

Automobile Injury Compensation Appeal Commission

**IN THE MATTER OF an Appeal by [the Appellant]
AICAC File No.: AC-06-59**

PANEL: Ms Laura Diamond, Chairperson

APPEARANCES: The Appellant, [text deleted], was represented by [text deleted];
Manitoba Public Insurance Corporation ('MPIC') was represented by Mr. Dean Scaletta.

HEARING DATE: January 23, 2007

ISSUE(S): Entitlement to further chiropractic treatment benefits

RELEVANT SECTIONS: Section 136(1)(a) of *The Manitoba Public Insurance Corporation Act* ('MPIC Act') 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 was injured in a motor vehicle accident on December 13, 2004. As a result of the accident, she sustained a soft tissue injury to her neck, back and shoulders and was in receipt of Personal Injury Protection Plan benefits. These benefits included entitlement to coverage for chiropractic care.

The Appellant began chiropractic treatment with [Appellant's chiropractor] immediately following the accident. She continued to receive approximately forty-three (43) chiropractic

treatments until September 3, 2005. On September 21, 2005, the Appellant's case manager wrote to her indicating that the Treatment Plan Report submitted by her chiropractor, dated August 18, 2005, and outlining further treatment for the Appellant, had not been approved, and that MPIC would cease funding of chiropractic care for the Appellant effective September 3, 2005. It was the position of MPIC that there was no medical requirement for continued chiropractic care.

The Appellant sought an internal review of the case manager's decision. The Internal Review Officer for MPIC issued a decision on April 5, 2006. The Internal Review Officer found that the proposed chiropractic treatments were not medically required and that the medical evidence did not support the ongoing need for further chiropractic treatment.

It is from this Internal Review decision that the Appellant has now appealed.

Submission of the Appellant

The Appellant testified that she continued to improve, through chiropractic and physiotherapy treatments, after her entitlement to chiropractic benefits from MPIC was discontinued. She testified that she continued to improve until the time when she was discharged from chiropractic care, in July 2006. She testified that her ability to sleep on her right side improved, and also testified that she noticed improvement in her ability to shoulder check when driving and in her ability to participate in recreational and social activities. She attributed this improvement to the continuation of her chiropractic treatments.

It was submitted on behalf of the Appellant that, at the time that the Appellant's benefits were discontinued, she had not attained maximum therapeutic benefit from chiropractic treatment.

She continued with the treatment at her own expense and continued to improve. Therefore, it was submitted that she did not achieve maximum therapeutic benefit until the point when she was discharged from chiropractic treatment to her pre-accident status, on July 18, 2006.

Submission of MPIC

Counsel for MPIC submitted that the Appellant had not established, on a balance of probabilities, that the continued chiropractic treatments were medically required within the meaning of Section 5 of Manitoba Regulation P215-40/94. He submitted that, by September 2005, the Appellant had reached maximum medical improvement and further chiropractic treatment was not medically required.

Counsel for MPIC noted that even in [Appellant's chiropractor's] first post-accident report, dated December 17, 2004, the Appellant was shown to have had "full function with symptoms". The Initial Treatment Plan anticipated in clinic care for approximately six (6) months, which would take the Appellant to mid-June 2005. However, further treatment plans were submitted by [Appellant's chiropractor] and approved by MPIC, in addition to physiotherapy treatments and trigger point injections. MPIC continued to fund chiropractic treatment until September 3, 2005, after approximately forty (40) chiropractic treatments by [Appellant's chiropractor].

It was submitted that any further care was supportive or maintenance care. An analysis of the pain index questionnaires completed by the Appellant, as well as the chiropractor's reports, indicated that the Appellant had likely reached a plateau in her condition long before coverage was actually terminated by MPIC, and that chiropractic care beyond September 3, 2005 was not medically required.

Discussion

Section 136(1)(a) of the MPIC Act and Section 5 of Manitoba Regulation P215-40/94 provide that a claimant is entitled to reimbursement of expenses incurred because of the accident for medical and paramedical care which is medically required:

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;

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 a balance of probabilities, that the treatment is medically required.

In this case, the Commission finds that further chiropractic treatment after September 3, 2005 was not medically required. As noted by [text deleted], Chiropractic Consultant to MPIC's Health Care Services Team, in a Memorandum dated September 8, 2005, a review of the Treatment Plan Reports submitted by the Appellant's chiropractor showed little change in the

Appellant's symptoms, which had been reported as mild since June 16, 2005. The Appellant, following regular care for a period of almost nine (9) months, including approximately forty (40) chiropractic treatments, showed status inventory scores comparable to the general population.

The Commission agrees with the submission of counsel for MPIC. Having reviewed the evidence and submissions in this matter, the Commission finds that the Appellant has failed to establish that further chiropractic treatment beyond September 3, 2005 was medically required. Accordingly, the Appellant's appeal is dismissed and the Internal Review Officer's decision dated April 5, 2006 is hereby confirmed.

Dated at Winnipeg this 8th day of February, 2007.

LAURA DIAMOND