



Automobile Injury Compensation Appeal Commission

IN THE MATTER OF an Appeal by [the Appellant]

AICAC File No.: AC-03-17

PANEL: Ms. Yvonne Tavares, Chairperson
Dr. Patrick Doyle
Mr. Les Marks

APPEARANCES: The Appellant, [text deleted], appeared on her own behalf; Manitoba Public Insurance Corporation ('MPIC') was represented by Mr. Tom Strutt.

HEARING DATE: August 14, 2003.

ISSUE(S): Entitlement to reimbursement of chiropractic treatment expenses beyond May 8, 2002.

RELEVANT SECTIONS: Section 136(1)(a) of The Manitoba Public Insurance Corporation Act (the 'MPIC Act') and Section 5 of Manitoba Regulations 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 Appellant, [text deleted], was involved in a motor vehicle accident on March 31, 1994. As a result of the injuries, which the Appellant sustained in that accident, she became entitled to Personal Injury Protection Plan benefits pursuant to Part 2 of the MPIC Act. The Appellant is appealing the decision of MPIC's Internal Review Officer, dated November 26, 2002, with

regards to her entitlement to reimbursement of the cost of chiropractic treatments beyond May 8, 2002.

The Appellant seeks reimbursement for the cost of chiropractic treatments after May 8, 2002, being the date coverage was terminated by MPIC. The Appellant submits that since her motor vehicle accident of March 31, 1994, she has suffered with regular severe headaches and unbearable back pain. She maintains that chiropractic care provides continuing benefit to her, as it has been the only type of treatment which has helped to alleviate her pain complaints. Since the chiropractic treatments do relieve her 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 need for chiropractic treatments, beyond May 8, 2002, is causally connected to the motor vehicle accident of March 31 1994, or that chiropractic treatments beyond that date were medically required.

Disposition:

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 a report dated October 22, 1997, [text deleted], the Appellant's treating chiropractor, commented as follows:

[The Appellant] has been treated on an as needed basis for the past several months. She states that her symptoms are not daily, but do flare up when she is involved in activities which include:

1. standing for long periods of time
2. excessive bending
3. prolonged sitting

[The Appellant] has attended this office on September 24, 1997. As previously stated the treatment regime outlined to [the Appellant] in the past 3 months is based on her need for care.

It is my opinion that she has attained maximum medical improvement. However, she continues to demonstrate both objective and subjective symptoms. Objectively, she demonstrates pain and/or tenderness at the lumbosacral joint. Pressure applied to the L5/S1 joint in the prone position elicits tenderness and/or pain. On motion palpation the L5/S1 joint is fixated.

In an Inter-departmental Memorandum dated October 31 2002, [text deleted], chiropractic consultant to MPIC's Health Care Services team, expressed the following opinion:

It is my opinion that the current file contents do not suggest that ongoing, passive care is either necessary or advisable. I do not see any support in the file contents to necessitate a visit frequency of three times per week for eight to 12 weeks as outlined by [Appellant's chiropractor #2], particularly in light of the information that she was seeing [Appellant's chiropractor #1] in a very infrequent basis at approximately two times per month previously.

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 8, 2002. The facts of the case at hand, including the rather extensive amount of chiropractic treatment undertaken by the Appellant, coupled with the lack of improvement in her condition, lead us to the conclusion that the Appellant has likely reached maximum therapeutic benefit from chiropractic care as of May 8, 2002. Accordingly, ongoing chiropractic treatments beyond May 8, 2002 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 8, 2002, 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 November 26, 2002.

Dated at Winnipeg this 19th day of August, 2003.

YVONNE TAVARES

DR PATRICK DOYLE

LES MARKS