

**Automobile Injury Compensation Appeal Commission**

**IN THE MATTER OF an Appeal by [the Appellant]  
AICAC File No.: AC-11-074**

**PANEL:** Ms Yvonne Tavares, Chairperson  
Ms Diane Beresford  
Ms Jean Moor

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

**HEARING DATE:** May 8, 2012

**ISSUE(S):** Entitlement to Permanent Impairment Benefits.

**RELEVANT SECTIONS:** Section 127 of The Manitoba Public Insurance Corporation  
Act ('MPIC Act') and Schedule A of Manitoba Regulation  
41/94.

**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 November 23, 2009. As a result of the injuries which he sustained in that accident, the Appellant suffered permanent impairments which, pursuant to Section 127 of the MPIC Act, entitle him to a lump sum indemnity in accordance with the Regulations to the MPIC Act. The Appellant is appealing the Internal Review Decision dated May 30, 2011 with respect to the permanent impairment benefits determined by MPIC.

On April 28, 2011, MPIC's case manager issued a decision setting out the Appellant's permanent impairment entitlement arising from the injuries which the Appellant sustained in the motor vehicle accident of November 23, 2009. In that decision, the case manager found the following:

Facial Scarring

Scar #1 on the assessment report indicates a scar to the left eyebrow. There is no medical information on file indicating that you sustained any facial lacerations or abrasions as a result of this motor vehicle collision. You also did not mention any facial lacerations during the initial meeting with the case manager on December 16, 2009. Furthermore, you have already been provided a decision letter on a previous claim (April 3, 2005) advising that scarring to the left eyebrow is not related to a motor vehicle collision. Therefore, as this scar is not causally related to the above noted motor vehicle collision, no entitlement applies.

Posterior Trunk

Scars #12 through 15 indicate large scars to your lower back. There is no medical information on file indicating that you sustained any large lacerations/abrasions to your lower back which would account for the scarring. Furthermore, during the initial meeting on December 16, 2009, you did not mention any large lacerations/abrasions to your lower back. Therefore, no entitlement has been provided.

The Appellant disagreed with the case manager's decision and sought an Internal Review of that decision. The Internal Review Officer, in a decision dated May 30, 2011, dismissed the Appellant's Application for Review and confirmed the case manager's decision. The Internal Review Officer found that the file information supported the decision to deny permanent impairment awards for scarring to the Appellant's left eyebrow and lower back.

The Appellant has now appealed that Internal Review Decision to this Commission. The issue which requires determination on this appeal is whether the Appellant is entitled to a permanent impairment benefit for a scar above his left eyebrow and scarring to his lower back.

**Decision:**

Upon hearing the testimony of the Appellant, and after a careful review of all of the medical, paramedical and other reports and documentary 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 is not entitled to a permanent impairment award for scarring to his left eyebrow or to his lower back.

**Reasons for Decision:**

The onus is on the Appellant to show that, on a balance of probabilities, his left eyebrow scar and the scarring to his lower back are related to injuries sustained in the motor vehicle accident of November 23, 2009. The Commission has carefully reviewed the medical evidence before it and has concluded that the evidence fails to establish, on a balance of probabilities, that the Appellant sustained any injuries in the motor vehicle accident of November 23, 2009 which would have resulted in scars to the Appellant's lower back or to his left eyebrow. Rather, we agree with counsel for MPIC that the Appellant's claim is implausible for scarring to his left eyebrow and his lower back. The Appellant, in his direct testimony, was not able to explain how these injuries resulted from the motor vehicle accident. Following the motor vehicle accident the Appellant did not report any abrasions to his lower back or to the eyebrow. The Appellant suggested that these abrasions occurred 4-6 months following the motor vehicle accident. The Commission finds that it is unreasonable to suggest that the Appellant's scars occurred as a result of this motor vehicle accident.

Accordingly, the Commission finds that the Appellant has not established, on a balance of probabilities, that he sustained any injuries to his left eyebrow or to his lower back which resulted in scarring as a result of the motor vehicle accident of November 23, 2009. As a result, the Commission finds that the Appellant is not entitled to a permanent impairment award for scarring to the left eyebrow or to the lower back. Accordingly, the Appellant's appeal is dismissed and the Internal Review Decision dated May 30, 2011 is confirmed.

Dated at Winnipeg this 29<sup>th</sup> day of May, 2012.

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**YVONNE TAVARES**

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**DIANE BERESFORD**

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**JEAN MOOR**