Manitoba

Automobile Injury Compensation Appeal Commission

IN THE MATTER OF an Appeal by [the Appellant]
AICAC File No.: AC-02-40

PANEL:	**Mr. Mel Myers, Q.C., Chairman** **The Honourable Armand Dureault** **Mr. Wilson MacLennan**
APPEARANCES:	**The Appellant, [text deleted], appeared on his own behalf; Manitoba Public Insurance Corporation ('MPIC') was represented by Mr. Terry Kumka.**
HEARING DATE:	**November 26, 2002 and December 22, 2003**
ISSUE(S):	**Entitlement to reimbursement for cost of Epidural Steroid Injection Treatments**
RELEVANT SECTIONS:	**Section 136(1)(a) of the Manitoba Public Insurance Corporation Act ('MPIC Act') and Section 5 of Manitoba Regulation M.R. P215 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 the driver of [vehicle #1] which was struck by [vehicle #2] when the other driver failed to stop at a red light. On October 29, 1998, approximately six and one-half weeks after the accident, the Appellant was assessed by [text deleted], a chiropractor. [Appellant's chiropractor #1], in his Initial Report to MPIC dated November 2, 1998, diagnosed a lumbar sprain/strain syndrome and a minor neck strain. [Appellant's chiropractor #1] anticipated six to eight months of in-clinic care at the rate of 3x/week for the first three weeks, 2x/week for the

next four weeks, and 1x/week for the next four weeks. The Appellant attended for treatments on November 2, 3 and 12, 1998 and stopped attending treatments for almost three months before re-attending for treatments on February 5 and 12, 1999 and then proceeded to have a further three treatments in the month of March 1999 and one more in April 1999.

On March 30, 1999 [Appellant's chiropractor #1] submitted a treatment plan to MPIC which referred to chronic low back pain and dorsolumbar pain. This plan called for eight months of treatment, at a declining frequency, with an estimated discharge of November 1999. This plan was approved by the MPIC case manager in a letter dated April 8, 1999.

Unfortunately, the Appellant was involved in a serious injury at work and the Appellant did not resume chiropractic treatments until June 15, 2000 and in the month of June attended six times, four times in the month of July and twice each in the months of August and September, 2000. The Appellant had knee surgery on September 15, 2000 and again stopped attending for chiropractic treatments while recovering from knee surgery. In October 2001 the case manager agreed to fund a chiropractic assessment but did not commit to funding a course of chiropractic treatment. [Appellant's chiropractor #2] assessed the Appellant and recommended treatments at the rate of 3x/week for two to three weeks "*reducing care according to findings*".

The case manager requested [text deleted], Chiropractic Consultant, MPIC Health Care Services Team, to review [Appellant's chiropractor #2's] treatment plan. [MPIC's chiropractor] provided an Inter-Departmental Memorandum to the case manager dated October 24, 2001 wherein he indicated that, after reviewing the medical file, in his opinion there was insufficient information to establish a cause/effect relationship between the Appellant's current symptoms and the motor vehicle accident in question.

The case manager, upon receipt of [MPIC's chiropractor's] Inter-Departmental Memorandum, wrote to the Appellant by letter dated October 31, 2001 and indicated that:

(a) [Appellant's chiropractor #2's] request for treatment as outlined in his treatment plan report dated October 18, 2001, together with the Appellant's entire medical package, had been reviewed by MPIC's Health Care Services Team.
(b) This review indicated there was little evidence to support a causal relationship between the Appellant's current symptoms and the motor vehicle accident.
(c) As a result, the case manager indicated that MPIC would not fund any chiropractic treatments effective November 2, 2001.

The Appellant made Application for Review, dated November 22, 2001. The Internal Review hearing took place on January 15, 2002 and the Internal Review Officer issued his decision on January 15, 2001. In this decision the Internal Review Officer confirmed the case manager's decision and rejected the Appellant's Application for Review. In arriving at his decision the Internal Review Officer stated:

DISCUSSION & RATIONALE FOR DECISIONS

There are two conditions which must be met before MPI becomes obligated to reimburse a claimant for expenses incurred for medical or paramedical care:

1. the expenses must have been incurred because of the accident (i.e. the treatments must have been directed towards an injury sustained in the accident) in accordance with Section 136(1)(a) of the *Act* (copy enclosed); and

2. the treatment must have been "medically required" in accordance with Section 5 of Manitoba Regulation MR P215-40/94 (copy enclosed).

