

Automobile Injury Compensation Appeal Commission

**IN THE MATTER OF an Appeal by [the Appellant]
AICAC File No.: AC-01-36**

PANEL: Mr. Mel Myers, Q.C., Chairperson
Ms. Yvonne Tavares
Dr. Patrick Doyle

APPEARANCES: The Appellant, [text deleted], was represented by
[Appellant's representative];
Manitoba Public Insurance Corporation ('MPIC') was
represented by Mr. Jim Shaw.

HEARING DATE: March 19, 2002

ISSUE: Whether physiotherapy treatments terminated prematurely.

RELEVANT SECTIONS: Section 136(1) of The Manitoba Public Insurance
Corporation Act (the 'MPIC Act') and Section 5 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 injured in a motor vehicle accident ('MVA') on August 9, 1999, wherein she sustained soft-tissue injuries to her neck and lower back. As a result of her injuries, she undertook treatment which included chiropractic care, physiotherapy treatments and medications.

On December 28, 2000, her case manager wrote to her to advise that funding for further physiotherapy would cease at the end of February 2001. On February 14, 2001, her case manager wrote to her to advise her that funding for physiotherapy treatment would continue on the basis of two treatments per month, pending the results of [Appellant's neurologist's] neurological assessment. Funding for physiotherapy treatment was ultimately provided until the first week of April 2001.

[the Appellant] sought an internal review from that decision. In his decision dated March 8, 2001, the Internal Review Officer confirmed the claims decision and dismissed [the Appellant's] Application for Review.

It is from this decision that [the Appellant] now appeals. The issue which requires determination in [the Appellant's] appeal is whether or not reimbursement of physiotherapy treatments was terminated prematurely.

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

Reimbursement of victim for various expenses

136(1) Subject to the regulations, the victim is entitled, to the extent that he or she is not entitled to reimbursement under *The Health Services Insurance Act* or any other Act, to the reimbursement of expenses incurred by the victim because of the accident for any of the following:

- (a) medical and paramedical care, including transportation and lodging for the purpose of receiving the care.

Section 5 of Regulation 40/94 provides that:

Medical or paramedical Care

5 Subject to sections 6 to 9, the corporation shall pay an expense incurred by a victim, to the extent that the victim is not entitled to be reimbursed

for the expense under *The Health Services Insurance Act* or any other Act, for the purpose of receiving medical or paramedical care in the following circumstances:

- (a) when care is medically required and is dispensed in the province by a physician, paramedic, dentist, optometrist, chiropractor, physiotherapist, registered psychologist or athletic therapist, or as prescribed by a physician.

At the hearing of her appeal, [the Appellant] testified that ever since the MVA, she has suffered with chronic neck pain. She believes that the physiotherapy treatments that she was receiving help alleviate the constant pain. Counsel for the Appellant submitted that the Appellant's pre-existing osteoarthritis in her cervical region has been exacerbated as a result of the MVA. He submitted that the termination of funding for the physiotherapy treatments was arbitrary. The physiotherapy treatments helped to ease the Appellant's pain, accordingly, she derived some benefit from the treatments and, therefore, continued funding for physiotherapy should be provided by MPIC.

Counsel for MPIC submits that physiotherapy treatment was not providing [the Appellant] with any continuing or lasting relief and, therefore, it cannot be deemed medically required within the meaning of Section 5 of Manitoba Regulation 40/94. He refers the Commission to [MPIC's doctor's] Inter-departmental Memorandum dated February 22, 2002, wherein she states:

It is medically improbable, given the chronicity of the claimant's symptoms, that she will experience complete resolution of symptoms. It would be in her best interests, to attempt to adopt effective pain-coping strategies that she can utilize on an independent basis in order to gain control over her symptom complaints. Such strategies could include but are not limited to: division of larger tasks into smaller and lighter tasks, stretch and rest breaks, application of heat and cold modalities as found beneficial by the claimant, judicious use of analgesic medications as required and as discussed with her family physician and incorporation of relaxation techniques into her daily routine, if found beneficial. These strategies should supplement the claimant's daily home exercise program.

Based on the Appellant's evidence that she derives no lasting benefit from the physiotherapy treatments, the Commission finds that, on a balance of probabilities, the Appellant has likely reached maximum therapeutic benefit from physiotherapy treatment. As a result, we find that physiotherapy treatments are not medically required within the meaning of Section 5 of Manitoba Regulation 40/94. We note that, although physiotherapy treatment may no longer provide any lasting benefit for the Appellant, there are alternative therapeutic procedures, including the pain management techniques as referred to in [MPIC's doctor's] report, that the Appellant may wish to explore in consultation with her family physician.

Accordingly, for these reasons, the Commission dismisses the Appellant's appeal and confirms the decision of MPIC's Internal Review Officer bearing date March 8, 2001.

Dated at Winnipeg this 2nd day of April, 2002.

MEL MYERS, Q.C.

YVONNE TAVARES

DR. PATRICK DOYLE