

Automobile Injury Compensation Appeal Commission

**IN THE MATTER OF an Appeal by [the Appellant]
AICAC File No.: AC-05-109**

PANEL: Ms Yvonne Tavares, Chairperson
Ms Sandra Oakley
The Honourable Mr. Wilfred De Graves

APPEARANCES: The Appellant, [text deleted], was represented by Ms Marla Garinger Niekamp of the Claimant Adviser Office; Manitoba Public Insurance Corporation ('MPIC') was represented by Ms Pardip Nunrha.

HEARING DATE: February 14, 2007

ISSUE(S): Entitlement to reimbursement of the cost of further physiotherapy treatments

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 involved in a motor vehicle accident on March 8, 1996. Due to the bodily injuries which the Appellant sustained in this accident, she became entitled to Personal Injury Protection Plan ('PIPP') benefits pursuant to Part 2 of the MPIC Act.

In or about October 2004, the Appellant submitted a claim to MPIC for funding of further physiotherapy treatments. In a decision dated November 30, 2004, MPIC's case manager denied

the Appellant's claim on the basis that there was insufficient evidence to support a causal relationship between the Appellant's current signs/symptoms and the motor vehicle accident of March 8, 1996.

The Appellant sought an Internal Review of that decision. The Internal Review Officer, in her decision dated March 24, 2005, dismissed the Appellant's Application for Review and upheld the case manager's decision of November 30, 2004. The Internal Review Officer also determined that the totality of medical information on the Appellant's file did not provide objective substantiation that the Appellant's current symptoms and subsequent need for physiotherapy was causally related to the motor vehicle accident of March 8, 1996.

The Appellant has now appealed to the Commission. In order to establish an entitlement to funding for physiotherapy treatments, the Appellant must establish that:

1. she has a medical condition which is causally related to a motor vehicle accident which requires treatment; and
2. the treatment must be medically required.

Upon a review of all of the evidence made available to it, both oral and documentary, the Commission finds that the Appellant has not established, on a balance of probabilities, that her medical condition in October 2004 was causally related to her motor vehicle accident of March 8, 1996. We also find that the Appellant has not established that the physiotherapy treatments beyond October 2004 were medically required.

We base our findings upon the following factors:

1. [The Appellant] was diagnosed with lumbosacral degenerative disc disease prior to her motor vehicle accident of March 8, 1996.
2. There was a lack of objective medical evidence to establish that the Appellant's symptomatology in October 2004 was the result of the motor vehicle accident of March 8, 1996. In this regard, the medical evidence before the Commission failed to establish that the deterioration of the Appellant's lumbosacral region was connected to the motor vehicle accident of October 2004, rather than a natural progression of her pre-existing degenerative disc disease.
3. The Appellant's testimony that physiotherapy treatments helped to alleviate some of her pain, but did not lead to any significant improvement in function or sustained relief of symptoms.

Based upon the foregoing factors, the Commission finds that the Appellant has not established that ongoing physiotherapy treatments beyond October 2004 continued to be medically required or that her symptoms were causally related to the motor vehicle accident of March 8, 1996. As a result, the Appellant's appeal is dismissed and the Internal Review decision dated March 24, 2005 is therefore confirmed.

Dated at Winnipeg this 19th day of April, 2007.

YVONNE TAVARES

SANDRA OAKLEY

HONOURABLE WILFRED DE GRAVES