I am satisfied that your low back complaints had their origin with the accident but, notwithstanding the lack of treatment in the intervening years, I have difficulty accepting that your current complaints are accident-related.

It has been well-established that soft tissue injuries of this nature heal over time, even without any specific treatment at all.

On the issue of medical necessity, the Clinical Guidelines for Chiropractic Practice in Canada indicate that, in complicated 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.
>
> In mid-2000, you attended for almost two months of treatment before advising the case manager on August 10, 2000 that you had not realized any improvement whatsoever from the treatments.
>
> There is no indication in the reports that your condition has improved to any appreciable degree in spite of the fact that you have attended for at least twenty-five chiropractic treatments since the accident.
>
> I note also that you:
>
> (a) did not seek chiropractic treatment for more than 6 weeks after the accident;
>
> (b) attended three times in 10 days in November, 1998;
>
> (c) did not re-attend for another 2 ½ months; and,
>
> (d) then attended a total of 6 times over the next 2 months.
>
> Given this history, I have difficulty accepting the submission that chiropractic treatments are "medically required" within the meaning of the PIPP legislation at this time. I am satisfied that MPI has fulfilled its funding obligations in terms of chiropractic treatment.

The Appellant filed a Notice of Appeal on March 21, 2002.

Prior to the appeal hearing the Commission received a medical report from [text deleted], Orthopedic Surgeon, [Appellant's chiropractor #2], and [text deleted], Chiropractic Consultant. [Appellant's chiropractor #2], in his Narrative Report dated August 21, 2002, details the history of the Appellant's presentation to both [Appellant's chiropractor #1] and [Appellant's chiropractor #2]. [Appellant's chiropractor #2] further indicates that the Appellant presented himself to him on June 2, 2002 complaining of the same symptoms he had complained about in the past and [Appellant's chiropractor #2] concluded that the Appellant's complaints in respect of his low back were related to the September 14, 1998 motor vehicle accident.

[Appellant's orthopedic surgeon], in his Narrative Report dated June 13, 2002, after detailing his history with respect to treating the Appellant, states that in his opinion the ongoing back pain is unrelated to the motor vehicle accident in question.

[MPIC's chiropractor], after reviewing all of the medical reports on the MPIC file, including the reports of [Appellant's orthopedic surgeon] and [Appellant's chiropractor #2], concluded that it remained his opinion that the medical file does not establish a probable cause/effect relationship between the Appellant's necessity for care in 2001 and the motor vehicle accident of three years prior. [MPIC's chiropractor] further indicated that the current information from [Appellant's orthopedic surgeon] and [Appellant's chiropractor #2] did not provide any additional information to change his previously rendered opinion.

Appeal Hearing – November 26, 2002

The appeal hearing commenced on Tuesday, November 26, 2002. The Appellant appeared on his own behalf and Mr. Terry Kumka was legal counsel for MPIC. At the commencement of the hearing the Appellant indicated that he had arranged for an appointment with [Appellant's physiatrist] in respect of his back problems and was seeking [Appellant's physiatrist's] advice as to the manner in which he should deal with his back problems. Upon receipt of that information the Commission determined that the proceedings would be adjourned pending receipt of [Appellant's physiatrist's] medical report.

On May 23, 2003 [Appellant's physiatrist] provided a report to the Commission which indicated that [Appellant's physiatrist] had been treating the Appellant in respect of his right knee injuries that he suffered on April 9, 1999 unrelated to the motor vehicle accident. [Appellant's

physiatrist] further stated that he assessed the Appellant in respect of his back problems on January 21, 2003 and concluded:

> In summary, in the motor vehicle accident of September 14, 1998 most likely [the Appellant] suffered flexion/extension or rotational injury to his thoracolumbar spine complicated by intercostal muscle strain, lumbar muscle strain and possible disc tear/herniation. Historically and clinically and on neuroradiological investigations, he has left L4-5 disc herniation causing irritation of the left L5 nerve root. With the conservative treatment including chiropractic manipulation, rest, analgesics and non-steroidal anti-inflammatory medications, he has not made a recovery from these injuries.
>
> He would benefit from transforaminal epidural and nerve root blocks under fluoroscopy to relieve the nerve root inflammation and pain. This should be followed by dynamic lumbar stabilization exercises to improve his strength, posture of the spine and endurance of the paraspinal, hip girdle and lower extremity muscles.

