

Automobile Injury Compensation Appeal Commission

IN THE MATTER OF an appeal by [the Appellant]

AICAC File No.: AC-98-88

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
Ms Joan McKelvey
the Appellant, [text deleted], was not represented

HEARING DATE: August 19th, 1998

ISSUE: Whether Appellant entitled to reimbursement for cost of new
mattress.

RELEVANT SECTIONS: Section 10(1)(d)(iii) of Regulation 40/94

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], who now lives in [text deleted], Ontario, was involved in a motor vehicle accident in [Manitoba] on July 14th, 1995. He received in excess of 150 chiropractic adjustments thereafter, at the expense of the insurer, until February 21st, 1997 when MPIC decided to discontinue paying for his chiropractic care. That decision went through the appeal

process. On January 20th, 1998 this Commission held that MPIC was justified in terminating [the Appellant's] chiropractic benefits as of February 21st, 1997 and found that, if the Appellant continued to need spinal manipulation, that need could no longer be attributed to his motor vehicle accident of July 1995.

On July 3rd, 1997 [the Appellant] apparently purchased a new mattress and box spring in [text deleted], Ontario, at an all-inclusive price of \$747.93. He seeks reimbursement from MPIC for the cost of that mattress and spring. We might note, in passing, that [the Appellant] had also purchased a cervical pillow and a low back support, for each of which he has been reimbursed by MPIC.

The relevant section of the Regulations reads, in part, as follows:

Rehabilitation Expenses

10(1) Where the corporation considers it necessary or advisable for the rehabilitation of a victim, the corporation may provide the victim with any one or more of the following:

.....(d) reimbursement of the victim at the sole discretion of the corporation for.....

(iii) medically required beds, equipment and accessories,.....

Given that this Commission is empowered by statute to substitute its own discretion for that of MPIC, our task is to determine whether, in our view, the mattress and box spring for which [the Appellant] seeks reimbursement was 'medically required'.

We note, firstly, that the mattress and spring were purchased more than five months after our decision of January 20th, 1998 in which, by necessary implication, we had determined that he had reached pre-accident status by February 21st, 1997.

We note, next, that in support of his appeal to MPIC's Internal Review Officer [the Appellant] produced a letter from his current chiropractor, [text deleted], dated January 16th, 1998, which reads as follows:

To whom it may concern:

Re: [the Appellant]

This is to certify that [the Appellant] is under my professional care. Over the years, he has purchased a cervical pillow, low back support, and firm mattress. These are all items that I would prescribe for someone with his injuries.

Clearly, that letter does not reflect any medical necessity nor even a suggestion that [Appellant's chiropractor #1] had prescribed the purchase of a mattress. She is merely saying that, had she been consulted, the mattress was the kind of thing that she would have prescribed for someone with [the Appellant's] injuries - injuries existing on January 16th, 1998 that this Commission had already determined were not caused by a motor vehicle accident.

Next, having had his appeal turned down by MPIC's Internal Review Office, [the Appellant] produces a letter for this Commission from [Appellant's chiropractor #1], dated May 27th, 1998, which reads as follows:

To whom it may concern:

This is to certify that [the Appellant] is under my professional care. When be

became a patient in early June 1997, I recommended that he purchase a firm orthopedic mattress, to help in the treatment of his spinal injuries.

With the greatest of respect for [Appellant's chiropractor #1], we have to say that this second letter lacks credibility. If she had, in fact, prescribed or even recommended the purchase of an orthopedic mattress in early July of 1997 she would presumably have said so in her earlier letter of January 16th, 1998, quoted above.

Whether or not [Appellant's chiropractor #1] did, in fact, recommend the purchase of a new mattress by [the Appellant] in early July of 1997, the fact is that we have no evidence of any kind to indicate that such a mattress was 'medically required'. It is clear that none of [the Appellant's] previous chiropractors - [Appellant's chiropractor #2], [Appellant's chiropractor #3] and [Appellant's chiropractor #4] - made any such suggestion or recommendation to him, let alone prescribing such a purchase. If [Appellant's chiropractor #1's] suggestion was made to [the Appellant] in June of 1997, it may well have been a sensible one but we are not persuaded that the mattress and box spring in question were medically required nor, even if so required, attributable to his motor vehicle accident.

His appeal is therefore denied.

Dated at [Manitoba] this 20th day of August 1998.

J. F. REEH TAYLOR, Q.C.

CHARLES T. BIRT, Q.C.

LILA GOODSPEED