

Automobile Injury Compensation Appeal Commission

**IN THE MATTER OF an Appeal by [the Appellant]
AICAC File No.: AC-07-41**

PANEL: Ms Laura Diamond, Chairperson
Ms Sharon Macdonald
Ms Mary Lynn Brooks

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

HEARING DATE: January 15, 2008

ISSUE(S): Whether there is a relationship between the Appellant's
blood pressure and breathing problem and the motor vehicle
accident which would entitle her to reimbursement for
medical expenses relating to those issues.

RELEVANT SECTIONS: Section 136 of the Manitoba Public Insurance Corporation
Act ('MPIC Act') and Section 5 of Manitoba Regulation
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 injured in a motor vehicle accident on August 6, 2005. She sustained injuries to her jaw and neck, as well as down her spine to her sacrum, hips, legs, and arms. The Appellant was assessed and treated by her family doctor for injuries of a soft tissue nature.

The Appellant was also assessed by a Chiropractor, [text deleted] who reported, on May 9, 2006 that the Appellant had multiple spinal level strain/sprain injuries due to spinal whiplash.

Although the Appellant initially was reluctant to undertake chiropractic treatment, she later found it to be very helpful.

The Appellant also experienced breathing problems and high blood pressure. Her family doctor treated these problems with medication.

The Appellant sought reimbursement from MPIC for expenses in connection with chiropractic care, travel expenses and medication expenses. Her case manager found, on September 7, 2006, that there was insufficient evidence to support a causal relationship between her current signs/symptoms and the motor vehicle accident.

The Appellant sought an internal review of this decision. An Internal Review officer, on March 19, 2007, found that the chiropractic care which the Appellant undertook was medically required, and that the Appellant had established an entitlement to funding for chiropractic treatment and any related travel expenses.

However, the Internal Review officer agreed with an opinion provided by [text deleted], MPIC's Chiropractic Care Health Consultant, that there does not appear to be a relationship between the Appellant's blood pressure and breathing problems and the accident, so that the Appellant should not be reimbursed for any medical expenses relating to those issues.

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

Evidence and Submission for the Appellant

The Appellant and her husband testified at the hearing into her appeal. She described the impact of the motor vehicle accident upon her. She described that she had a very sore throat, with soft tissue injuries, coughing , and pain, which led to her having difficulty sleeping and a good deal of exhaustion.

The Appellant indicated that she had previously been healthy and enjoyed a good quality of life.

She explained that she appreciated the assistance of her case manager, who suggested that she see a chiropractor. With this treatment, she found relief, with some relief for the pain in her throat.

The Appellant described her difficulties with coughing. She indicated that in January of 2006 she reported to the [text deleted] Hospital Emergency Room in this regard. It was there that they found that her blood pressure was “out of control”. The Appellant argued that the motor vehicle accident caused or worsened her high blood pressure condition.

Following treatment for this, and for her coughing, she went back to the chiropractor for further treatment. Her health did eventually improved, but she is still taking the blood pressure medication. She is seeking reimbursement for her high blood pressure medication as well as antibiotics which she was prescribed for her sore throat.

Submission for MPIC

Counsel for MPIC noted that the issue before the Commission in this appeal has been narrowed to the issues of whether or not MPIC was responsible for reimbursing the Appellant for her blood pressure medication and for a course of antibiotics prescribed by her doctor.

In regard to the blood pressure medication, counsel for MPIC noted [Appellant's doctor's] report of August 15, 2006. [Appellant's doctor] reported on the injuries sustained in the motor vehicle accident, which were "of a soft tissue type involving the muscles and ligaments of the paraspinals affecting the cervical greater than the thoracic-lumbar regions."

There is no report in his letter regarding the Appellant's blood pressure, or its connection to the motor vehicle accident.

Counsel also relied upon a report of [text deleted], MPIC Health Care Consultant, dated September 21, 2007. [MPIC's doctor] reviewed the medical information in the Appellant's file, including the Appellant's high blood pressure. [MPIC's doctor] concluded that there was no indication that the Appellant's soft tissue injuries had affected her blood pressure readings or that her high blood pressure was caused by the motor vehicle accident.

Counsel for MPIC submitted that although the Appellant and her husband were of the view that the high blood pressure was connected to the motor vehicle accident, the Commission should prefer the evidence of [MPIC's doctor], as a trained physician.

Thus, she submitted, the evidence before the Commission was that the Appellant's high blood pressure was a result of a pre-existing condition and was purely coincidental with the motor

vehicle accident. There was no physiological explanation connected to the motor vehicle accident which would account for the Appellant's high blood pressure. Accordingly, MPIC should not be responsible for reimbursing her for her blood pressure medication.

In regard to the antibiotics prescribed by the Appellant's physician, counsel for MPIC submitted that it was clear that this prescription was not related to the motor vehicle accident. She submitted that this was an issue between the Appellant and her health care practitioner and not a question of reimbursement by MPIC.

Discussion

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.

Reimbursement of expense paid by other person

136(2) A person who pays an expense referred to in subsection (1) on behalf of a victim is entitled to reimbursement of the expense.

Manitoba Regulation 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, on a balance of probabilities, that she should be reimbursed for her blood pressure and antibiotic medication, because the need for them was a result of the motor vehicle accident.

The panel has reviewed the evidence of the Appellant and her husband, as well as the evidence on the file and the submissions of the parties. We agree with counsel for MPIC that the requirement for the Appellant's antibiotic prescription was not connected to the motor vehicle accident.

The panel also finds that, on a balance of probabilities, the Appellant's high blood pressure was the result of a pre-existing condition. We agree with counsel for MPIC that the Appellant has failed to meet the onus upon her of showing that her high blood pressure was caused by the motor vehicle accident. Her physician, [text deleted], made no reference to respiratory disturbance or increased difficulty in controlling the Appellant's established hypertension as being a result of the motor vehicle accident in this regard. He referred only to her soft tissue injury involving the muscles and ligaments of the paraspinals and affecting the cervical greater than the thoracic-lumbar regions.

The panel agrees with the conclusions of [MPIC's doctor] in her opinion dated September 21, 2007. [MPIC's doctor] stated:

The claimant's blood pressure measurements in the Emergency Department were documented to be abnormally high by the attending physician. Repeat measurements by her family physician in the month following the motor vehicle collision also demonstrated elevated blood pressure readings. Most commonly, there are no symptoms

associated with elevations in blood pressure thus, usually it is impossible to determine when a deterioration in control of blood pressure occurred. There is no physiologic explanation to account for the deterioration in the claimant's blood pressure control (which happened to be detected on measurement following the motor vehicle collision) that relates to the claimant's collision-related injuries. The relationship between worsening hypertension and the motor vehicle collision, on the balance of probabilities, is coincidental.

Accordingly, we dismiss the Appellant's appeal and confirm the decision of MPIC's Internal Review Officer dated March 19, 2007.

Dated at Winnipeg this 26th day of February, 2008.

LAURA DIAMOND

SHARON MACDONALD

MARY LYNN BROOKS