

Automobile Injury Compensation Appeal Commission

**IN THE MATTER OF an Appeal by [the Appellant]
AICAC File No.: AC-04-39**

PANEL: Ms Yvonne Tavares

APPEARANCES: The Appellant, [text deleted], was not present at the appeal hearing;
Manitoba Public Insurance Corporation ('MPIC') was represented by Mr. Terry Kumka.

HEARING DATE: May 5, 2009

ISSUE(S):

1. Entitlement to Income Replacement Indemnity benefits beyond June 8, 2002;
2. entitlement to Personal Injury Protection Plan benefits as a result of lower back condition.

RELEVANT SECTIONS: Section 110(1)(c) of The Manitoba Public Insurance Corporation Act ('MPIC 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 Appellant, [text deleted], is appealing the Internal Review Decision dated January 29, 2004, with regards to her entitlement to Income Replacement Indemnity ("IRI") benefits beyond June 8, 2002 and her entitlement to Personal Injury Protection Plan ("PIPP") benefits as a result of her lower back condition. The appeal hearing was held on May 5, 2009 commencing at 9:30 a.m. The Appellant did not attend the hearing or provide any written submissions to the Commission in support of her appeal.

At the outset of the hearing, it was determined that the Notice of Hearing had been sent to the Appellant by regular letter mail on March 18, 2009 to the address provided by the Appellant on the Notice of Appeal. The letter was not returned to the Commission. Pursuant to Section 184.1(2), the Appellant is deemed to have received the notice on the fifth day after the day of mailing. As a result, it was determined that the Appellant had received notice of the hearing and the Commission proceeded with the hearing of the appeal.

Upon a consideration of the totality of the evidence before it, the Commission finds that the Appellant has not established, on a balance of probabilities, that she is entitled to IRI benefits beyond June 8, 2002 or that her lower back condition was caused by the motor vehicle accident of January 13, 2002. The onus of proof in this appeal is on the Appellant to establish that the Internal Review decision was in error. The Commission finds that the Appellant has not met the onus of proof required in this appeal.

As a result, the Appellant's appeal is dismissed and the Internal Review Decision dated January 29, 2004 is confirmed.

Dated at Winnipeg this 7th day of May, 2009.

YVONNE TAVARES