This report was forwarded by the Commission to MPIC's legal counsel who referred [Appellant's physiatrist's] report to [text deleted], Medical Director, MPIC's Health Care Services Team, for his review and comment.

[MPIC's doctor], in an Inter-Departmental Memorandum dated June 23, 2003, concludes:

> **MEDICAL CAUSALITY ASSESSMENT**
>
> The purported cause for the patient's problem at this time is the motor vehicle collision in question.
>
> The purported effect is chronic mechanical thoracolumbar pain with both a myofascial and a discogenic component.
>
> Given that the patient has seen numerous caregivers, there is rarely 100% agreement in spinal assessment. Despite this, there has been a consistency of complaint on behalf of [the Appellant] with chronic thoracolumbar pain which appears to be left-sided and which appears to have had some left-sided radiation and a straight leg raise test that has been weakly positive on multiple occasions. The patient does not have a previous history of difficulties.
>
> The purported cause would have involved some flexion in side bending as he reached across to protect his daughter who was not seatbelted in the same collision.

> The patient's physical findings have been relatively consistent given the numerous caregivers who have assessed him. There has not been a consistent description of recovery, based on my review of the patient's symptoms.
>
> The patient had a dislocated patella, apparently requiring casting and crutches. While this would put a load on a patient's spine due to the crutch walking, it would appear that if it did anything, it would likely enhance the problem which was pre-existing.
>
> In my opinion, on the balance of probability, there is a cause/effect relationship between the patient's lumbar symptoms diagnosed as a muscle strain and the collision in question. (underlining added)
>
> With regard to the issue of treatment, there are no hard neurologic signs documented by any of the caregivers. Transforaminal epidurals, in my opinion, work best when there is obvious segmental involvement with blunting of a reflex, myotome loss, dermatome loss, and more provocative dural stretch testing. Such findings have not been documented in [the Appellant]. The disc herniation is described as very small, and in my opinion, cannot be taken to represent the patient's pain generator. Therefore, in my opinion, the treatment plan described by [Appellant's physiatrist] cannot be viewed as a medical requirement. I do think the stabilization program described by [Appellant's physiatrist] can be described as medical requirement. (underlining added)

MPIC's legal counsel, in a letter to the Commission dated July 25, 2003, indicated:

> Further to our discussion of July 23, 2003, this confirms that, in accordance with the Inter-Departmental Memorandum of [MPIC's doctor] dated June 23, 2003 the Corporation is prepared to provided *(sic)* funding for a lumbar stabilization program. In that regard the claimant should contact the Case Manager in order to finalize the details with respect to same.
>
> It is the Corporation's position, as previously indicated at the hearing, that further chiropractic coverage is not medically required. Based upon [MPIC's doctor's] review, it is the Corporation's position that the epidural and nerve root block treatment proposed by [Appellant's physiatrist] (other than the lumbar stabilization program) is not medically required on account of injuries arising out of the motor vehicle accident in question.
>
> I would be pleased to attend a continuation of the hearing if it is deemed necessary by the Commission.

The Commission wrote to [Appellant's physiatrist], dated July 29, 2003, enclosing a copy of [MPIC's doctor's] Inter-Departmental Memorandum dated June 23, 2003 and requested

[Appellant's physiatrist] to review and comment on [MPIC's doctor]'s Memorandum. In this letter the Commission stated:

> . . . . . In this Memorandum [MPIC's doctor] is of the view that the treatment plan which you proposed on page 4 of your report is not medically required having regard to the injuries that the Appellant sustained in the motor vehicle accident of September 14, 1998. [MPIC's doctor] does, however, agree that the stabilization program as described by you in your report can be described as a medical requirement.
>
> As a result, MPIC is prepared to provide funding for a lumbar stabilization program but is not prepared to fund the epidural and nerve root block treatment that you have proposed on the grounds that it is not medically required having regard to the injuries arising out of the motor vehicle accident in question.
>
> The Commission would ask you to review [MPIC's doctor's] report and advise whether you agree with his opinion in respect of the eqidural and nerve root block treatment that you have proposed or whether you believe that this treatment is medically required in regard to the injuries [the Appellant] sustained in the motor vehicle accident in question. If you are of the view that such treatment is medically required would you kindly set out your reasons for this position.

