

**Automobile Injury Compensation Appeal Commission**

**IN THE MATTER OF an Appeal by [the Appellant]**  
**AICAC File No.: AC-07-16**

**PANEL:** Ms Yvonne Tavares, Chairperson  
Ms Sandra Oakley  
Ms Mary Lynn Brooks

**APPEARANCES:** The Appellant, [text deleted], was represented by Ms Marcelle Marion and Mr. Bob Tyre of the Claimant Adviser Office;  
Manitoba Public Insurance Corporation ('MPIC') was represented by Ms Pardip Nunrha.

**HEARING DATE:** March 27, 2008

**ISSUE(S):** Reimbursement of Dental Expenses

**RELEVANT SECTIONS:** Section 136(1) of *The Manitoba Public Insurance Corporation Act* (the 'MPIC Act') and Section 5 of Manitoba Regulation 40/94

**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 March 27, 2006. Due to the bodily injuries which the Appellant sustained in that accident, she became entitled to Personal Injury Protection Plan ('PIPP') benefits pursuant to Part 2 of the MPIC Act. The Appellant is appealing the Internal Review Decision dated December 11, 2006 with regards to reimbursement of dental expenses relating to tooth #15.

The case manager's decision dated August 28, 2006 determined that the Appellant was not entitled to reimbursement of dental treatment expenses for tooth #15 as there was insufficient evidence to support a casual relationship between her current signs/symptoms and the motor vehicle accident of March 27, 2006.

The Internal Review Decision dated December 11, 2006 dismissed the Appellant's Application for Review and confirmed the case manager's decision of August 28, 2006. The Internal Review Officer determined that the totality of medical information on the file did not, on the balance of probabilities, establish that the fracture of tooth #15 was motor vehicle accident-related. Accordingly, MPIC would not provide funding of the recommended treatment and/or associated expenses for tooth #15.

The Appellant has now appealed to this Commission from the Internal Review Decision of December 11, 2006.

### **Relevant Statutory Provisions**

#### **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;

#### **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 Appellant is a resident of [text deleted], Ontario. The dental treatment for which she is seeking reimbursement was performed in [text deleted], Ontario. Pursuant to Section 5(b) of Manitoba Regulation 40/94, MPIC shall pay an expense for dental care when the 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.

Section 71 of *The Health Services Insurance Act* provides that:

**Insurance for other health services**

71 The Lieutenant Governor in Council may order that this Act applies to chiropractic, optometric, or midwifery services, or to services provided in hospitals by certified oral and maxillofacial surgeons, or to services provided in hospitals by licensed dentists, or to the provision of prosthetic or orthotic devices, or to any or all of those services, or to any class of those services, and to insurance in respect of the cost of those services or that class of those services, and that the minister shall provide insurance in respect of the cost of those services or that class of those services, and that the minister shall provide insurance in respect of the cost of those medical services or that class of those services in the same manner as the minister provides insurance in respect of the cost of medical services; and upon an order being made under this section in respect of any of those services or class thereof, this Act applies mutatis mutandis to and in respect of

- (a) those services or that class of those services;
- (b) insurance in respect of the cost of those services or that class of those services; and
- (c) persons lawfully entitled to render those services or that class of those services within Manitoba or in the place where they are rendered.

Section 2 of the Excluded Services Regulation enacted pursuant to *The Health Services Insurance Act* provides that:

**Exclusions**

**2** The following services are not insured services:

...

**22.** Dental care except as provided for in regulations made under the Act.

Section 3 of the Hospital Services Insurance and Administration Regulation enacted pursuant to *The Health Services Insurance Act* provides that:

**Dental services in a hospital**

**3(1)** Subject to subsection (2), an insured person is entitled to receive, as an in-patient or an out-patient, the dental services described in Schedule C without paying any charge to the hospital for the in-patient or out-patient services.

The Commission finds that by virtue of the foregoing provisions, since the dental care for which the Appellant seeks reimbursement was not performed in a hospital, the dental services would not be reimbursed under *The Health Services Insurance Act* if the care was dispensed in Manitoba. As a result, the Commission finds that the Appellant is not entitled to reimbursement of the requested dental expenses pursuant to Section 5(b) of Manitoba Regulation 40/94.

As a result, the Appellant's appeal is dismissed and the Internal Review Decision dated December 11, 2006 is therefore confirmed.

Dated at Winnipeg this 18<sup>th</sup> day of June, 2008.

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**YVONNE TAVARES**

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**SANDRA OAKLEY**

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**MARY LYNN BROOKS**