

Automobile Injury Compensation Appeal Commission

**IN THE MATTER OF an appeal by [the Appellant]
AICAC File No.: AC-98-58**

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

APPEARANCES: Manitoba Public Insurance Corporation ('MPIC')
represented by Ms Joan McKelvey;
the Appellant, [text deleted], appeared on her own behalf

HEARING DATE: January 18th, 1999

ISSUE(S): Whether MVA gave rise to need for new dentures?

RELEVANT SECTIONS: Section 136(1)(d) of the MPIC Act and Section 17 of
Manitoba 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] years of age at the time of her accident on September 25th, 1995, was knocked off her bicycle by an automobile that pulled out from its parking place. The car hit her on the right side and she was thrown off her bicycle, falling on her left side onto a hard concrete road. She sustained multiple injuries, including a comminuted fracture of the distal radius of her left wrist, a sprain of her right forearm and multiple soft tissue injuries resulting in pain to her right knee, chest, back, neck and shoulder joints. Her family physician, [text deleted], referred her to [Appellant's doctor], who saw her in consultation at [hospital] on February 2nd, 1996 and on numerous occasions thereafter. On May 23rd, 1997 [the Appellant], during a further examination by [Appellant's doctor], seems to have mentioned to him for the first time that she

had lost one tooth from her lower denture plate as a result of her accident of September 25th, 1995 and expected MPIC to pay for it. It is this claim for new lower dentures that is the sole issue before us; all other aspects of [the Appellant's] injuries appear to have been satisfactorily dealt with by MPIC.

At the time of the accident, [the Appellant] had no upper teeth of her own and only three lower teeth, all of which appear to have been the subject of periodontal disease.

It is [the Appellant's] submission that, before her accident, her tooth number 31 was solid enough to hold her lower, partial plate in place. After the accident, she testified, her tooth gradually became looser and looser making it impossible for her to wear the lower, partial plate since that tooth number 31 was aching. As she puts it in her Notice of Appeal: "Because the other remaining teeth were extremely loose the tooth which [Appellant's dental surgeon] extracted because of the accident (i.e. number 31) was the only solid tooth supporting the lower to stay in". In the opinion of [the Appellant's] dentist, [text deleted], the result was to make her lower plate irreparable, giving rise to the need for a new lower plate.

[The Appellant's] own dental surgeon, [text deleted], in a handwritten memorandum of June 18th, 1997, reports:

X-rays reveal an abscess very large around the Tooth #31; Tooth 41 broken down by half and abscessed; Tooth 42 hardly any bone holding it with decay. Tooth 31 again floating in the gums with no bone around it. In my opinion, I doubt very much that an accident even two years ago can cause breakdown of bone around those teeth to this point.

[Appellant's dental surgeon's] opinion is, not surprisingly, supported by that of [text deleted], MPIC's own dental consultant.

In the absence of any evidence at all that [the Appellant] sustained any injury to her lower jaw in the course of her regrettable accident, and since the tooth to which she refers was not extracted until April 10th, 1997, roughly one and one-half years after her accident, we feel bound to conclude that, on a strong balance of probabilities, the extensive bone loss rather than her motor vehicle accident was the responsible agent for the loss of that one tooth and the need for a new, lower plate to replace the one that was some six or seven years old at the time of her accident.

As a result, we must dismiss [the Appellant's] appeal and confirm the decision of MPIC's Internal Review Officer of March 20th, 1998.

Dated this 9th day of February, 1999.

J. F. REEH TAYLOR, Q.C.

CHARLES T. BIRT, Q.C.

LILA GOODSPEED