

Automobile Injury Compensation Appeal Commission

**IN THE MATTER OF an Appeal by [the Appellant]
AICAC File No.: AC-05-135**

PANEL: Ms Yvonne Tavares, Chairperson

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 Danielle Robinson.

HEARING DATE: February 20, 2007

ISSUE(S): Entitlement to reimbursement of expenses for chiropractic treatments

RELEVANT SECTIONS: Section 136(1)(a) of *The Manitoba Public Insurance Corporation Act* ('MPIC Act') and Subsection 5(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 February 21, 2005. As a result of that accident, the Appellant sustained a soft tissue injury to her neck, right shoulder and back, along with headaches. She underwent physiotherapy treatments to treat her complaints. The course of physiotherapy care was reimbursed by MPIC.

On March 1, 2005, the Appellant began attending for chiropractic treatments, in addition to her ongoing physiotherapy care. At the hearing of this appeal, the Appellant testified that she sought

chiropractic care for additional pain relief, as she was having difficulty managing her injuries and headaches with the physiotherapy treatments alone. The Appellant claims reimbursement from MPIC for her chiropractic treatments.

In a letter dated March 18, 2005, MPIC's case manager wrote to the Appellant to advise her that:

As per our discussion on Friday March 18, 2005 this letter is in response to your request for concurrent Physiotherapy and Chiropractic treatments as outlined in the reports submitted by [Appellant's chiropractor] dated March 1, 2005 and [Appellant's physiotherapist] dated February 21, 2005.

Those reports, as well as your entire medical file, have been reviewed by our Health Care Services Team. The medical information on file indicates that concurrent Physiotherapy and Chiropractic care is not medically required. Therefore, as discussed in our telephone conversation Manitoba Public Insurance will not consider the cost for further Chiropractic treatments beyond the initial assessment report.

The Appellant sought an Internal Review of that decision. In her decision dated May 18, 2005, the Internal Review Officer confirmed the case manager's decision and dismissed the Appellant's Application for Review. In arriving at her decision, the Internal Review Officer concluded that:

There is no objective medical evidence that the lack of concurrent physiotherapy treatment and chiropractic care will result in a deterioration of your injury-induced signs and symptoms.

The medical evidence currently available does not support the need for concurrent care in the management of your injuries. I, therefore, agree with [MPIC's chiropractor's] opinion and conclude there is no basis for interfering with the decision under review.

The Appellant has now appealed the March 18, 2005 Internal Review decision to this Commission. The issue which requires determination in this appeal is whether concurrent physiotherapy and chiropractic care was medically required for this Appellant.

At the appeal hearing, the Claimant Adviser submitted that the Appellant took an active role in treating her injuries by seeking chiropractic care when physiotherapy treatments alone were not adequately treating and relieving her injuries. She submits that there are no restrictions in the MPIC Act limiting treatment to one modality at a time. Further, she argues that where treatments may compliment each other, providing greater improvement in a victim's condition, those concurrent treatments should be allowed. She maintains that the rationale provided by MPIC for not approving the concurrent treatments was insufficient. The Claimant Adviser submits that greater consideration should have been given to the Appellant's caregivers, who had the opportunity of personally treating the Appellant and were therefore in a much better position to opine as to the efficacy of the treatment modalities for this particular Appellant. As a result, the Claimant Adviser submits that concurrent physiotherapy and chiropractic treatments were medically required for the Appellant and accordingly, the Appellant's appeal should be allowed and the Internal Review decision dated March 18, 2005 rescinded.

Counsel for MPIC submits that there is no evidence that concurrent physiotherapy treatments and chiropractic treatments were medically required in order to treat the Appellant's accident related injuries. She relies on the opinion of [MPIC's chiropractor], that the referral to chiropractic care was not medically required because physiotherapy care had not been given enough time to determine whether it alone would have worked. She maintains that there is no evidence that physiotherapy care alone would not have addressed the motor vehicle accident related injuries, if it had been followed for a longer time. She argues that there is no evidence that the Appellant required the two (2) treatment modalities concurrently to treat the motor vehicle accident related injuries. As a result, counsel for MPIC submits that the Internal Review decision should be upheld, and the Appellant's appeal dismissed.

Upon a review of all of the evidence made available to it, both oral and documentary, the Commission finds that there is a lack of evidence to support that concurrent physiotherapy treatments and chiropractic treatments were medically required to treat the Appellant's motor vehicle accident related injuries. There is no evidence which establishes whether it was the physiotherapy care, the chiropractic care, or a combination of the two (2), which led to the improvement of the Appellant's condition. The Commission therefore finds that the Appellant has failed to establish, on a balance of probabilities, that she required both physiotherapy care and chiropractic care concurrently in order to treat her motor vehicle accident related injuries. As a result, the Appellant's appeal is dismissed and the Internal Review Officer's decision dated May 18, 2005 is therefore confirmed.

Dated at Winnipeg this 14th day of March, 2007.

YVONNE TAVARES