Automobile Injury Compensation Appeal Commission

IN THE MATTER OF an appeal by [the Appellant]
AICAC File No.: AC-97-142

PANEL:	**Mr. J. F. Reeh Taylor, Q.C. (Chairperson)** **Mrs. Lila Goodspeed** **Mr. F. Les Cox**
APPEARANCES:	**Manitoba Public Insurance Corporation ('MPIC') represented by** **Ms Joan McKelvey** **the Appellant, [text deleted], appeared on his own behalf**
HEARING DATE:	**November 12th, 1998**
ISSUE:	**Whether Appellant entitled to continued chiropractic care.**
RELEVANT SECTIONS:	**Section 136(1) of the MPIC Act and Section 5 of Manitoba Regulation No. 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 ACCIDENT:

1. [Text deleted], the Appellant, was involved in a motor vehicle accident on September 22nd, 1994. A long distance truck driver at the time, he was asleep in the sleeper section of his vehicle that was being driven by one of his colleagues, when the truck apparently ran into a ditch

and flipped over. He remembers being thrown about in the sleeper but then was knocked out for some fifteen to twenty minutes, he believes. When he recovered consciousness he tried to get up but experienced severe thoracic back pain and some posterior neck pain. He had to be helped out of the vehicle and was taken to a satellite hospital of the [text deleted] Clinic at [text deleted], Minnesota, where he was admitted for two and a half days. He was sent home from that hospital, utilizing a brace, but since he was unable to cope with that pain at his home he was subsequently admitted to the hospital in [text deleted], Manitoba, where he remained for some ten to twelve days. Ever since that time he has been receiving chiropractic treatments, directed towards his cervical and spinal areas.

POST-ACCIDENT MEDICAL/REHABILITATIVE HISTORY:

2. [The Appellant], who was referred by his family physician, [text deleted], to an orthopedic specialist, [text deleted], was diagnosed by [Appellant's orthopedic specialist] as having sustained "stable compression fracture of the seventh thoracic and a minor degree of trauma causing fracture to perhaps T6 and T8. The transverse processes fractures on the left at T5 and T6 and on the right at the costovertebral junction at T5 and T6 also are very stable injuries". [Appellant's orthopedic specialist] offered the opinion that these injuries should not cause late arthritic change, that there was no compromise of [the Appellant's] spinal canal nor any late risk of neurological damage nor potential for entrapment. [Appellant's orthopedic specialist] commented upon the importance for [the Appellant] of exercise, conditioning and stretching the musculature around his neck. He was of the opinion that [the Appellant's] neck would gradually improve over the long run and would not be causing any significant, long-term functional compromise. He felt that a final prognosis

could not be offered until about one year after the date of the injury. [Appellant's orthopedic specialist] also noted that [the Appellant] had sustained certain musculoligamentous injury to his cervical spine, and also felt that there might be some residual impairment in the thoracic spine although [Appellant's orthopedic specialist] did not anticipate this would be of any great degree.

3. [Appellant's doctor #1], in a letter to the insurer of October 30th, 1995, describes the same injuries in slightly different language as, more simply, "collapsed vertebrae of thoracic 5, 6 and 7, as well as fractures of the ribs at C5 and C6 and fracture of the transverse process at C5 and C6".

4. On October 13th, 1994, [the Appellant] consulted [text deleted], a chiropractor at [text deleted], Manitoba, with respect to his neck and mid-back pain. [Appellant's chiropractor #1] examined [the Appellant] and arranged for X-rays of his spine to be taken, followed by spinal adjustments at a frequency averaging three times per week for close to three years, followed by continuing chiropractic care at an average frequency of twice weekly.

5. [The Appellant] was referred by MPIC, in February of 1995, for an assessment by the [rehab clinic #1], who recommended a structured, activity-based program focusing on work-conditioning, with treatment being time limited and goal oriented, concurrent with specific education respecting his back care and some case co-ordination between [the Appellant] himself, his physician and his employer. [The Appellant] did, in fact, start a rehabilitation program at the [rehab clinic #1] on March 2nd, but only attended for four days, after which he quit that facility because he was experiencing an increase in symptoms.

