.S., appeared on her own behalf, assisted by Mr. R.;
Manitoba Public Insurance Corporation ('MPIC') was represented by Mr. Mark O'Neill.

HEARING DATE: April 23, 2003

ISSUE(S): Reimbursement of Chiropractic Treatment Expenses

RELEVANT SECTIONS: Section 136(1)(a) of The Manitoba Public Insurance Corporation Act (the "MPIC Act") and Section 5 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, F.S., was involved in two separate motor vehicle accidents, which took place on June 12, 1994 and July 9, 1996. As a result of the injuries which the Appellant sustained in those accidents, she became entitled to Personal Injury Protection Plan ("PIPP") benefits pursuant to Part 2 of the MPIC Act. The Appellant is appealing the decision of MPIC's Internal Review Officer, dated August 23, 2000, with regards to reimbursement of chiropractic treatments.

The Appellant seeks reimbursement for the cost of chiropractic treatments from May 20, 1999, being the date coverage was terminated by MPIC, to June 13, 2002. The Appellant submits that

MPIC should cover whatever treatment is required to make her better and to reach a healthy conclusion to her accident related injuries. She maintains that chiropractic care provides continuing benefit to her, as her headaches subside for about a day after a chiropractic treatment and her pain diminishes somewhat after she receives a chiropractic treatment. Since the chiropractic treatments do relieve her of pain, albeit on a short-term basis, she submits that the cost of the treatments should be reimbursed by MPIC.

Counsel for MPIC submits that there is insufficient evidence to establish that the chiropractic treatments beyond May 20, 1999 were causally connected to the motor vehicle accident, or that chiropractic treatments beyond that date were medically required.

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

Section 136(1)(a) of the MPIC Act provides that:

Reimbursement of victim for various expenses

136(1) Subject to the regulations, the victim is entitled, to the extent that he or she is not entitled to reimbursement under The Health Services Insurance Act or any other Act, to the reimbursement of expenses incurred by the victim because of the accident for any of the following:

- (a) medical and paramedical care, including transportation and lodging for the purpose of receiving the care.

Section 5(a) of Manitoba Regulation 40/94 provides that:

Medical or paramedical care

5 Subject to sections 6 to 9, the corporation shall pay an expense incurred by a victim, to the extent that the victim is not entitled to be reimbursed for the expense under *The Health Services Insurance Act* or any other Act, for the purpose of receiving medical or paramedical care in the following circumstances:

(a) when care is medically required and is dispensed in the province by a physician, paramedic, dentist, optometrist, chiropractor, physiotherapist, registered psychologist or athletic therapist, or is prescribed by a physician;

In an Inter-Departmental Memorandum dated June 20, 2000, Dr. Russell Baron, Chiropractic Consultant to MPIC's Claims Services Department, expressed the following opinion:

"After reviewing this file contents in detail, it is my opinion that the current diagnoses on file with respect to this claimant's ongoing complaints of pain are not suggestive of ongoing chiropractic intervention as being a therapeutic necessity as it would relate to the motor vehicle accident in question.

In discussion with Dr. Wilson he is of the opinion that the only general medical condition he can determine relates to myofascial and mechanical dysfunction of the affected areas. He was quite clear that his treatment is not curative and at best could be considered supportive.

It would appear that on balance, the majority of this claimant's ongoing complaints are primarily related to a somatoform pain disorder and I am not aware of any information that would suggest that ongoing chiropractic intervention would be a therapeutic necessity or therapeutically effective treatment for this type of disorder."

In a report dated October 10, 2002, Dr. Daniel H. Wilson, the Appellant's Chiropractor, noted the following:

"I remain of the view that my treatment at this point is "supportive care". *Clinical Guidelines for Chiropractic Practice In Canada* defines supportive care as "Necessary treatment/care for patients who have reached maximum therapeutic benefit, and for whom periodic trials of therapeutic withdrawal have led to deterioration and failure to sustain previous therapeutic gains. This form of care is initiated when the clinical problem recurs.

Although the benefits of the Appellant's chiropractic treatment are currently short term, she reports that chiropractic treatment is more effective than other treatments employed to date. [F.S.] has chosen chiropractic care over prescription analgesics. Considering the side effects of anti-depressant medications employed to date, the addition of possible complications due to long term analgesic employment appears unwarranted."

Having regard to the opinions of the foregoing medical practitioners, we find that the Appellant has not established, on a balance of probabilities, that continued chiropractic treatment was

medically required beyond May 20, 1999. 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 had likely reached maximum therapeutic benefit from chiropractic care as of May 20, 1999. Accordingly, ongoing chiropractic treatments beyond May 20, 1999 cannot be deemed medically required within the meaning of Section 5(a) of Manitoba Regulation 40/94. Therefore, we are of the opinion that MPIC was justified in terminating payments for further chiropractic treatments for the Appellant on May 20, 1999, as it did.

As a result, for these reasons, the Commission dismisses the Appellant's appeal and confirms the decision of MPIC's Internal Review Officer, bearing date August 23, 2000.

Dated at Winnipeg this 7th day of May, 2003.

YVONNE TAVARES

BARBARA MILLER

BILL JOYCE