

Automobile Injury Compensation Appeal Commission

IN THE MATTER OF an Appeal by [the Appellant]

AICAC File No.: AC-02-78

PANEL: Ms. Yvonne Tavares, Chairperson
Ms. Deborah Stewart
The Honourable Mr. Armand Dureault

APPEARANCES: The Appellant, [the Appellant], was represented by [Appellant's representative]; Manitoba Public Insurance Corporation ('MPIC') was represented by Mr. Terry Kumka.

HEARING DATE: December 16, 2002

ISSUE(S): Entitlement to reimbursement of personal care assistance expenses.

RELEVANT SECTIONS: Section 131 of The Manitoba Public Insurance Corporation Act (the "MPIC Act"), and Section 2 and Schedule A 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 involved in a motor vehicle accident on April 5, 2000. As a result of this accident, the Appellant suffered neck pain and stiffness, headaches and right shoulder pain. She is appealing the Internal Review decision dated April 29, 2002, which denied her reimbursement of any personal care assistance expenses.

The Appellant is claiming reimbursement for housecleaning services, for painting and patching of walls, washing windows and moving expenses. She submits that the injuries which she sustained in the motor vehicle accident have prevented her from being able to carry out heavy household chores and, therefore, she believes that she is entitled to reimbursement of the expenses which she has incurred to hire someone to come to her home to take care of those duties. In addition, she is seeking pre-approval for certain expenses before incurring the costs of the services.

Counsel for MPIC submits that the Appellant does not qualify for reimbursement of personal care expenses pursuant to the MPIC Act and Regulations, as she does not score high enough on the grids in order to qualify for assistance. Accordingly, counsel for MPIC submits that the decision of the Internal Review Officer, dated April 29, 2002, should be upheld and the Appellant's appeal dismissed.

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

Section 131 of the MPIC Act:

Reimbursement of personal assistance expenses

131 Subject to the regulations, the corporation shall reimburse a victim for expenses of not more than \$3,000. per month relating to personal home assistance where the victim is unable because of the accident to care for himself or herself or to perform the essential activities of everyday life without assistance.

Section 2 of Manitoba Regulation 40/94:

Reimbursement of personal home assistance under Schedule A

2 Subject to the maximum amount set under section 131 of the Act, where a victim incurs an expense for personal home assistance that is not covered under *The Health Services Insurance Act* or any other Act, the corporation shall reimburse the victim for the expense in accordance with Schedule A.

Section 131 of the MPIC Act provides for reimbursement of personal assistance expenses,

subject to the Regulations. Section 2 of Manitoba Regulation 40/94 provides that MPIC shall reimburse a victim for an expense of personal home assistance in accordance with Schedule A. Schedule A provides a method of evaluating the needs of the victim regarding personal and home care assistance. Points are assigned to areas of need on an evaluation grid. They are totaled to determine the qualifying percentage of expenses that has been applied to the maximum provision under Section 131 of the Act. The Appellant would have to score a minimum of 5 points on the grids in order to qualify for reimbursement of personal care assistance. If the score is less than 5, no reimbursement of expenses is provided. The grid completed by the Occupational Therapist, [text deleted], on May 25, 2001, demonstrated a score of 0 for the Appellant. Even taking into account her inability to perform housecleaning tasks, the most she could score would be 1, if she was completely dependent upon assistance, according to the grids.

We find that MPIC correctly applied the provisions of the MPIC Act and Regulations when determining the Appellant's entitlement to reimbursement of personal care expenses. Neither MPIC nor this Commission has any discretion to change the provisions of the MPIC Act, and we are required to apply the Act as we find it.

Accordingly for these reasons, the Commission dismisses the Appellant's appeal and confirms the decision of MPIC's Internal Review Officer, bearing date April 29, 2002.

Dated at Winnipeg this 20th day of December, 2002.

YVONNE TAVARES

DEBORAH STEWART

HONOURABLE ARMAND DUREAULT