6. On October 5th, 1995. [the Appellant] attended at [text deleted] in [text deleted], upon a referral by MPIC. An X-ray of his thoracic spine taken at that clinic revealed progressive healing, with "mild thoracic kyphosis" (i.e. a slightly hump-backed posture) but "no bony abnormalities". [Appellant's doctor #2], Medical Director of the [text deleted], offered the opinion that [the Appellant] would benefit from a course of physiotherapy coupled with a comprehensive reconditioning program aimed at strengthening and improving his neck and back function.

7. [The Appellant] was then referred by MPIC to [text deleted]., specialists in vocational rehabilitation services. [Appellant's vocational rehab consultant], of that organization noted that three separate parties ([Appellant's doctor #2], [Appellant's orthopedic specialist] and the [rehab clinic #1]) had all recommended a conditioning program that had yet to be followed through, since [the Appellant's] preferred method of pain control was chiropractic treatment and rest. He recommended that [the Appellant's] medical status be reviewed by MPIC's consultants so that medical/chiropractic consultations with current practitioners might be facilitated, in the hope that this would result in an appropriate treatment plan being put into place. [Appellant's doctor #1] fully supported the foregoing concept which, however, does not seem ever to have been given effect.

8. [Appellant's vocational rehab consultant] then, with the approval and at the expense of MPIC, referred [the Appellant] to the [rehab clinic #2], where he was examined and assessed on January 24th, 1996. There, he was initially treated with heat pack, massage, stretching exercises for his neck and back musculature plus exercises aimed at strengthening his back extensors and

abdominal muscles and, in general, increasing his range of motion. By about the end of April [the Appellant] was receiving more aggressive massages, including transverse friction technique, and began stationary cycling. He also was given an exercise program booklet in which to record the number of sets of each exercise that he was working on at home. His improvement by May 1st was reported to have been slow, although he reported that he had gradually become more active and functional with less frequent and less severe episodes of pain.

9. In July of 1996 [Appellant's doctor #1], following a suggestion of [Appellant's vocational rehab consultant], referred [the Appellant] back to [Appellant's orthopedic specialist] for a further consultation and for consideration of a magnetic resonance imaging of [the Appellant's] back. Due to demands upon [Appellant's orthopedic specialist's] time, [the Appellant] was not able to meet with [Appellant's orthopedic specialist] until October 29th of 1996. [Appellant's orthopedic specialist's] extensive report to [Appellant's vocational rehab consultant] of October 31st, 1996 may, at the risk of oversimplification, be summarized very simply this way: [the Appellant] had sustained minor compression injuries to T7 and, perhaps, T6, along with an undisplaced crack fracture of the transverse process on both the left and on the right at T5 and T6. There was no evidence of spinal instability nor any compromise to the spinal canal. [The Appellant's] injuries had healed, as was evident from a repeat CT Scan done at the [hospital] on November 21st of 1995. He had received extensive therapy and chiropractic care but, despite any type of care, he had still not significantly improved. One would have expected him to be more comfortable and functional than he was. When examined on October 29th, 1996, there were no underlying physical abnormalities that would call for specific orthopedic treatment or surgical invasive treatment. It was questionable whether simultaneous chiropractic care and

physiotherapy would in any way benefit [the Appellant] who, [Appellant's orthopedic specialist] felt, was developing chronic pain syndrome. If there were significant residual musculoligamentous pain, one would have anticipated more sensitivity to palpation and touch during examination. Also, neck rotation causing lower thoracic back discomfort, as reported by [the Appellant], is not a usual or common feature. [Appellant's orthopedic specialist] felt that, unless [the Appellant] could change his perception of pain and become more functional, he would not work at anything. Efforts should therefore be directed at making him more functional, whether through psychological chronic pain help or otherwise [Appellant's orthopedic specialist] was not prepared to say.

