

Automobile Injury Compensation Appeal Commission

**IN THE MATTER OF an Appeal by [the Appellant]
AICAC File No.: AC-10-146**

PANEL: Mr. Mel Myers, Q.C.

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

HEARING DATE: December 2, 2010

ISSUE(S): Whether the Commission should extend the time limit to file a Notice of Appeal

RELEVANT SECTIONS: Section 174(1) of The Manitoba Public Insurance Corporation Act ('MPIC Act')

AICAC NOTE: THIS DECISION HAS BEEN EDITED TO PROTECT THE PERSONAL HEALTH INFORMATION OF INDIVIDUALS BY REMOVING PERSONAL IDENTIFIERS AND OTHER IDENTIFYING INFORMATION.

Reasons For Decision

On December 2, 2010 the Commission convened a hearing by teleconference to determine if the Appellant, [text deleted], had a reasonable excuse for the late filing of her Notice of Appeal.

The Appellant filed a Notice of Appeal on October 21, 2010 in respect of an Internal Review Officer Decision dated June 8, 2010 dismissing her Application for Review of the case manager decision denying her claim.

The Commission notes that pursuant to Section 174(1) of the MPIC Act a claimant may within 90 days after receiving notice of MPIC's Internal Review Decision file a Notice of Appeal to the Commission.

The Appellant filed the Notice of Appeal 43 days after the 90 day appeal period. On October 25, 2010 the Appellant wrote to the Commission giving her reasons for the late filing of her Notice of Appeal. The Appellant requested an extension of time to file an appeal, but MPIC objected to this request.

The Commission convened a hearing to hear submissions from the Appellant and from MPIC's legal counsel on the issue of whether or not to grant an extension of time for the Appellant to file an appeal. In her submission the Appellant stated that she had become confused because of various claims she has in respect of her work related injuries relating to claims at the Workers' Compensation Board, grievances with her employer, [text deleted] and child support from her husband in Family Court. She submitted that as a result of these various claims she became confused about the time limits in filing an appeal to this Commission. As a result she failed to make a timely application to the Commission.

The Appellant also set out her reasons for seeking an appeal on the merits before the Commission.

MPIC's legal counsel opposed the application for an extension of time and submitted that:

1. the Appellant had not provided a reasonable explanation to grant an extension of the time limits,

2. the Appellant did not have an arguable case on the merits of her appeal before the Commission.

After considering the submissions of both parties pursuant to Section 174(1) of the MPIC Act the Commission grants the extension of the time limit within which the Appellant may appeal the Internal Review Decision dated June 8, 2010. The Commission is satisfied that the Appellant was confused in respect of her obligation to file an appeal within 90 days of MPIC's Internal Review Officer Decision. As well the Commission is satisfied that the Appellant may have an arguable case on the merits of her appeal before the Commission.

The Commission advised the Appellant that due to the complexity of the case and the need for her to obtain further medical reports that she should consider either retaining legal counsel or seeking assistance from the Claimant Adviser Office.

Dated at Winnipeg this 7th day of December, 2010.

MEL MYERS, Q.C.