



Automobile Injury Compensation Appeal Commission

**IN THE MATTER OF an Appeal by [the Appellant]
AICAC File No.: AC-04-113**

PANEL: Ms. Laura Diamond, Chairperson
Neil Cohen
Barbara Miller

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

HEARING DATE: June 29, 2005

ISSUE(S): Whether the Appellant is entitled to further Chiropractic
Treatment Benefits

RELEVANT SECTIONS: Section 136(1) of The Manitoba Public Insurance Act
("MPIC Act") and Section 5 of Manitoba Regulations 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 injured in a motor vehicle accident on June 13, 2003. As a result of injuries sustained in the accident, she became entitled to Personal Injury Protection Plan benefits under the MPI Act, including chiropractic treatment benefits. The Appellant was in receipt of care from her Chiropractor from June of 2003 (a couple of weeks following the accident) until January of 2004. She was advised by her case manager on January 12, 2004 that MPIC would not fund further chiropractic treatment effective January 26, 2004.

Internal Review Decision

The Appellant sought an Internal Review of the case manager's decision. On March 31, 2004, an Internal Review Officer upheld the decision of the case manager. The Internal Review Officer, after reviewing reports from the Appellant's Chiropractor, [text deleted], with supporting documentation, as well as the opinion of [text deleted], Chiropractic Consultant to MPIC's Health Care Services Team, concluded that the Appellant had essentially recovered from the effects of the motor vehicle accident. The Internal Review Officer agreed with [MPIC's chiropractor] that, as the Appellant had fifty-nine chiropractic visits funded by MPIC over the course of approximately seven months, and had shown significant improvement, chiropractic care was no longer medically required in her case.

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

Submissions

The Appellant submitted that prior to her car accident she had no problems with her back, neck, knees, wrists, or any part of her body. It was only after the accident that she encountered such problems, and it was chiropractic treatment which helped her to feel better.

The Appellant submitted that she is [text deleted] years old, and was only [text deleted] years old at the time of the accident. She had been in good physical shape and was physically active.

The Appellant testified that she had never attended a Chiropractor before the accident. She started seeing [Appellant's chiropractor #1] a couple of weeks after the accident. She saw him

approximately three times a week for the first couple of months, which decreased to twice a week for the next two months, and then to once a week.

She did not have chiropractic care following January 26, 2004, until she moved to [text deleted]. Then, starting about the end of June 2004, she resumed treatment with another Chiropractor, [text deleted]. She saw him approximately twice a week for four months, then once a week for two months, and now, as needed.

The Appellant submitted that she did not feel that somebody of her age, in good physical health before the car accident, should be made to suffer as a result of injuries from the accident, without MPIC funding treatment.

The Appellant also noted the comments of the Internal Review Officer in her decision of March 31, 2004.

The clinical guidelines for chiropractic practice in Canada indicate that, in uncomplicated cases, a failure to show additional improvement over any period of six weeks of treatment should result in the patient being discharged, or being referred to another practitioner to try another form of therapy. The repeated use of acute care measures is not condoned.

The Appellant questioned why, if there had been no improvement in her condition after six weeks of chiropractic treatment, MPIC had not explored the idea of alternative forms of medical treatment. However, she indicated that she had chosen to attend for chiropractic treatment as she did not have a family physician and found that [Appellant's chiropractor #1], who had an office close to her home, was the most easily accessible for her.

Counsel for MPIC submitted that the Appellant's accident was of a minor to moderate nature. She did not attend for medical treatment, aside from a visit to a walk in clinic, and was not required to take medication as a result. This was indicative to some extent, he submitted, of the nature and extent of her injuries.

Counsel for MPIC reviewed the reports from [Appellant's chiropractor #1], including the Initial Health Care Report, which outlined multiple injuries to various parts of the Appellant's body, and later Treatment Plan Reports. Those were accompanied by self reporting forms ie. The Low Back Pain and Disability Questionnaire, (Revised Oswestry) and a Neck Pain and Disability Index (Vernon-Mior).