10. In November of 1996 [the Appellant] was referred by [Appellant's vocational rehab consultant], again with MPIC's approval, to the [rehab clinic #3], where a return-to-work plan was developed. It was anticipated that this plan would take about twelve weeks in order to get [the Appellant] back up to a forty-hour work week, assuming that all had gone reasonably well up to the eighth week. The report of [Appellant's physiotherapist], of the [rehab clinic #3], dated November 12th, 1996, notes that [the Appellant] had had extensive strengthening and stabilization exercises at the [rehab clinic #2], that he was very pain focused, but that the only objective findings were a mild decrease in range of motion of the neck, moderate tightness in his mid-back and neck muscles and general stiffness in his thoracic vertebrae. She added that "the minimal objective findings do not correlate with the subjective descriptions of his pain.

11. Following receipt of the last noted report, MPIC's adjuster wrote to [the Appellant] on November 29th, 1996, to advise him that the insurer would continue to cover the cost of one

chiropractic treatment per week throughout the duration of [the Appellant's] work hardening program, at which point there would be a re-evaluation.

12. On November 25th and 27th of 1996 [the Appellant] was also seen by [Appellant's psychologist], a clinical psychologist [text deleted]. These two sessions were followed by a further short term involvement of some six to eight sessions with [Appellant's psychologist], focusing on pain management techniques and alternative coping skills.

13. On December 5th, 1996 the [rehab clinic #3] reported that an additional four weeks of work hardening would probably be needed in order to get [the Appellant] back up to a forty-hour work week. Meanwhile, it was recommended that he not do any lifting related to his work or driving until at least the week of December 30th.

14. In January of 1997 [the Appellant] sought an internal review of the decision, reflected in the letter of November 27th, 1996 referred to above, to reduce coverage for his chiropractic treatments. The internal review hearing was not held until May 6th, 1997 and, apparently by reason of the need to collect, analyze and refer to MPIC's own consultants the various medical, paramedical and chiropractic reports that were required, the decision of the Internal Review Officer was not made until September 29th, 1997.

15. Meanwhile, [the Appellant's] file had been referred to MPIC's medical service team on June 16th, 1997. On July 22nd, 1997, [text deleted], the Medical Director of MPIC's Claims Services Department, expressed the view that [the Appellant] had definitely sustained objectively

documented spinal fractures as well as chest wall fractures. In [MPIC's doctor's] opinion, the thoracic spine is the least amenable to objective documentation of clinical pathology. There is less range of motion to the thoracic spine than through the cervical or lumbar spine and assessments tend to be more subjective than in other spinal areas. Given those factors, said [MPIC's doctor], it seemed reasonable to think that [the Appellant] might not be able to return to his pre-accident employment of long haul truck driving. He recommended that vocational efforts be made to have [the Appellant] enter the work force where there was less long haul component to his driving or where he had greater control in terms of stopping and starting. [MPIC's doctor] felt that [the Appellant] might have more benefit from working in a driver education capacity, or in a non-truck-driving capacity.

16. [The Appellant] had been receiving income replacement indemnity, commencing effectively following the first week after his accident, as well as chiropractic care from October 13th, 1994.

17. On July 29th, 1997, the [vocational rehab consulting company #2] provided MPIC with a brief history of [the Appellant's] employment from 1978 through 1997, together with a list of occupations for which, they felt, [the Appellant] might be well suited. The [vocational rehab consulting company #2] was then retained further by MPIC to proceed with a job search for [the Appellant].

18. [The Appellant's] senior adjuster at MPIC wrote to [Appellant's orthopedic specialist] again on August 21st, 1997, seeking his advice as to whether [the Appellant] had sustained any

permanent impairment. [Appellant's orthopedic specialist's] response of August 25th did not indicate any compensable, permanent impairment. More specifically, he notes that "There is certainly no evidence of neurological compromise".

