

# **Automobile Injury Compensation Appeal Commission**

**IN THE MATTER OF an appeal by [the Appellant]  
AICAC File No.: AC-97-119**

**PANEL:** Mr. J. F. Reeh Taylor, Q.C. (Chairperson)  
Mr. Charles T. Birt, Q.C. Mrs. Lila Goodspeed

**APPEARANCES:** Manitoba Public Insurance Corporation ('MPIC') represented  
by  
Mr. Keith Addison  
the Appellant, [text deleted], appeared in person by way of  
telephone conference call

**HEARING DATE:** January 12th, 1998

**ISSUE:** Whether Appellant entitled to continued chiropractic treatment  
and other corrective care at insurer's expense.

**RELEVANT SECTIONS:** Section 136(1) of the MPIC Act and Sections 5 & 9 of  
Regulation 40/94.

**AICAC NOTE: THIS DECISION HAS BEEN EDITED TO PROTECT THE APPELLANT'S PRIVACY  
AND TO KEEP PERSONAL INFORMATION CONFIDENTIAL. REFERENCES TO THE APPELLANT'S  
PERSONAL HEALTH INFORMATION AND OTHER PERSONAL IDENTIFYING INFORMATION  
HAVE BEEN REMOVED.**

## **REASONS FOR DECISION**

### **THE FACTS:**

The Appellant, [text deleted] was [text deleted] years of age and had been working  
as a telemarketer when, on July 14th, 1995, he was involved in a motor vehicle accident at the

corner of [text deleted] and [text deleted] in [text deleted]; [the Appellant's] vehicle was stationary at a red light when it was rear-ended by another car.

Five days later he attended at the office of [Appellant's chiropractor #1], at the [text deleted] Chiropractic Centre, complaining of neck pain and strain and of general discomfort in the neck and upper back area.

While the extent of the damage to a victim's vehicle is by no means a sure indicator of the extent of his personal injury - a rear end collision when the car is stationary and the driver's foot is off the brake can produce injury to the occupants with little, if any, adverse effect upon the car - it is, perhaps, worth noting that [the Appellant's] vehicle was completely undamaged.

[Appellant's chiropractor #1's] report of August 7th, 1995 to MPIC expresses his opinion that [the Appellant] was capable of resuming his main occupation. [Appellant's chiropractor #1] diagnosed [the Appellant] as having sustained 'flexion-extension cervical whiplash sprain, with associated C1, 5, 6, 7, T3, 8 subluxation and related thorococervical neuralgia'. He prescribed treatment consisting of chiropractic adjustments and therapy which, he anticipated, would require active treatments starting at three times per week and reducing to once per week over a period of four to seven months.

[Appellant's chiropractor #1's] subsequent report of February 9th, 1996 notes that [the Appellant] was showing a very favourable response to his chiropractic care although there

was 'persistent subluxation at C6, 7 and T8'. [Appellant's chiropractor #1] anticipated at that juncture that [the Appellant] would be at or near his pre-accident status by March 31st of 1996.

Under date of April 9th, 1996, [Appellant's chiropractor #1] provided MPIC with a detailed, narrative report in which, amongst other matters, he explains the nature of vertebral subluxations, their effect upon the patient and the purpose of chiropractic adjustments, and concludes that it will be necessary for [the Appellant] to continue to receive active chiropractic care on a consistently decreasing frequency until May 31st, 1996 to be at or near his pre-accident health status. That report also makes reference to the chiropractic care that [the Appellant] had been receiving prior to the motor vehicle accident in question which, said [Appellant's chiropractor #1], greatly strengthened his spine, actually making it much more capable of withstanding the impact of the collision of the July 14th, 1995 accident.

On July 17th, 1996, [the Appellant] was apparently in touch with his adjuster at MPIC to indicate that he wished to start attending a different chiropractor. After something in excess of 135 treatments from [Appellant's chiropractor #1], he had been to see [Appellant's chiropractor #2], who produced an initial health care report for MPIC bearing date the 23rd of July 1996 in which he diagnosed 'subluxations with acute sprain/strain at cervical, thoracic, lumbar and sacro-iliac joints'. [Appellant's chiropractor #2] classified [the Appellant's] condition as a Class 2 Whiplash Associated Disorder and recommended adjustments at a rate of '1-3 x week for months' (sic). [Appellant's chiropractor #2] also indicated that [the Appellant's] current functional ability should be classified as 'less than full function due to symptoms and/or functional deficits'.

[The Appellant] continued to see [Appellant's chiropractor #2] until, on September 6th, 1996, [the Appellant] moved from [Manitoba] to southern Ontario. In the meantime, a further and final report had come in from [Appellant's chiropractor #1], indicating that [the Appellant] was now restored to 'full function with symptoms' and was capable of fulfilling all of the duties of his work at the time.

[The Appellant] then attended upon another chiropractor, [text deleted] in [text deleted], Ontario, on the 18th of September 1996, who commenced treating him with spinal manipulation once per week by way of regular maintenance care.

[The Appellant] has a history, apparently stemming from a very serious boating accident in which he was involved in the late summer of 1975, as a result of which he was rendered comatose for about ten days. The records of Manitoba Health Services Corporation indicate that, in each of the years 1994, 1995 and 1996, both before and after his accident of July 14th, 1995, [the Appellant] used the maximum number of chiropractic treatments for which MHSC was prepared to pay. More specifically, from January 2nd to February 17th, 1995, both inclusive, [the Appellant] attended upon [Appellant's chiropractor #1] for fifteen chiropractic adjustments at the expense of MHSC, and continued doing so at his own expense from February 17th up to a point shortly before his motor vehicle accident.

We are satisfied, from the evidence, that [the Appellant] had at least reached his pre-accident status by the time MPIC decided to quit paying for his chiropractic treatments as of

February 21st, 1997. In the intervening months between the date of his accident and the date of that termination, [The Appellant] has received in excess of 150 chiropractic adjustments at the expense of the insurer. All of the literature that we have been able to discover, when read against the background of the various reports rendered by [the Appellant's] chiropractic care givers, persuades us that, if [the Appellant] continues to need spinal manipulation (as he may well do) that need can no longer be attributed to his motor vehicle accident in July of 1995.

**DISPOSITION:**

We are therefore of the view that Manitoba Public Insurance Corporation was justified in terminating [the Appellant's] chiropractic benefits as of February 21st, 1997, and the decision of MPIC's internal review officer is, therefore, confirmed.

Dated at Winnipeg this 20th day of January 1998.

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**J. F. REEH TAYLOR, Q.C.**

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**CHARLES T. BIRT, Q.C.**

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**LILA GOODSPEED**