



Automobile Injury Compensation Appeal Commission

IN THE MATTER OF an Appeal by [the Appellant]
AICAC File No.: AC-02-136

PANEL: Ms. Yvonne Tavares, Chairperson
Ms. Barbara Miller
Ms. Wendy Sol

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

HEARING DATE: December 17, 2003

ISSUE(S): Entitlement to Personal Care Assistance Benefits.

RELEVANT SECTIONS: Section 131 of The Manitoba Public Insurance Corporation
Act (the 'MPIC Act') and Section 2 and Schedule A of
Manitoba 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 Appellant, [text deleted], was involved in a motor vehicle accident on January 9, 2002. As a result of that accident, the Appellant sustained a broken right arm and a broken bone in her right foot, together with a laceration to her forehead and several contusions. Due to these injuries, the Appellant became entitled to personal care assistance benefits, since she was unable to manage independently with many of the activities of daily living.

As the Appellant's condition progressed after the motor vehicle accident, her personal care assistance needs were reassessed on an ongoing basis. As she became more functional, her entitlement to personal care assistance was slowly decreased. In a letter dated August 1, 2002, MPIC's case manager advised the Appellant that since she no longer met the minimum requirement for personal care assistance based upon the latest assessment, no funding for personal care assistance would be provided past July 15, 2002.

The Appellant sought an internal review of that decision. In a decision dated October 31, 2002, the Internal Review Officer dismissed the Appellant's Application for Review and confirmed the case manager's decision to terminate personal care assistance benefits. The Appellant has now appealed the termination of her personal care assistance benefits to this Commission.

The Appellant claims assistance for house cleaning, laundry, grocery shopping and preparation of dinner. She submits that the injuries which she sustained in the motor vehicle accident have prevented her from being able to carry out heavy household chores and from carrying heavy items. She maintains that she is not able to prepare dinner because she cannot pick up heavy items such as pots and pans. She has difficulty navigating stairs because of the injury sustained to her foot, which makes laundry a difficult chore since her washer and dryer are located in the basement of her home. She therefore submits that she is entitled to reimbursement of the expenses which she has incurred to hire someone to come into her home to take care of these duties.

Counsel for MPIC submits that the Appellant does not qualify for reimbursement of personal care assistance expenses pursuant to the MPIC Act and Regulations as she does not score high enough on the grids in order to qualify for assistance. Counsel for MPIC maintains that there is a

lack of evidence to establish that the Appellant is unable to prepare dinner, since there are numerous discrepancies on the Appellant's file with regard to her functional ability. He acknowledges that while the evidence shows that the Appellant may have some difficulty with laundry and house cleaning, any need for assistance she may have with these items does not entitle her to personal home assistance benefits. As a result, counsel for MPIC submits that the decision of the Internal Review Officer, dated October 31, 2002, should be upheld and the Appellant's appeal dismissed.

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

Section 131 of the MPIC Act:

Reimbursement of personal assistance expenses

131 Subject to the regulations, the corporation shall reimburse a victim for expenses of not more than \$3,000. per month relating to personal home assistance where the victim is unable because of the accident to care for himself or herself or to perform the essential activities of everyday life without assistance.

Section 2 of Manitoba Regulation 40/94:

Reimbursement of personal home assistance under Schedule A

2 Subject to the maximum amount set under section 131 of the Act, where a victim incurs an expense for personal home assistance that is not covered under *The Health Services Insurance Act* or any other Act, the corporation shall reimburse the victim for the expense in accordance with Schedule A.

Section 131 of the MPIC Act provides for reimbursement of personal assistance expenses, subject to the regulations. Section 2 of Manitoba Regulation 40/94 provides that MPIC shall reimburse a victim for an expense of personal home assistance in accordance with Schedule A. Schedule A provides a method of evaluating the needs of the victim regarding personal and home care assistance. Points are assigned to areas of need on an evaluation grid. They are totalled to determine the qualifying percentage of expenses to be applied to the maximum provision under Section 131 of the Act. The Appellant would have to score a minimum of five

points on the grids in order to qualify for reimbursement of personal care assistance. If the score is less than five, no reimbursement of expenses is provided.

We find that MPIC correctly applied the provisions of the MPIC Act and Regulations when determining the Appellant's entitlement to reimbursement of personal care expenses. We find that the Appellant has failed to establish, on a balance of probabilities, that she is unable to prepare dinner for herself due to the injuries which she sustained in the motor vehicle accident of January 9, 2002. The personal assistance expenses worksheet completed on June 28, 2002 determined that the Appellant was capable of preparation of meals. The grid was professionally completed for the Appellant on June 28, 2002, by the same individual who had assessed the Appellant on numerous previous occasions. The Appellant has failed to establish that this grid should be disregarded. Since the score of 1.5 does not meet the minimum required score necessary to receive funding for personal care assistance, we find that the Appellant no longer qualified for personal care assistance beyond July 15, 2002. As a result, the Appellant's appeal is dismissed and the Internal Review decision dated October 31, 2002 is confirmed.

Dated at Winnipeg this 17th day of February, 2004.

YVONNE TAVARES

BARBARA MILLER

WENDY SOL