19. The Internal Review Officer of MPIC, [text deleted], also sought an opinion from the Corporation's chiropractic consultant, [text deleted]. [MPIC's chiropractor's] memorandum of September 16th, 1997 recommends a maximum of two chiropractic treatments per week for a period of four months, including some specific adjustive techniques, with a reassessment at the end of that time with a view to either reducing or extending or eliminating the chiropractic component of [the Appellant's] rehabilitation. It was upon the basis of [MPIC's chiropractor's] recommendation that [MPIC's Internal Review Officer], on September 29th, 1997, allowed [the Appellant's] appeal by, firstly, extending chiropractic care for [the Appellant] by an additional four months at a frequency of two treatments per week and, secondly, directing that the Corporation reimburse [the Appellant] for any chiropractic treatments for which he had not yet been reimbursed, also to a maximum of two per week, up the date of [MPIC's Internal Review Officer's] decision.

20. Meanwhile, MPIC, through the services of [vocational rehab consulting company #2], was continuing its efforts to find alternative employment for [the Appellant] and, as well, arranging for certain computer courses for [the Appellant] to take at the [text deleted], for a total of 66 hours of training at a total cost to MPIC of $700.00. However, although [the Appellant] started the computer courses, he quit after a short while, complaining of the pain that he was experiencing from sitting at the computer station.

21. [The Appellant], who had performed volunteer work for [text deleted] from time to time before his accident, returned to that volunteer work in or about October of 1997, driving from [text deleted] to [text deleted], working as a volunteer driver for [text deleted] and then returning to [text deleted]. [The Appellant] explains his ability to do that volunteer work but his inability to continue with his computer courses by reference to the seating in his car which, he says, was much more comfortable for his back and, therefore, could be tolerated. Added to that, he said, his work at [text deleted] allowed him to change position and the movement helped his back pain; he stiffened up if he stayed in one position too long.

22. MPIC authorized the purchase of a new, special chair for [the Appellant] to use in connection with his computer courses and the [vocational rehab consulting company #2] prepared a special training schedule for him, starting with two hours per day for the first three days, then three hours, and so on, gradually increasing to six hours per day, over a period from December 3rd, 1997 to January 23rd, 1998.

23. On December 18th, 1997, [the Appellant] filed a Notice of Appeal to this Commission against the decision of MPIC's Internal Review Officer whereby his chiropractic treatments at MPIC's expense were to have been reduced in the manner described in paragraph 19 above. [the Appellant's] Notice of Appeal alleges that chiropractic care had been the most beneficial treatment for him in reducing pain, improving function, increasing range of motion and reducing the frequency of his headaches, improving sleep patterns and improving his daily living activities. He alleges that, since the frequency of his chiropractic treatments had been reduced, his condition

had been steadily worsening.

24. [Appellant's chiropractor #1] provided a narrative report to MPIC bearing date April 3rd, 1998. That report expresses the view that the occupational therapy for which [the Appellant] had attended appeared to have done more harm than good, increasing [the Appellant's] pain and decreasing his level of function, whereas chiropractic adjustments had provided rapid pain relief with supportive care and had resulted in slow, gradual improvement. [Appellant's chiropractor #1] did not feel that [the Appellant] had yet reached a plateau, and his report speaks of extensive hypomobility. [Appellant's chiropractor #1], reiterating that [the Appellant] had made slow progress under chiropractic care and that physiotherapy had not been of benefit to the patient, gave his opinion that there was ample evidence of spinal dysfunction to warrant continuing chiropractic care at a frequency of two to three times per week - occasionally even more frequently. He also felt that [the Appellant] was certain to be left with a permanent impairment relative to his thoracic spine and, at the date of [Appellant's chiropractor #1's] report, was demonstrating impairment relative to a loss of cervical and lumbosacral motion in addition to impairment related to fractured vertebrae. He recommended that retraining efforts should continue and that "effective spinal care be made available on a supportive, palliative and reconstructive basis into the future".