[Appellant's physiatrist] provided his report to the Commission by letter dated September 25, 2003 wherein he sought to rebut [MPIC's doctor's] opinion that [Appellant's physiatrist's] treatment plan was not a medical requirement. [Appellant's physiatrist] stated:

> [The Appellant] injured his back in the motor vehicle accident of September 4, 1998 and his symptoms of back pain and radicular pain has been consistent. The CT scan on the lumbosacral spine was done on May 13, 2003, 4 ½ years after the accident and showed a small left sided L4-5 foraminal type disc herniation. In my opinion, if the CT scan or MRI of the spine was done immediately after the accident, it probably would have shown a large disc herniation with extrusion as the disc herniation material has extended in the left L4-5 foramen. Looking at the natural history of disc herniation, usually it subsides with time and even if it looks normal after several years on a CT scan i.e. it does regress. The CT scan of the lumbosacral spine on May 13, 2003 showed a small left sided L4-5 foraminal type disc herniation indicating that still the disc material is present in the foramen and is causing irritation of the nerve root. When there is irritation of the nerve root, most of the time we do not find any dermatomal, myotomal or stretch reflex abnormalities. He still has positive straight leg raising test indicating that there is still nerve root irritation and that is a sufficient sign to indicate that there is a nerve root irritation and there is possibly nerve root inflammation. Studies have shown post disc herniation and extrusion, the phosphorylase A2 (PLA2) is locally produced from the disc which is highly inflammatory and can cause inflammation of the nerve root. PLA2 to further place role in the mediation of inflammation through the production of prostaglandins, leukotrienes and 15 lipoxygenase products. These chemical mediators

> become the common source of inflammation of the nerve root/irritation and this leads to constant nerve root and radicular pain.[1]
>
> To control and reduce the inflammation of the nerve roots, epidural corticosteroid injections can reduce inflammation of the nerve root and control the radicular referable pain, therefore, dramatically shortening the pain control phase of treatment and allowing a prompt initiation of exercise training. The purpose of the dynamic muscular stabilization program is to improve soft tissue flexibility and joint range of motion, to achieve maintenance of neutral spine posture and a strengthening exercise program including abdominal muscles, paraspinal and hip girdle muscles. On tolerance of this program, the program is advanced to level two which includes weight training, aerobic and anaerobic training to achieve total fitness. With this aggressive treatment approach, there has been 85-90% good to excellent outcomes.[2]
>
> On the basis of review of the literature and my practice based evidence, I still feel that he would benefit from epidural corticosteroid injection followed by dynamic lumbar stabilization exercise with the hope to relieve his radicular pain and restore his spinal function. (underlining added)

Upon receipt of [Appellant's physiatrist's] report, MPIC's legal counsel requested [MPIC's doctor] to review and comment upon this report. [MPIC's doctor] provided an Inter-Departmental Memorandum to MPIC's legal counsel, dated October 20, 2003 and stated:

> I agree with [Appellant's physiatrist] that epidural steroids can provide analgesic and anti-inflammatory effects, reduce spinal stiffness, and facilitate active therapy. The literature indicates that early intervention with injection appears to be more efficacious than more delayed techniques. In my opinion, in this case, the described epidural is elective. In my view, epidurals are always elective. They can never be described as required. The only required spinal interventions, in my opinion, are when there is evidence of progressive neurologic loss. This should be distinguished from the concept of whether this is a reasonable undertaking. In a patient with chronic spinal axial pain, and some features of radiation down the leg, it is reasonable to undertake an epidural steroid injection. In the United States, many practitioners use epidural injections for simple axial spinal pain. In my opinion, the reason that such investigations need to be considered elective, is that the natural history of discogenic pain is typically good with most patients recovering over several months. There are also some serious potential side effects to epidural steroid injection which, although rare, can have devastating consequences. The more significant consequences include spinal headache, local or

[1] Neck and Back Pain, State of the Art Reviews, Physical Medicine and Rehabilitation, Intervertebral Disc Herniation, Advances in Non-Operative Treatment by Jeffrey A. Saal, MD, from the San Francisco Spine Institute, Daly City, California, Physical Medicine and Rehabilitation State of the Art Reviews, Volume 4, #2, June 1990, pp 175-190.

