

# **Automobile Injury Compensation Appeal Commission**

**IN THE MATTER OF an appeal by [the Appellant]  
AICAC File No.: AC-97-118**

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

**APPEARANCES:** Manitoba Public Insurance Corporation ('MPIC') represented  
by  
Mr. Keith Addison  
the Appellant, [text deleted], appeared in person

**HEARING DATE:** January 21st, 1998

**ISSUE:** Whether Appellant entitled to renewal of chiropractic  
treatment at insurer's expense?

**RELEVANT SECTIONS:** Section 136(1) of the MPIC Act and Sections 5 & 9 of  
Regulation 40/94 (copies attached).

**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 involved in two separate motor vehicle accidents, the first on January 21st, 1994 and the second, to which this present appeal relates, on January 19th, 1995. He received chiropractic treatments following each accident and the report of his treating chiropractor, [text deleted], of February 21st, 1996 describes [the Appellant] as having reached

pre-accident status as of February 19th, 1996 and concludes "Please close this case with regards to our participation in it".

At the time when [the Appellant] was discharged from the [text deleted] Chiropractic Clinic, having, as noted, reached pre-accident status, the advice that he received from [Appellant's chiropractor] was that, although he would probably continue to suffer discomfort, he should try to work his way through that and only come back to the Clinic should the pain become unmanageable.

[The Appellant's] testimony was that, approximately three months after his discharge from the [text deleted] Clinic in February of 1996, he started experiencing flareups of his neck pain but that, following the advice that he had received and because the pain was not continuous, he lived with it for as long as he could. However, he testified, by March of 1997 that pain had, indeed, become unmanageable, his neck would, as he describes it, 'lock up' and, roughly two weeks after that, he felt compelled to return to [Appellant's chiropractor] and commenced a new series of treatments. Those treatments, [the Appellant] testified, were substantially identical to those that he had received during his earlier visits to the [text deleted] Chiropractic Clinic, and consisted of manipulations of all, or substantially all, of his spinal column. Since the commencement of that new series of treatments, the appellant says, he has been able slowly to bring his pain under control and his 'locking' of the neck has, for the most part, disappeared.

The only issue between [the Appellant] and the insurer is whether this new onset of neck pain has its cause in the motor vehicle accident. We note that the only disfunction disclosed

by the X-rays of [the Appellant's] spine is found in an apparent spondylosis at C4-C5 disclosed by X-rays both in February of 1994 and in January of 1995; the X-rays do not disclose any deterioration in [the Appellant's] neck or upper spine between the dates of those two X-rays.

[Text deleted], MPIC's chiropractic consultant, expresses the view that, on a balance of probabilities, if [the Appellant's] more recent neck problems were caused by his motor vehicle accident they would have surfaced within a few months after the first post-accident series of chiropractic treatments had concluded; the fact that the problem appeared to surface 13 months after treatment led [MPIC's chiropractor] to believe that the two were not related. He felt that there was at least a reasonable probability that the cause might well lie in the fact that [the Appellant] had changed the nature of his employment - the appellant had ceased working in the office of a financial institution and was now working at home as a foster parent on a full-time basis which was, arguably, a more physically demanding occupation.

After a careful reading of the various chiropractic reports submitted to us, and upon hearing [the Appellant's] evidence - particularly the fact that his intense neck pains did surface about three months after his earlier treatments had concluded (although, admittedly, he did not seek treatment until much later because the pain was 'manageable') - we are prepared to give [the Appellant] the benefit of any doubt that may exist. We found [the Appellant] to be a most credible witness, not given to exaggeration and, if anything, quite prepared to accept factors that were contrary to his own interests.

Therefore, with deference to [MPIC's chiropractor], we conclude that the balance of probabilities favours the contention of [the Appellant] and [Appellant's chiropractor] that the recurrence of his neck pains was, indeed, attributable to his motor vehicle accident of January 19th, 1995 and that, upon being presented with proper invoices for the treatments he has received from [Appellant's chiropractor] from March 24th, 1997 to date, including the cost of X-rays, chiropractic reports and, if applicable, transportation, those expenses should be paid by MPIC on behalf of [the Appellant].

[Appellant's chiropractor], in his letter of November 27th, 1997, estimated that another \$200.00 worth of care would probably be required before [the Appellant] was again discharged. We understand that that estimate has been extended slightly, and we therefore find [the Appellant] entitled to continuing chiropractic care up to and including the end of January 1998.

Dated at Winnipeg this 21st day of January 1998.

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**J. F. REEH TAYLOR, Q.C.**

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**CHARLES T. BIRT, Q.C.**

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**LILA GOODSPEED**