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## Automobile Injury Compensation Appeal Commission

**IN THE MATTER OF an Appeal by [the Appellant]**  
**AICAC File No.: AC-02-143**

**PANEL:** Ms. Yvonne Tavares, Chairperson  
Ms. Laura Diamond  
Mr. Wilson MacLennan

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

**HEARING DATE:** September 30, 2003

**ISSUE(S):** Entitlement to personal care assistance benefits.

**RELEVANT SECTIONS:** Section 131 of The Manitoba Public Insurance Corporation  
Act (the 'MPIC Act') and Section 2 and Schedule 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 was involved in a motor vehicle accident on January 15, 2000. As a result of the injuries which she sustained in that accident, the Appellant became entitled to Personal Injury Protection Plan benefits pursuant to Part 2 of the MPIC Act. The issue which arises in this appeal is whether the Appellant is entitled to personal care assistance benefits.

The Appellant is claiming assistance for housecleaning, laundry, purchase of supplies and meal preparation. She submits that the injuries which she sustained in the motor vehicle accident have prevented her from being able to carry out heavy household chores, such as vacuuming. She contends that since the accident she can no longer lift heavy items or stand for longer than half an hour. Therefore preparing meals is difficult, as is grocery shopping. Her daughter has helped her with these basic activities since the motor vehicle accident.

On the most recent set of grids prepared for the Appellant in April 2002, she scored a total of 3.5/51. She was awarded the maximum number of points available for an inability to do housecleaning, laundry and purchase of supplies. At the hearing of this matter, the Appellant submitted that the case manager who completed the grids, did not take into account her inability to prepare meals. She maintains that she should also receive consideration for her inability to prepare meals and therefore she believes that she is entitled to personal care assistance benefits.

Counsel for MPIC submits that the Appellant does not qualify for reimbursement of personal care expenses pursuant to the MPIC Act and regulations, as she does not score high enough on the grids in order to qualify for assistance. Accordingly, counsel for MPIC submits that the decision of the Internal Review Officer dated July 25, 2002, should be upheld and the Appellant's appeal dismissed.

The relevant sections of the MPIC Act and regulations are as follows:

Section 131 of the MPIC Act:

**Reimbursement of personal assistance expenses**

**131** Subject to the regulations, the corporation shall reimburse a victim for expenses of not more than \$3,000. per month relating to personal home assistance where the victim is unable because of the accident to care for himself or herself or to perform the essential activities of everyday life without assistance.

Section 2 of Manitoba Regulation 40/94:

**Reimbursement of personal home assistance under Schedule A**

- 2** Subject to the maximum amount set under section 131 of the Act, where a victim incurs an expense for personal home assistance that is not covered under *The Health Services Insurance Act* or any other Act, the corporation shall reimburse the victim for the expense in accordance with Schedule A.

Section 131 of the MPIC Act provides for reimbursement of personal assistance expenses, subject to the regulations. Section 2 of Manitoba Regulation 40/94 provides that MPIC shall reimburse a victim for an expense of personal home assistance in accordance with Schedule A. Schedule A provides a method of evaluating the needs of the victim regarding personal and home care assistance. Points are assigned to areas of need on an evaluation grid. They are totalled to determine the qualifying percentage of expenses that is then applied to the maximum provision under Section 131 of the MPIC Act. The Appellant would have to score a minimum of five points on the grids in order to qualify for reimbursement of personal care assistance. If the score is less than five, no reimbursement of expenses is provided.

On the totality of the evidence before us, we find the Appellant's submission inconsistent with the concerns which she voiced to her case manager and to her caregivers during the relevant time frames. The complaints raised by the Appellant after the accident related to an inability to do housecleaning, vacuuming and laundry. At that time there was no mention of an inability to prepare meals. Although we accept that the Appellant is presently unable to prepare her own meals, there is no medical evidence before the Commission to connect her current medical conditions, including arthritis, depression, stomach ulcer, and blood clots to the motor vehicle accident of January 15, 2000. Accordingly, we find that the grids prepared by the case manager

are consistent with the evidence on the Appellant's file and that MPIC correctly applied the provisions of the MPIC Act and regulations when determining the Appellant's entitlement to reimbursement of personal care expenses.

As a result, we are obliged to dismiss the Appellant's appeal and confirm the Internal Review Officer's decision dated July 25, 2002.

Dated at Winnipeg this 8<sup>th</sup> day of October, 2003.

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**YVONNE TAVARES**

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**LAURA DIAMOND**

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**WILSON MacLENNAN**