

Automobile Injury Compensation Appeal Commission

**IN THE MATTER OF an Appeal by [the Appellant]
AICAC File No.: AC-00-30**

PANEL: **Mr. J. F. Reeh Taylor, Q.C., Chairman
Ms Yvonne Tavares
Mr. Wilson MacLennan**

APPEARANCES: **The Appellant, [text deleted], appeared on his own behalf;
Manitoba Public Insurance Corporation ('MPIC') was represented by Ms Joan McKelvey.**

HEARING DATE: **February 15th, 2001**

ISSUE(S): **1. Whether Appellant entitled to additional income replacement indemnity; and
2. Whether Appellant entitled to be reimbursed for meal, travel and accommodation expense, and for a person accompanying a victim.**

RELEVANT SECTIONS: **Sections 81(1)(a), 136(1) and 137 of the MPIC Act, Sections 19, 20(1), 23, 27, 28 and 29 of Regulation 40/94 of the the 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 issues before this Commission relating to [the Appellant's] appeal can be stated as follows:

1. whether [the Appellant] is entitled to income replacement indemnity for the period December 13th to the 28th, 1999 and January 1st to 16th, 2000; and

2. whether [the Appellant] is entitled to reimbursement for meals, travel and accommodation expense and reimbursement for the expenses of a person accompanying a victim.
1. **Income Replacement Indemnity for the Periods December 13th to 28th, 1999 and January 1st to 16th, 2000**

The Appellant, [text deleted], was injured in a motor vehicle accident ("MVA") on June 27th, 1999. At the time of the MVA, he was employed as a courier driver. As a result of the injuries sustained by [the Appellant] in the MVA, he was unable to return to his employment and received income replacement indemnity ("IRI") benefits from MPIC. Shortly after the MVA, [the Appellant] moved to [text deleted] for personal reasons.

As part of his rehabilitation process, [the Appellant] attended for chiropractic treatment with [Appellant's chiropractor] and attended regularly upon his general practitioner. After being cleared to return to work, [the Appellant] commenced employment on October 12th, 1999, as a farmer's helper. His duties included tagging, shovelling, cleaning, spraying and various other odd jobs assisting around the farm. On December 13th, 1999, the Appellant was unable to report for work due to severe neck pain and muscle spasm. He attended with [Appellant's doctor #1] in [text deleted] in the absence of his regular family physician, [Appellant's doctor #2], and was provided with authorization to remain off work. [The Appellant's] severe neck symptoms persisted and he followed up with [Appellant's doctor #2]. [Appellant's doctor #2] took x-rays, prescribed muscle relaxants and authorized an additional two weeks off work until January 16th, 2000.

In a report dated January 21st, 2000, [Appellant's chiropractor] notes that [the Appellant] experienced a minor re-aggravation of his motor-vehicle-collision-related injuries as a result of shovelling and lifting while at work. In his testimony before this Commission, [the Appellant] acknowledged that his work as a farmer's helper could have contributed to the muscle spasm he complained of in December 1999.

The entitlement to receipt of IRI pursuant to the MPIC Act requires that inability to continue an employment occur as a result of the accident. For the period of time in question, this Commission finds that there is insufficient evidence of causation to relate the injuries suffered by [the Appellant] in December 1999 and January 2000 to his motor vehicle accident of June 27th, 1999, and accordingly that aspect of his appeal must be dismissed.

2. Reimbursement for Travel and Accommodation Expense, and Expenses of a Person Accompanying a Victim

The decision from which [the Appellant] appeals in regard to the above mentioned issues are set out in the Internal Review Officer's letter of February 7th, 2000. This Commission finds no reason to disturb the decision of the Internal Review Officer insofar as it relates to reimbursement of expenses in relation to [the Appellant's] attendances to [text deleted] for treatment from his chiropractor, [text deleted] and the expenses of a person to accompany him on those visits.

The decision of the Internal Review Officer did provide an exception for any attendances with specialists who may not have been available to be seen in [text deleted]. [The Appellant] testified that he was required to attend two specialists in [text deleted] in the course of his treatment, [text deleted], ophthalmologist and [text deleted], neurologist. He was also required to attend an independent chiropractic examination by [text deleted], in [text deleted] at the request of MPIC.

In respect of those three attendances, the Appellant shall have his expenses reimbursed for three meals per day, total mileage and his accommodation expense (this Commission accepts the Appellant's evidence of his accommodation expense of \$25.00 per night), to the extent that those expenses have not already been reimbursed.

Dated at Winnipeg this 14th day of March, 2001.

J. F. REEH TAYLOR, Q.C.

YVONNE TAVARES

WILSON MACLENNAN