The self-reporting forms completed by the Appellant in August 2003, October 2003 and December 2003 showed improvement in her symptoms. The scoring from these forms indicated low back pain of 8% and neck pain of 22 % in August 2003. In October of 2003 the low back score was 8% and the neck had improved to 16%. In December 2003 both scores were at 6%.

[MPIC's chiropractor] reviewed these forms as well as the reports of [Appellant's chiropractor #1].

[Appellant's chiropractor #1] was recommending continuing care until March 27, 2004. Initially, MPIC approved chiropractic treatment until October 2003, with plans to reconsider (based upon further information at that point). In October 2003 chiropractic care was then approved for a further two months.

When [MPIC's chiropractor] once again reviewed the information on December 29, 2003, he concluded that the Appellant had very low levels of pain (6%) and recommended that a short period of additional care be provided, perhaps to mid-January, to help the Appellant transition to self-managed care.

Counsel for MPIC submitted that there were significant discrepancies between the levels of pain and symptoms reported by the Appellant on these forms, and the findings and recommendations of [Appellant's chiropractor #1] in his reports and Treatment Plan Reports. [Appellant's chiropractor #1's] narrative report, dated January 26, 2004, also contained inconsistencies and findings which conflicted with the self-reports of the Appellant.

[MPIC's chiropractor] in reviewing the matter again, together with [Appellant's chiropractor #1's] narrative report, on March 19, 2004, stated:

I have reviewed the information supplied by [Appellant's chiropractor #1]. [Appellant's chiropractor #1] reports that the claimant has disability scales scoring 8% for her neck on January 23, 2004 and 22% for her low back on January 23, 2004. I do not have access to these forms. My prior review took place on December 29, 2003. However, the recent scores do not change my opinion. Her neck is essentially unchanged. If anything her back appears to have deteriorated. This does not, in my opinion, support the need for ongoing care of the same kind. The information provided by [Appellant's chiropractor #1] does not change my opinion.

Based upon all of this, Counsel for MPIC submitted that given the length of time the Appellant received treatment, the number of treatments she received and her own self-reports, the Appellant had been afforded an adequate course of treatment, with results (pain level of 6%) showing that her injuries had resolved. He submitted that the Appellant had failed to establish that further chiropractic care was medically required as a result of injuries arising from the accident.

Discussion

The MPIC Act provides as follows:

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;
- (b) the purchase of prostheses or orthopedic devices;
- (c) cleaning, repairing or replacing clothing that the victim was wearing at the time of the accident and that was damaged;
- (d) such other expenses as may be prescribed by regulation.

Treatment must be medically required in accordance with Section 5 of the Manitoba Regulations 40/94

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 that further chiropractic treatment was medically required as a result of injury she sustained in the accident.

The panel has reviewed the evidence and submissions of the parties.

The panel has concluded, based upon the evidence, that, given the extent and nature of the Appellant's injuries, she has received sufficient chiropractic care, as medically required. The

Appellant showed very low levels of pain reporting in December 2003. It is the finding of the panel that her injuries sustained in the accident had improved to such a degree that further chiropractic care was longer medically required or necessary as a result of the accident.

The Appellant questioned why, if she was exceeding the standard set in Clinical Guidelines for Chiropractic Care in Canada, she was not directed to other forms of care. The panel notes that MPIC has funded the Appellant's choice of chiropractic treatment for a period of six months and that this appeared to provide her with relief of symptoms and improvement in her condition. If the Appellant believes that she should be exploring other forms of treatment as a result of injuries sustained in the accident, she is free to raise this issue with her case manager for determination of that claim.

It is the finding of the Commission that the Appellant has failed to establish, on a balance of probabilities, that further chiropractic care is medically required as a result of injuries she sustained in the motor vehicle accident of June 13, 2003.

Therefore, as a results, and for these reasons, the Commission confirms the decision of the Internal Review Officer dated March 31, 2004 and dismisses the Appellant's appeal.

Dated at Winnipeg this 14th day of July, 2005.

MS. LAURA DIAMOND

NEIL COHEN

BARBARA MILLER