

Automobile Injury Compensation Appeal Commission

**IN THE MATTER OF an Appeal by S.D.
AICAC File No.: AC-07-119**

PANEL: Ms Yvonne Tavares, Chairperson
Ms Sandra Oakley
Mr. Neil Cohen

APPEARANCES: The Appellant, S.D., appeared on her own behalf, via teleconference call; Manitoba Public Insurance Corporation ('MPIC') was represented by Ms Cynthia Lau.

HEARING DATE: July 4, 2008

ISSUE(S): Entitlement to reimbursement of dental treatment expenses

RELEVANT SECTIONS: Section 136(1) of The Manitoba Public Insurance Corporation Act ('MPIC Act') and Section 5(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 facts giving rise to this appeal may be briefly summarized as follows:

1. The Appellant, S.D., was involved in a motor vehicle accident on August 17, 2005. As a result of this accident, the Appellant sustained injuries that consisted of air bag abrasions/burns to her arms, left thigh and left breast.
2. On December 1, 2005, the Appellant completed an Application for Payment of Medical and Travel Expenses. In that form, she described the injuries that she received in the

accident as “*Some neck strain, arms hurt from bracing steering wheel. Big burn on left breast. Lower thigh hurts from impact. Burn on it.*”

3. On May 24, 2006, the Appellant attended upon her dentist, Dr. Salchert, with a toothache on teeth #22 and #23.
4. On June 12, 2006, Dr. Salchert performed an extraction of tooth #22 and a root canal on tooth #23.
5. The Appellant continued to experience pain in the areas of tooth #22 and tooth #23 and was referred to a root canal specialist, Dr. James Fergusson. On June 21, 2006, the Appellant attended upon Dr. Fergusson for treatment in connection with tooth #23. Dr. Fergusson started treatment of tooth #23 that day, and finished treatment on June 28, 2006.
6. On July 7, 2006, the Appellant reattended upon Dr. Fergusson as tooth #23 was still bothering her. Dr. Fergusson prescribed antibiotics and advised a surgical approach to resolving the infection associated with tooth #23. On July 27, 2006, Dr. Fergusson performed surgery. In his dental report, Dr. Fergusson noted the following “*The patient stated that her anterior teeth were fine until an air bag deployed in her face. I feel it is reasonable that this trauma resulted in the loss of tooth #22 and necessitated root canal treatment/surgery on #23.*”
7. The Appellant requested reimbursement from MPIC for the dental treatment she had undergone on tooth #22 and tooth #23.
8. In a letter dated November 28, 2006, MPIC’s case manager advised the Appellant that there was insufficient evidence to support a causal relationship between her current dental problems and the motor vehicle accident of August 17, 2005 and therefore MPIC would not fund the requested dental treatment.

9. Additional dental information was submitted by Dr. Salchert to MPIC respecting the Appellant's dental treatment. The Appellant's file was again reviewed by Dr. Randy Mazurat, dental consultant with MPIC's Health Care Services Team. On April 30, 2007, Dr. Mazurat noted the following:

It is very difficult to determine what role the MVA played in this case. The patient was not seen for 9 months after the MVA. The tooth extracted #22 was heavily restored and needed a crown prior to the MVA and so could have fractured just from normal biting. There is no xray of the adjacent tooth #23 so we can only go on the narrative. I will phone Dr. Fergusson to see if #23 had a large pre-existing filling or if it was an intact tooth.

10. On June 18, 2007, Dr. Mazurat reviewed the Appellant's file again and noted the following:

Based on the radiographs of May 24 & June 12/06 the teeth in question #22 & #23 showed evidence of extensive preexisting dental restorations. #22 was previously treated with a root canal and had extensive tooth loss with a large restoration. Since the problems arose 9 months after the MVA with no prior report of problems it is my opinion that the MVA was not the cause of the dental problems, but that the dental is due to preexisting dental disease.

11. In a letter dated June 25, 2007, MPIC's case manager advised the Appellant that the decision of November 28, 2006 remained unchanged and that MPIC was unable to approve funding of the requested dental treatment. The case manager advised that the dental information reviewed indicated that there was still insufficient evidence to support a causal relationship between the Appellant's current signs/symptoms and the motor vehicle accident of August 17, 2005.
12. The Appellant subsequently filed an Application for Review of that decision. By letter dated September 12, 2007, the Internal Review Officer confirmed the case manager's decision pursuant to Section 136 of the MPIC Act. The Internal Review Officer

determined that a causal relationship has not been established between the Appellant's dental treatment and the motor vehicle accident of August 17, 2005.

13. The Appellant filed a Notice of Appeal with this Commission on October 16, 2007, in relation to that decision. At the hearing of the appeal, the Appellant advised that her teeth did hurt her after the motor vehicle accident, but she was more concerned with her other injuries and did not pay much attention to her dental problems in the months immediately after the motor vehicle accident. She also advised that the pain in her teeth would come and go. She finally went to see her dentist when the pain was unbearable and she had the funds. The Appellant contends that the air bag hit her in the face and therefore it is likely that her teeth were injured as a result of the motor vehicle accident of August 17, 2005. The Appellant also relies upon the opinion of Dr. James Fergusson who noted that it was not unreasonable that the trauma to teeth #22 and #23 could have resulted from the motor vehicle accident.

Upon a careful review of all of the medical, paramedical and other reports and documentary evidence filed in connection with this appeal, and after hearing the submissions of the Appellant and of counsel for MPIC, the Commission finds that:

1. The Appellant has not established, on a balance of probabilities, that the dental treatments which she required on teeth #22 and #23 in June and July 2006 were causally connected to the motor vehicle accident of August 17, 2005. Due to the lapse of time between the motor vehicle accident and the Appellant's visit to her dentist for treatment in connection with her dental problems, we are unable to attribute those dental problems to the motor vehicle accident, some nine (9) months earlier. Rather, we would have expected that by December, when the Appellant completed the Application for Payment of Medical and Travel Expenses, that if she was having problems with her teeth, there would have been

some indication on the application form at that time. We therefore find that there is a lack of evidence to connect the dental problems to the motor vehicle accident and therefore that her pre-existing dental problems are the most likely cause of the dental treatment which she required in June and July of 2006.

As a result, the Appellant's appeal is dismissed and the Internal Review decision dated September 12, 2007 is confirmed.

Dated at Winnipeg this 11th day of August, 2008.

YVONNE TAVARES

SANDRA OAKLEY

NEIL COHEN