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## Automobile Injury Compensation Appeal Commission

**IN THE MATTER OF an Appeal by [the Appellant]**  
**AICAC File No.: AC-03-14**

**PANEL:** Ms Laura Diamond, Chairperson  
Mr. Antoine Frechette  
The Honourable Mr. Wilfred De Graves

**APPEARANCES:** The Appellant, [text deleted] was represented by [Appellant's representative];  
Manitoba Public Insurance Corporation ('MPIC') was represented by Ms Dianne Pemkowski.

**HEARING DATE:** October 11, 2005

**ISSUE(S):** Entitlement to funding or reimbursement for further dental treatment

**RELEVANT SECTIONS:** Section 136(1)(a) of The Manitoba Public Insurance Corporation Act ('MPIC Act') and Section 5 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 injured in a motor vehicle accident on April 25, 2000. He was treated for injuries and received Personal Injury Protection Plan benefits from MPIC.

The evidence presented on behalf on the Appellant indicated that he began complaining of pain in his upper right central incisor, tooth #11, around Christmas of the year 2000, and that the tooth fell out sometime around late January of 2001.

The Appellant was reluctant to attend at a dentist, due to concerns regarding his ability to pay for treatment. However, he saw his dentist, [text deleted], on April 3, 2001. Following this examination, [Appellant's dentist] determined that "Tooth #11 crown and post knocked out. Root vertically fractured", and that this required treatment with a cast metal partial denture to replace it, following surgical removal of the tooth.

The Appellant sought compensation for dental treatment benefits as a result of the accident. The Appellant's case manager denied this claim. The claim for dental benefits was then reviewed by an Internal Review Officer on October 17, 2002. The Internal Review Officer concluded that the dental treatment was not medically required as a result of the accident, deciding that MPIC would not fund further dental treatment or reimburse the Appellant for same. It is from this decision of the Internal Review Office that the Appellant has now appealed.

### **Submissions**

It was argued on behalf of the Appellant that he had struck his mouth on the steering wheel of the car during the accident and that this caused damage to or weakening of his tooth.

Counsel for MPIC submitted that there is a lack of any medical evidence connecting the injury to the tooth with the motor vehicle accident. The Appellant's case manager, claims supervisor, and the Internal Review Officer all reviewed the Appellant's complete medical history following the accident. An extensive review of the Appellant's injuries contained in a report from the hospital makes no mention of facial or dental injuries or complaints. The delay of eight (8) months or more between the accident and the Appellant's complaints, and the further delay prior to the Appellant seeking treatment, make it very difficult to conclude, she submitted, that any injury to tooth #11 was related to the motor vehicle accident.

### Discussion

As counsel for MPIC points out, the Appellant is only entitled to MPIC funded dental treatment if that treatment is required because of the accident. The relevant sections of the MPIC Act and Regulations are as follows:

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;

Manitoba Regulation 40/94:

**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;

(b) when care is medically required and dispensed outside the province by a person authorized by the law of the place in which the care is dispensed, if the cost of the care would be reimbursed under *The Health Services Insurance Act* if the care were dispensed in Manitoba.

The onus is on the Appellant to show, on the balance of probabilities, that his dental injuries were caused by the motor vehicle accident on April 25, 2000.

The panel has reviewed the submissions of the parties as well as the medical and other evidence on file.

The Internal Review Officer also reviewed this material and noted:

A letter was received from [text deleted], your dentist, on April 30, 2001, where he stated that you presented with a root fracture of the upper right central incisor. You reported that the crown/post that was on the tooth was knocked loose during the motor

vehicle accident in question. In a dental report dated June 26, 2001, [Appellant's dentist] wrote that the crown and post of tooth number 11 were knocked out and the root was vertically fractured.

[Text deleted], the Dental Consultant with Manitoba Public Insurance's Health Care Services Team, reviewed your file and noted that there was no mention of any problems with your teeth until April of 2001. [MPIC's dentist] wrote that given the discrepancy between the date of the motor vehicle accident and the reporting of symptoms, the current problems experienced by you could not be attributed to the motor vehicle accident in question.

[Appellant's dentist] provided a report dated September 16, 2002, where he writes that you indicated that tooth number 11 was fractured in the vehicle accident of April 2000. As such, he could only opine on the condition and required treatment for that tooth.

The treatment of tooth numbers 12, 21 and 22 are exclusive of any accident claim in his opinion. Attached please find a copy of [Appellant's dentist's] report.

Section 5 of Manitoba Regulation 40/94R (attached) provides that care will only be funded by Manitoba Public Insurance when it is medically required. The information on your file does not support the contention that your current dental difficulties are as a result of your motor vehicle accident of April 26, 2000.

The panel agrees with the comments of the Internal Review Officer set out above and finds that the Appellant has failed to meet the onus of showing, on a balance of probabilities, that his dental injuries were caused by the motor vehicle accident of April 25, 2000.

For these reasons, the Commission dismisses the Appellant's appeal and confirms the decision of MPIC's Internal Review Officer bearing date October 17, 2002.

Dated at Winnipeg this 27<sup>th</sup> day of October, 2005.

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**LAURA DIAMOND**

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**ANTOINE FRECHETTE**

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**HONORABLE WILFRED DE GRAVES**