[2] The Role of Inflammation in Lumbar Pain by Joel S. Saal, MD, Physical Medicine and Rehabilitation State of the Art Reviews, Volume 4, #2, June 1990, pp 191-199.

> epidural infection, bleeding, nerve injury, transient numbness or weakness, contrast reaction, adrenal suppression, fluid retention, and a diverse array of other disorders.[1]
>
> **SUMMARY**
> My opinion, as expressed in my Inter-Departmental Memorandum of June 23, 2003 stands. In my view, the application of epidural steroid injections, transforaminal or otherwise is always elective. In my view, it can never be described as medically required. It is, however, a reasonable therapeutic undertaking, and in my view, more reasonable when there is frank radiculopathy. It is less reasonable, in my opinion, when there is more prominent axial pain than radicular pain. [The Appellant's] case seems to be characterized by axial pain than radicular pain.

On October 30, 2003 MPIC's legal counsel wrote to the Commission enclosing a copy of [MPIC's doctor's] Inter-Departmental Memorandum dated October 20, 2003 and indicated that [MPIC's doctor's] review supports MPIC's ongoing position that the epidural steroid injections are not medically required on account of the injuries arising out of the motor vehicle accident of September 14, 1998. MPIC's legal counsel also indicated that there may be an ongoing jurisdiction issue given that the appeal issue before the Commission related to the entitlement of funding for the Appellant's chiropractic treatments after November 2, 2001. As a result, MPIC's legal counsel indicated a desire to speak to a member of the Commission with respect to the next step in the proceeding.

On November 7, 2003 [text deleted], the Director of Appeals, wrote to the Appellant and MPIC's legal counsel confirming that both of these parties had waived their respective rights requiring MPIC to render a decision in respect of the Appellant's entitlement to the treatment proposed by [Appellant's physiatrist] and both parties indicated they had no objections to the Commission making a decision in regard to this issue.

[1] Invited Review: Epidural Steroid Injections: Past, Present and Future. Chen, W. Derby, R. Kim, B.J. and Lee,

Appeal Hearing – December 22, 2003

The appeal hearing reconvened on December 22, 2003 and the Commission heard submissions from both the Appellant and Mr. Kumka on the issue as to whether or not the epidural steriod injections proposed by [Appellant's physiatrist] were medically required to treat the Appellant's injuries arising out of the motor vehicle accident of September 14, 1998.

The legislation governing reimbursement to the Appellant by MPIC for medical treatment is set out in Section 5(a) of Manitoba Regulation 40/94 and provides:

> **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;

During the course of making his submission the Appellant indicated, prior to the appeal hearing on December 22, 2003, [Appellant's physiatrist] had commenced the epidural steroid injection treatments and, as a result of receiving this treatment, the Appellant stated that his chronic back pain had been reduced and he was feeling better. The Appellant submitted that his health had improved and, therefore, the epidural steroid injections were medically required to treat his motor vehicle accident back injuries of September 14, 1998.

Not surprisingly, MPIC's legal counsel submitted that the Commission should reject the medical opinion of [Appellant's physiatrist] in respect of his proposed treatment plan and accept the medical opinion of [MPIC's doctor]. Relying on [MPIC's doctor's] Inter-Departmental

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S.H., Spine Line, Official Journal of the North American Spine Society; July/August 2003.

Memorandum dated October 20, 2003, MPIC's legal counsel argued that the epidural steroid injections were elective and could never be described as medically required. As a result of a discussion with members of the Commission, MPIC's legal counsel indicated he wished an adjournment in order to obtain clarification from [MPIC's doctor] in respect of [MPIC's doctor's] submission that the epidural steroid injections were elective and, therefore, could not be described as medically required.