25. MPIC then referred [the Appellant] for an 'independent chiropractic examination' by [independent chiropractor]. [Independent chiropractor], in the course of a very extensive report to MPIC bearing date April 28th, 1998, found no signs of any progressive lesion nor any evidence of neurological deficit. He offered the opinion, supporting that of [Appellant's orthopedic

specialist], that any fractures sustained by [the Appellant] had healed by the time of [independent chiropractor's] examination. He concluded that [the Appellant] had developed chronic benign pain which was a separate condition unto itself and one which represented the first stage of chronic pain syndrome. [Independent chiropractor] described chronic benign pain as "a self-sustaining, self-reinforcing and self-generating process - not a symptom of an underlying injury but an illness unto itself". [Independent chiropractor] goes on to note that, in this condition, pain perception is enhanced with pain-related behavior being disproportionate to any underlying noxious stimulus, which has likely healed and no longer served as an underlying pain generator. While [the Appellant's] pain was certainly real, said [independent chiropractor], it had been unresponsive to treatment.

26. [Independent chiropractor] recommended that [the Appellant] should continue with home exercises. Since [the Appellant's] care to date had not provided sufficient relief to enable him to return to the workforce, and since by that time it was three and a half years post-accident, [independent chiropractor] felt that [the Appellant's] chances of returning to and maintaining his original job were almost negligible. "Any treatment at this point, which is not function-based, in my opinion, would be futile", said [independent chiropractor]. "In essence, his best form of treatment would be a return to work as this in itself would be therapeutic. After being off 3.5 years, his symptoms may very well increase initially, however I would not anticipate a deterioration physically in his condition. As for further chiropractic care, a continuance of more of the same will likely not alter his residual symptom expressions."

27. [Independent chiropractor's] report concludes with the comment that he believed [the

Appellant] to be capable of returning to the workforce, if not as a long distance truck driver than in some capacity such as dispatcher, or working in parts and inventory. He felt, therefore, that the matter of returning [the Appellant] to the workforce and or of his retraining should be pursued as soon as possible. He felt that prognosis remained guarded and, at that point, would be largely dependent upon [the Appellant] himself.

[Independent chiropractor] felt that any suggestions that continuing, supportive care might be needed should be subject to a trial period of withdrawal, to determine the necessity of such care.

28. In keeping with [independent chiropractor's] last-noted suggestion, on June 25th of 1998 MPIC's own chiropractic consultant, [text deleted], recommended a trial program of complete withdrawal by [the Appellant] from chiropractic treatments for two months, with the independent examination to take place at the conclusion of that period. [the Appellant] was advised of that decision by letter of July 22nd, with a re-assessment of [the Appellant] by [independent chiropractor] being scheduled for September 25th, 1998.

29. [the Appellant] was also examined and assessed, presumably upon a referral from [Appellant's chiropractor #1], by [text deleted], a chiropractor, on April 30th, 1998. [Appellant's chiropractor's] report to [Appellant's chiropractor #1], which for some reason does not seem to have been rendered until July 21st, 1998, contains a diagnosis of "a traumatically induced torsional sprain/strain to the cervical spine with post-concussive injury. The headaches appear cervicogenic in origin and with continued treatment should continue to subside." [Appellant's chiropractor] also finds that "the lumbopelvic region was also subjected to a torsional sprain/strain,

creating what appears to be a chronic instability in the left sacroiliac articulation with probable radicular changes stemming from the lumbar spine. There are attendant radicular changes into the upper extremities and apparent discal involvement in the dorsal, lumbar and cervical regions".

