

Automobile Injury Compensation Appeal Commission

**IN THE MATTER OF an Appeal by [the Appellant]
AICAC File No.: AC-07-77**

PANEL: Ms Yvonne Tavares, Chairperson
Ms Mary Lynn Brooks
Dr. Patrick Doyle

APPEARANCES: The Appellant, [text deleted], appeared on his own behalf;
Manitoba Public Insurance Corporation ('MPIC') was
represented by Ms Danielle Robinson.

HEARING DATE: May 21, 2008

ISSUE(S): Calculation of Retirement Income Benefits

RELEVANT SECTIONS: Sections 103(1) and 103(2) 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

The Appellant, [text deleted], was involved in a motor vehicle accident on July 26, 1996. Due to the bodily injuries which the Appellant sustained in that accident, he became entitled to Personal Injury Protection Plan ('PIPP') benefits pursuant to Part 2 of the MPIC Act.

By letter dated January 11, 2007, MPIC's case manager wrote to the Appellant to advise of the indexation of his retirement income benefit effective January 29, 2007. This resulted in a bi-weekly retirement income benefit entitlement for the Appellant of \$93.91.

In a subsequent letter dated April 5, 2007, MPIC's case manager wrote to the Appellant to advise that his retirement income benefit had been revised based upon the income he reported on his 2006 income tax return. A revised 2007 retirement income benefit indexation had been completed and the Appellant's net entitlement to retirement income benefit had been determined as \$29.21 bi-weekly, payable from January 29, 2007.

The Appellant sought an Internal Review of the case manager's decision of April 5, 2007, questioning the calculation of his retirement income benefit. In a decision dated May 23, 2007, the Internal Review Officer confirmed the case manager's decision of April 5, 2007 and dismissed the Appellant's Application for Review. The Internal Review Officer determined that the Appellant's retirement income benefit had been calculated correctly in the case manager's decision of April 5, 2007.

The Appellant has now appealed from the Internal Review decision dated May 23, 2007 to this Commission, with respect to the calculation of his retirement income benefit. The Appellant claims that the amount of his retirement income benefit is constantly changing and he has no assurance of what amount he will actually receive from MPIC. He maintains that it is very difficult to manage his finances when he is unsure of what amount he will receive from MPIC. Also, the Appellant submits that the retirement income benefit he receives from MPIC is insufficient to meet his financial obligations.

Section 103(1) and 103(2) of the MPIC Act provide as follows:

Retirement income after age 65

103(1) On ceasing to be entitled to receive an income replacement indemnity as set out in section 102, a victim is entitled to be paid a retirement income calculated and determined in the manner set out in the regulations for the remainder of his or her life.

Basic retirement income amount

103(2) Subject to the regulations, a retirement income under this section is an amount equal to 70% of the net income of the victim as that net income was determined under section 112 to establish the amount of the victim's income replacement indemnity, less the amount of any other pension income to which the victim is entitled.

Upon a careful review of all of the evidence filed in connection with this appeal, and after hearing the submissions of the Appellant and of counsel for MPIC, the Commission finds that the Appellant's retirement income benefit has been correctly calculated in accordance with the MPIC Act and Regulations. The Appellant's reported pension income was correctly taken into consideration by the case manager in determining the Appellant's retirement income benefit. The Appellant's retirement income benefit is subject to change due to the annual indexation on the anniversary date of his retirement income benefit, which is January 29th of each year. The Appellant's retirement income benefit may also fluctuate depending upon his reported pension income, since that amount is to be deducted from the Appellant's retirement income. Therefore, the Appellant can expect that his retirement income benefit will continue to change depending upon his pension income and the yearly indexation.

Accordingly, the Commission finds that the Appellant's appeal should be dismissed, and the Internal Review decision dated May 23, 2007 be therefore confirmed.

Dated at Winnipeg this 2nd day of July, 2008.

YVONNE TAVARES

MARY LYNN BROOKS

DR. PATRICK DOYLE