The Appellant had no objection to MPIC seeking clarification from [MPIC's doctor] and the Commission adjourned the hearing for that purpose.

On January 5, 2004 MPIC's legal counsel wrote to the Commission and stated:

> Further to the recent hearing, this confirms that I have now had the opportunity to discuss this matter with [MPIC's doctor]. In that regard I am advised that the definition of "Medically Required" is:
>
> > "A treatment, procedure or device that is:
> >
> > i. dispensed by an authorized practitioner (MD, DC, DMD, physiotherapist, registered psychologist or athletic therapist) or that is prescribed by a physician; and
> >
> > ii. is essential for the treatment of the claimant's accident-related condition or the rehabilitation of the claimant from the accident-related condition; and
> >
> > iii. is generally accepted according to the reasonable prevailing standards of the discipline representing a practitioner who is dispensing or prescribing the treatment, procedure or device as an effective, appropriate method of treatment of the accident-related condition or a rehabilitation from the effects of that condition".
>
> [MPIC's doctor's] reference to the term "elective" in his Memorandum of October 20, 2003 is that the proposed treatment is "not essential".
>
> Therefore in accordance with the detailed reasons outlined by [MPIC's doctor] in his Inter-Departmental Memorandum of October 20, 2003 which were outlined during the course of the recent hearing, it remains the position of Manitoba Public Insurance that the proposed treatment is not medically required.

The Commission notes that the above mentioned definition of "medically required" is set out in MPIC's policy manual.

Discussion

The Commission notes that both doctors concur that the medical complaints of the Appellant are causally connected to the motor vehicle accident but [MPIC's doctor] disagrees with [Appellant's physiatrist] in respect of the epidural steroid injection treatment proposed by [Appellant's physiatrist].

Based on [MPIC's doctor's] medical opinion MPIC takes the position that the treatment proposed by [Appellant's physiatrist] is not medically required pursuant to Section 5(a) of Manitoba Regulation 40/94 and, therefore, MPIC is not obligated to reimburse the Appellant for any treatment expenses in this respect. On the other hand, based on [Appellant's physiatrist's] opinion, the Appellant asserts that the treatment proposed by [Appellant's physiatrist] is medically required pursuant to Section 5(a) of Manitoba Regulation 40/94.

The Appellant, at the appeal hearing, submitted that he had been receiving epidural steroid injections from [Appellant's physiatrist] and, as a result, his chronic back pain had been reduced and his back condition had improved. The Commission finds that the Appellant testified in a direct and candid fashion and determines that the Appellant is a credible witness. The Commission accepts the Appellant's submission in respect of the positive effect of the epidural steroid injection treatments that he received from [Appellant's physiatrist].

[Text deleted], who is an experienced physiatrist, personally examined and treated the Appellant and his medical opinion is based on this personal contact with the Appellant. Unfortunately,

[MPIC's doctor], who is also an experienced medical practitioner, did not have the opportunity of examining or treating the Appellant and, as a result, his medical opinion is based on a paper review of the Appellant's MPIC medical file. In these circumstances the Commission gives greater weight to the medical opinion of [Appellant's physiatrist] than it does to the medical opinion of [MPIC's doctor] as to the medical requirement of the epidural steroid injection treatments for the Appellant's back problems.

Having regard to [Appellant's physiatrist's] personal contact and treatment of the Appellant, he was in a better position than [MPIC's doctor] to determine the credibility of the Appellant. [Appellant's physiatrist's] medical opinion that the epidural steroid injection treatments were medically required corroborates the Appellant's submission that this treatment is curing him.

Decision

The Commission therefore determines, on the balance of probabilities, that for the reasons set out above the epidural steroid injection treatments are medically required in respect of the treatment for the Appellant's back problem, pursuant to Section 5(a) of Manitoba Regulation 40/94. The Commission finds that the Appellant is entitled to reimbursement of the cost of epidural steroid injection treatments and the decision of the Internal Review Officer, dated January 15, 2002, is, therefore, varied accordingly.

Dated at Winnipeg this 15 day of January, 2004.

MEL MYERS, Q.C.

HONOURABLE ARMAND DUREAULT

WILSON MACLENNAN