30. [Appellant's chiropractor], noting that [the Appellant] was receiving supportive care for control of his pain at the time of [Appellant's chiropractor's] examination, felt that [the Appellant] would continue to be irritated by most of his aggravations for some time to come, considering the physical impact that the accident had had upon [the Appellant's] system. [Appellant's chiropractor] said that he expected to see strengthening of the damaged muscular tissue as time progressed, formation of scar tissue along the torn ligamentous regions and neural changes with the natural process of impingement. We must note that [Appellant's chiropractor's] report seems to be at odds with those of [Appellant's orthopedic specialist] and [independent chiropractor], who found no neurological deficits.

31. As noted above, on September 29th, 1997 MPIC's Acting Review Officer had extended the number of chiropractic adjustments for which MPIC was willing to pay, for a further period of four months at a frequency of two per week, and also authorized payment for any previous treatments that had not already been paid for, limiting those to two per week. In fact, MPIC continued to pay for chiropractic treatments for [the Appellant] at a frequency of two per week until July 22nd, 1998, when [the Appellant's] Adjuster had written to tell him that, following the advice of MPIC's consultants, a trial period of two months of total withdrawal from chiropractic treatments would be instituted.

32. When [the Appellant] attended for re-examination by [independent chiropractor] on September 25th, 1998, it was apparent that the recommendation of [independent chiropractor] and [MPIC's chiropractor] that chiropractic treatments be discontinued for a trial period of two months had not, in fact, been followed. [The Appellant] had seen [Appellant's chiropractor], as noted above, and had also seen his new family physician, [text deleted], who had apparently advised him to "find a job that he could handle". However, [the Appellant] had continued to see [Appellant's chiropractor #1] about twice a week until August, when he did discontinue chiropractic treatments for three weeks only. He then recommenced chiropractic adjustments with [Appellant's chiropractor #1], on an average of twice a week. [The Appellant] felt, by September 25th of 1998, that he had improved to a fairly substantial degree. [Independent chiropractor] saw no reason to change his original diagnosis and had no further recommendations to offer. He felt that [the Appellant's] best form of rehabilitation would be a return to the workforce, possibly in a self-employed capacity and, to the extent practicable, in work similar to that to which [the Appellant] had been accustomed prior to his accident. [Independent chiropractor] felt that [the Appellant] had reached maximum therapeutic benefit in the context of chiropractic care and that ongoing care of that nature would not resolve his residual symptom expressions. [Independent chiropractor], while questioning the necessity for care at a frequency of one to two times per week, felt that the necessity for supportive care had yet to be established and that this aspect of [the Appellant's] rehabilitation should be reviewed by MPIC's in-house consultant.

THE ISSUE:

33. The issue before us is whether MPIC is responsible for continuing chiropractic care of [the

Appellant] beyond July 22nd, 1998.

DISCUSSION:

34. The Clinical Guidelines for Chiropractic Practice in Canada, being the proceedings of a consensus conference commissioned by the Canadian Chiropractic Association and held in April of 1993 were adopted not only by the Canadian Association but, more specifically, by the Manitoba Chiropractors' Association. It must be emphasized, of course, that Guidelines are just that, and no more; their recommendations are not binding rules of conduct. On the other hand, having been prepared by a highly respected group of practitioners, those recommendations must be accorded a fair amount of weight. [Appellant's chiropractor #1] testified that he does not agree with the Clinical Guidelines - "I don't base my care on those guidelines but what I see in my patient with my own perception of his rate of improvement". The fact is, however, that [the Appellant] appears to have received something well in excess of 500 chiropractic manipulations since October 13th, 1994. The evidence of [Appellant's chiropractor #1] was that his chiropractic care consisted of "specific spinal adjustments of involved aberrant spinal motor units, primarily in the thoracic spinal and cervical spine and secondarily in the sacroiliac articulations". He reports that "mobilization and adjustment of the right glenohumeral joint and associated soft tissues" had been required to reduce pain and maintain function of the right shoulder.

