

Automobile Injury Compensation Appeal Commission

IN THE MATTER OF an Appeal by A.H.
AICAC File No.: AC-07-29

PANEL: Ms Yvonne Tavares, Chairperson
Ms Carole Wylie
Mr. Robert Malazdrewich

APPEARANCES: The Appellant, A.H., appeared on her own behalf;
Manitoba Public Insurance Corporation ('MPIC') was
represented by Ms Danielle Robinson.

HEARING DATE: April 30, 2008

ISSUE(S): Entitlement to reimbursement of chiropractic treatments

RELEVANT SECTIONS: Section 136(1)(a) 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, A.H., was injured in a motor vehicle accident on July 17, 2001. As a result of that accident, the Appellant sustained soft tissue injuries to her neck and left shoulder.
2. Initially, the Appellant attended for chiropractic treatments with Dr. Minuk. Dr. Minuk diagnosed a moderate cervical whiplash following his assessment of the Appellant's injuries. The Appellant advised that Dr. Minuk's treatments helped her neck pain but

provided no relief for the pain in her shoulder. After attending for care with Dr. Minuk for over two (2) years, the Appellant discontinued chiropractic treatments with Dr. Minuk, as his treatments were no longer helping her.

3. The Appellant then began attending for physiotherapy treatments. The Appellant attended for approximately nineteen (19) physiotherapy/acupuncture treatments at which time she was discharged from care. The Appellant was advised to continue her exercise program independently.
4. The Appellant subsequently attended upon a chiropractor, Dr. Andrew Ainley. She presented with considerable pain and restriction of the left shoulder and neck. Dr. Ainley began to administer Active Release Technique ('ART') treatments. MPIC approved a total of twenty-four (24) treatments.
5. In a letter dated July 27, 2006, MPIC's case manager advised the Appellant that further treatment as requested by Dr. Ainley would not be considered by MPIC. The case manager advised that further ART treatment was not considered a medical necessity as it related to the Appellant's motor vehicle accident related injuries and that the twenty-four (24) ART treatments previously approved by MPIC were enough to achieve maximum therapeutic benefit. Therefore MPIC would not reimburse the cost of further treatment after the Appellant's July 27, 2006 appointment.
6. The Appellant subsequently filed an Application for Review of that decision. By letter dated January 8, 2007, the Internal Review Officer confirmed the case manager's decision on the basis that continued chiropractic/ART treatment was not a medical necessity or medically required as it related to the Appellant's accident related injuries.
7. The Appellant filed a Notice of Appeal with this Commission on March 12, 2007 in relation to that Internal Review decision. At the hearing of the Appeal, she submitted that the ART treatments did provide her temporary pain relief and therefore were helpful in

managing her motor vehicle accident related injuries. She maintained that the ART treatments did provide her with relief from the pain in her shoulder and therefore they were beneficial in treating her injuries. She therefore requested that the Commission allow her appeal.

RELEVANT STATUTORY PROVISIONS

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;

DISPOSITION

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 the Appellant has not established, on a balance of probabilities, that the chiropractic/ART treatments administered subsequent to July 27, 2006 were medically required for the treatment of the Appellant's motor vehicle accident related injuries. We find that the ART treatment did not provide sustained improvement to the

Appellant's condition after July 27, 2006. Accordingly, the continued treatments could not be considered medically required within the meaning of ss. 5(a) of Manitoba Regulation 40/94. As a result, the Appellant's appeal is dismissed and the Internal Review Officer's decision dated January 8, 2007 is therefore confirmed.

Dated at Winnipeg this 28th day of August, 2008.

YVONNE TAVARES

CAROLE WYLIE

ROBERT MALAZDREWICH