

Automobile Injury Compensation Appeal Commission

**IN THE MATTER OF an appeal by [the Appellant]
AICAC File No.: AC-95-17**

PANEL: Mr. J. F. Reeh Taylor, Q.C. (Chairperson)
Mr. Charles T. Birt, Q.C.
Mrs. Lila Goodspeed

APPEARANCES: Manitoba Public Insurance Corporation ('M.P.I.C.')
represented by Ms Joan McKelvey
[Text deleted], counsel for the Appellant, (via telephone
conference call)

HEARING DATE: December 15th, 1995

ISSUE(S): Massage therapy in British Columbia - is it equivalent to
athletic therapy in Manitoba and is its cost, therefore, covered
by the Manitoba Public Insurance Corporation Act ('the Act')?

RELEVANT SECTIONS: Sections 136(1) & 138 of the Act and Section 8 of Regulation
40/94 of the M.P.I.C. Act.

**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 FACTS:

The Appellant, [text deleted], a resident of British Columbia, was injured while a
passenger in an automobile that was involved in an accident on July 9th, 1995 in Winnipeg,
Manitoba. Shortly after the accident she returned to British Columbia where she consulted her

doctor about her injuries. It would appear from the medical reports that she suffered soft tissue injuries in her neck and upper back.

The Appellant did not want to take any medication for her pain and, instead, used the services of a Registered Massage Therapist in British Columbia and now wishes to be compensated for the cost of these treatments.

It was agreed by the parties that the massage therapy was not dispensed by [the Appellant's] physician nor by a chiropractor, physiotherapist or athletic therapist, but by a massage therapist registered in British Columbia under their Health Professions Act and governed by the College of Massage Therapists of British Columbia. We were advised by counsel for [the Appellant's] that massage therapy, if provided by a registered and qualified therapist in B.C., would be covered by their public automobile insurance plan had the accident occurred in British Columbia.

THE LAW:

[The Appellant] was injured in an automobile accident covered by the Manitoba Public Insurance Corporation Act ('the Act') and therefore is entitled to be reimbursed for her resultant expenses, but only if those expenses qualify under terms of Act.

Section 136(1) of the Act states:

"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 reimbursements of expenses incurred by the victim because of the accident for any of the following;

- (a) medical and paramedical care,.....
- (d) such other expenses as may be prescribed by regulation.”

Certain of [the Appellant’s] expenses were paid by the Corporation but not her claim for “massage therapy”. Under Section 138 of the Act the Corporation is under an obligation “subject to the regulations, to take measures it considers necessary to rehabilitate a victim, to lessen the disability and facilitate their return to normal life”.

Regulation 40/94, Section 8 of the M.P.I.C.Act covers the cost of massage therapy when it is dispensed by a physician, chiropractor, physiotherapist or athletic therapist. [the Appellant’s] therapy was not dispensed by a member of one of those professions. Therefore the Act and its Regulations do not permit the Manitoba Public Insurance Corporation to pay for [the Appellant’s] massage therapy. There are no other sections of the Act, nor of its Regulations, that would permit the payment of the Appellant’s massage expenses.

The Appellant also argued that the services provided by a massage therapist were the same as those furnished by an athletic therapist and therefore the cost could be covered under that phrase in Section 8 of Regulation 40/94.

We were provided with the educational and qualification requirements of Registered Massage Therapists in British Columbia and those of Registered Athletic Therapists in Manitoba.

The Massage Therapy Association of Manitoba is a self-regulating body and there are no provincial regulations in place to compel any practitioner to belong to this organization. In British Columbia, massage therapy is governed by the Health Professions Act and no one may practice unless registered as a member of the College of Massage Therapists. The Act gives the College the power to set standards of education, practice and competency of its members and to establish and enforce standards of professional ethics. A massage therapist must graduate from an approved massage therapist school and the course of study takes between 18 and 24 months.

Massage therapy, for the purposes of the British Columbia legislation, is defined as “the science, art and philosophy of treatment by systematic manipulation of the soft tissues of the body”.

To become a Certified Athletic Therapist in Canada an individual needs a specific post secondary degree with a certain number of course prerequisites plus a number of other certificates, completion of an extensive internship program, be a member in good standing with the Certified Athletic Therapist Association of Canada and pass their certification exams. The scope of practice of an athletic therapist includes “the prevention, immediate care and reconditioning of musculoskeletal injuries”.

When one reviews all of the literature provided for both occupations it is apparent that the scope of treatment for the athletic therapist is much broader than that of the massage therapist. A massage therapist may perform some, but not all, of the activities and treatments that an athletic therapist is qualified to administer.

Based on the information provided to this hearing we find that a Registered Massage Therapist in general does not provide the same services as a Registered Athletic Therapist and that the qualifications and services of each are quite distinct and separate from those of the other. Therefore the services provided by a massage therapist in British Columbia are not the same as, nor equivalent to, those of an athletic therapist in Manitoba. Their cost cannot, therefore, be covered by the phrase "athletic therapist" found in Section 8 of Regulation 40/94 of the Act.

DISPOSITION:

For the reasons stated above we dismiss [the Appellant's] appeal and confirm the decision of [text deleted], the Internal Review Officer for M.P.I.C.

Dated at Winnipeg this 13th day of March, 1996.

CHARLES T. BIRT, Q.C.

LILA GOODSPEED

J. F. REEH TAYLOR, Q.C.