35. [Appellant's chiropractor #1] and [Appellant's chiropractor] both refer to the course of treatments that [the Appellant] has been receiving for some time past as 'supportive care', which is defined by the Clinical Guidelines as necessary treatment/care for patients who have reached

maximum therapeutic benefit, and for whom periodic trials of therapeutic withdrawal have led to deterioration and failure to sustain previous therapeutic gains. This form of care is initiated when the clinical problem recurs.

36. From that definition, it seems clear that [the Appellant's] caregivers have unanimously concluded that he had, indeed, reached maximum therapeutic benefit. The recommendations of [independent chiropractor] and [MPIC's chiropractor], advocating a complete withdrawal from chiropractic treatments for a period of two months, are in line with the foregoing definition of supportive care but, as we have noted earlier in these reasons, do not seem to have been given full effect. Until that trial has been conducted and [the Appellant] properly reassessed at its conclusion, there is not in our opinion sufficient evidence to warrant the continuance of supportive care beyond the date when MPIC discontinued paying for it, namely July 22nd, 1998.

37. It is clear that [the Appellant] presents as a complicated case, defined, by the Clinical Guidelines as

> a case where the patient, because of one or more identifiable factors, exhibits regression or delayed recovery in comparison with expectations from the natural history.

38. However, it is clear that treatments of the frequency and over the period of time reflected in [the Appellant's] case raise a very real risk of chronicity or the development of dependency. As the Clinical Guidelines express it: "treatment/care can be more rationally based and be shown to

have therapeutic need when the natural history and modifying factors from the patient's lifestyle and environment are considered".

39. It is our understanding that MPIC's external consultants are continuing their efforts to find suitable employment for [the Appellant], commensurate with any vestigial problems from which he might still be suffering as a result of his accident. We are of the view that these efforts, if they result in his successful placement in new employment, will provide the best possible therapy, enabling [the Appellant] to become less pain focused and, to put it in the vernacular, to get on with his life. This is not to say that he may not need some continuing measure of supportive, chiropractic care, but the need for that has not yet been determined because an adequate period of total withdrawal has yet to be tried. The evidence indicates that, during the first few weeks following such total withdrawal, [the Appellant] may well experience a greater degree of discomfort than he finds acceptable, but it will be necessary for him to work through that in the expectation that he may emerge from that trial period with a heightened awareness of his own abilities and a lessened consciousness of pain.

40. In the context of potential employment, it was never made clear to us whether [the Appellant] had, in fact, completed the computer courses upon which he had embarked but which were interrupted by his apparent, physical discomfort. We do know that MPIC authorized the purchase of an more ergonomically suitable chair for [the Appellant's] use in pursuing those courses, but if he has not taken full advantage of that opportunity, the expense for which has also been approved, he should most certainly do so now.

DISPOSITION:

41. In sum, then, while MPIC is continuing its efforts, through its outside consultants, to complete suitable training and to find appropriate employment for [the Appellant], and while MPIC is apparently continuing to pay him income replacement indemnity, we are not satisfied, upon the evidence, that continued chiropractic care past July 22nd, 1998 is a necessary factor in his rehabilitation. That, in our view, is something that can only be determined after a total withdrawal of chiropractic treatments for a period of two months, followed by a detailed and independent reassessment. If that is to take place, our recommendation would be that the further reassessment be conducted by someone other than [independent chiropractor]. This comment does not imply, in any way at all, a criticism of [independent chiropractor] nor a lack of faith in his judgment. Rather, we emphasize the importance to [the Appellant] that any further reassessment not only be independent, but be seen by him to be independent and not 'tainted' by the previously expressed views of the assessing chiropractor.

42. For the foregoing reasons, we are obliged to dismiss [the Appellant's] appeal, subject to his right to reapply through his Adjuster for the resumption of chiropractic care if, following the period of withdrawal and subsequent reassessment referred to above, that resumption is perceived to be medically necessary.

Dated at Winnipeg this 7th day of December 1998.

J. F. REEH TAYLOR, Q.C.

LILA GOODSPEED

F. LES COX