

Automobile Injury Compensation Appeal Commission

**IN THE MATTER OF an Appeal by [the Appellant]
AICAC File No.: AC-11-169**

PANEL: Ms Yvonne Tavares, Chairperson
Mr. Paul Johnston
Ms Linda Newton

APPEARANCES: The Appellant, [text deleted], was represented by Mr. Anselm Clarke of the Claimant Adviser Office; Manitoba Public Insurance Corporation ('MPIC') was represented by Ms Danielle Robinson.

HEARING DATE: October 30, 2012

ISSUE(S): Entitlement to Personal Care Assistance benefits.

RELEVANT SECTIONS: Section 131 of The Manitoba Public Insurance Corporation Act ('MPIC Act').

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], has filed this appeal to the Commission from a decision of the Internal Review Officer dated November 25, 2010.

The facts giving rise to this appeal may be briefly summarized as follows:

1. On July 15, 2008, the Appellant was involved in a motor vehicle accident where his vehicle was rear ended. As a result of this accident, the Appellant has

complained of numerous injuries including soreness in the neck region, upper back, elbows and shoulders.

2. Following the accident, the Appellant made a request for Personal Care Assistance benefits.
3. On May 13, 2010, a Personal Care Assistance Assessment Tool was completed by an Occupational Therapist, at which time the Appellant scored 6 (six). A minimum score of nine is required in order for a claimant to be entitled to Personal Care Assistance benefits. The Appellant's assessment score resulted in no entitlement to Personal Care Assistance benefits.
4. The Appellant sought an Internal Review of the case manager's decision. In a decision dated November 25, 2010, the Internal Review Officer confirmed the case manager's decision and dismissed the Appellant's Application for Review. The Internal Review Officer found that the Appellant did not meet the minimum score requirement of nine for entitlement to Personal Care Assistance benefits.
5. As noted above, the Appellant appealed the Internal Review Decision dated November 25, 2010 to this Commission.

Upon a careful review of all of the medical, para-medical and other reports and documentary evidence filed in connection with this appeal, and after hearing the submissions of the Claimant Adviser and of counsel for MPIC, the Commission finds that the Appellant has not established, on a balance of probabilities, that he was entitled to Personal Care Assistance benefits on May 13, 2010.

Eligibility for Personal Care Assistance benefits is governed by Section 131 of the MPIC Act. Section 2 of Manitoba Regulation 40/94 prescribes the use of a Personal Care Assistance Assessment Tool to assess entitlement to Personal Care Assistance benefits. A minimum assessment tool score of 9 (nine) is required in order to qualify for entitlement to personal care expenses.

The Commission finds that on May 13, 2010 the Appellant did not score the minimum requirement of nine points in order to be entitled for reimbursement for Personal Care Assistance expenses. Based on the totality of the evidence before it, the Commission finds that the Appellant has not established that his score on the Personal Care Assistance Assessment Tool completed on May 13, 2010 should have been greater than “six” points, which he obtained for heavy housecleaning and yard work. Accordingly, the Appellant’s appeal is dismissed and the Internal Review Decision dated November 25, 2010 is therefore confirmed.

Dated at Winnipeg this 19th day of November, 2012.

YVONNE TAVARES

PAUL JOHNSTON

LINDA NEWTON