

Automobile Injury Compensation Appeal Commission

**IN THE MATTER OF an Appeal by [the Appellant]
AICAC File No.: AC-01-111**

PANEL: Mr. Mel Myers, Q.C., Chairperson
Ms. Yvonne Tavares
Mr. Wilson MacLennan

APPEARANCES: The Appellant, [text deleted], attended the hearing by telephone conference call; Manitoba Public Insurance Corporation ('MPIC') was represented by Mr. Mark O'Neill.

HEARING DATE: March 26, 2002

ISSUE(S):

- 1. Entitlement to reimbursement of moving expenses; and**
- 2. Entitlement to reimbursement of life insurance premium.**

RELEVANT SECTIONS: Section 138 of The Manitoba Public Insurance Corporation Act (the 'MPIC Act') and Subsection 10(1)(b) 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], was severely injured in a motor vehicle accident on May 18, 1999. As a result of the motor vehicle accident, the Appellant suffered incomplete tetraplegia. The Appellant has made a significant recovery since his motor vehicle accident and has regained some mobility, although he is still medically classified as a C-7 quadriplegic.

After the motor vehicle accident, the Appellant spent approximately six months in rehabilitation at the [hospital]. Upon his discharge from hospital, the Appellant, his wife and his child moved

into a house located at [location #1], which he had purchased. At that time, the Appellant's case manager extended Personal Injury Protection Plan ('PIPP') benefits to cover the cost of the move to [location #1].

Late in the year 2000, the Appellant sold the house at [location #1] and moved to a rental property at [location #2]. This move was due, in part, to the Appellant's separation from his wife, and partly due to the fact that the house at [location #1] was too large for his needs and too expensive to maintain. Again, MPIC extended PIPP benefits to the Appellant to pay for the cost of this move.

After an extensive search, the Appellant purchased a home at [location #3]. In order to finance the purchase of this home, a mortgage was arranged through the [bank]. The Appellant requested that MPIC cover the moving expenses from [location #2] to [location #3] and also requested that MPIC pay the premiums for mortgage insurance through a private insurer.

In a decision dated May 9, 2001, MPIC's case manager denied the Appellant's request for moving expenses and advised the Appellant that:

...the funding for the move was outside the scope of coverage under the Personal Protection Plan. There is no coverage under the plan that allows for MPI to fund the costs of moving.

In a decision dated August 10, 2001, MPIC's case manager advised the Appellant that:

You advised you purchased your home and have taken a mortgage out on it. You have been denied mortgage insurance through the lending institution because of your incomplete spinal cord injury. You have discussed this matter with higher level staff of the lending institution but there has not been any change in their position. You are requesting that MPI reimburse you for the cost of the premium through a private insurer.

There is no provision under the Personal Injury Protection Plan that would allow for reimbursement of this expense. We are unable to reimburse you for this anticipated expense.

The Appellant sought an internal review from that decision. In his decision dated September 4, 2001, the Internal Review Officer confirmed the case manager's decisions of May 9, 2001, and August 10, 2001, and dismissed the Appellant's Application for Review.

The Appellant is now appealing from that decision to this Commission. The issues which require determination in [the Appellant's] appeal are:

1. Entitlement to reimbursement of moving expenses from [location #2] to [location #3];
and
2. Entitlement to reimbursement of the cost of life and disability insurance on the mortgage placed on [location #3].

The relevant sections of the MPIC Act and Regulations are as follows:

Section 138 of the Act:

Corporation to assist in rehabilitation

138 Subject to the regulations, the corporation shall take any measure it considers necessary or advisable to contribute to the rehabilitation of a victim, to lessen a disability resulting from bodily injury, and to facilitate the victim's return to a normal life or reintegration into society or the labour market.

Section 10(1) of Manitoba Regulation 40/94:

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:

(b) funds for an extraordinary cost required

(i) where the victim owns his or her principal residence, to alter the residence or, where alteration is not practical or feasible, to relocate the victim;

(ii) where the victim does not own his or her principal residence, to relocate the victim or, where relocation is not practical or feasible, to alter the victim's residence.

1. Entitlement to Reimbursement of Moving Expenses

At the hearing of the appeal, the Appellant submitted that MPIC should cover his moving expenses from [location #2] to [location #3] since he would have been able to have moved himself, with the help of a friend for heavier items, were it not for the injuries he had sustained in the motor vehicle accident. Therefore, he argues that he had to incur the expense of hiring movers as a direct result of the motor vehicle accident, since he could not physically do the move himself and, accordingly, he should be compensated for those costs.

Counsel for MPIC submitted that the moving expenses do not meet the criteria set out in Section 138 of the Act. He argues that reimbursement of moving expenses does not contribute to the rehabilitation of a victim, it does not lessen a disability resulting from bodily injury, and in this instance, the move from one house to another did not facilitate the Appellant's return to a normal life or reintegration into society, as that had already been accomplished with the original move to [location #1]. Furthermore, counsel for MPIC submits that the expenses incurred in moving, the costs of hiring a moving van, hiring a mover, and paying to have household effects packed are not an "extraordinary" expense as contemplated pursuant to Section 10(1)(b)(i) of Manitoba Regulation 40/94. Counsel for MPIC submits that the expense must be out of the ordinary before it falls within the Regulation.

The Commission finds that, in this case, the Appellant does not meet the requirements set out in the MPIC Act and Regulations to qualify for relocation expenses. The circumstances which led the Appellant to move from [location #1] to [location #2] and then again to [location #3] were

primarily motivated by personal and financial considerations. Subsection 10(1)(b)(i) contemplates relocation where a victim's principal residence is not suitable and alteration is not practical or feasible. The residence at [location #1] had already been altered to meet the Appellant's needs and was suitable for his requirements. MPIC fulfilled their obligations pursuant to the MPIC Act, when they extended PIPP benefits to cover the cost of the move to [location #1]. Although the Appellant's motives for relocating were certainly justified, we are obliged to dismiss his appeal, since our mandate is to apply the law as we find it, and the facts in this case do not fall squarely within the technical requirements of the legislation.

2. Entitlement to Reimbursement of Life Insurance Premium

At the hearing, the Appellant confirmed that he had been declined by [bank] for mortgage life insurance because of his disability. As a result, he advised that he currently does not have mortgage life insurance. He further advised the Commission that he would be able to obtain coverage through the [private insurer], and in that regard he provided a quote from [private insurer] for term life insurance. He feels that because his denial through [bank] was because of his disability, which was a direct result of the motor vehicle accident, his premiums for life insurance through a private insurer should be covered by MPIC, as this is another expense that has arisen as a result of the motor vehicle accident.

Counsel for MPIC submitted that there is no coverage within the MPIC Act for the claim asserted by the Appellant, in respect of coverage for the cost of mortgage insurance premiums.

In this case, the Commission finds that there simply is no provision within the MPIC Act which would allow for the reimbursement of the cost of mortgage insurance premiums.

Accordingly, for these reasons, the Commission dismisses the Appellant's appeal and confirms the decision of MPIC's Internal Review Officer, bearing date September 4, 2001.

Dated at Winnipeg this 9th day of April, 2002.

MEL MYERS, Q.C.

YVONNE TAVARES

WILSON MacLENNAN