

**Automobile Injury Compensation Appeal Commission**

**IN THE MATTER OF an Appeal by [the Appellant]**  
**AICAC File No.: AC-07-103**

**PANEL:** Mr. Mel Myers, Q.C., Chairperson

**APPEARANCES:** The Appellant, [text deleted], was not present at the hearing; Manitoba Public Insurance Corporation ('MPIC') was represented by Ms Pardip Nunrha.

**HEARING DATE:** April 10, 2008

**ISSUE(S):** Entitlement to reimbursement for dental expenses

**RELEVANT SECTIONS:** Section 136(1)(a) of The Manitoba Public Insurance Corporation Act ('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 appeal hearing in this matter was scheduled to commence on April 10, 2008 at 9:30 a.m.

The Appellant, [text deleted], did not attend at that time.

Filed in these proceedings is a letter dated December 6, 2007 from the Appeals Officer to [text deleted] who was acting as a representative of the Appellant. In this letter the Appeals Officer described a telephone discussion that she had with [Appellant's representative] who indicated that the Appellant did not wish to appear in person at the appeal hearing or participate by teleconference. The Appeals Officer advised [Appellant's representative] that the Commission

would be proceeding with an appeal hearing and that MPIC would have a representative attend the appeal hearing in person or make written submission.

The Appeals Officer further advised [Appellant's representative] in her letter that the Commission would then consider all information it had before it, including the Appellant's written submission, if any, in arriving at its decision. The Appeals Officer also advised [Appellant's representative] that if the Commission did not hear anything further from her by January 6, 2008 the Commission would be proceeding with setting a date for an appeal hearing in this matter.

The Commission issued a Notice of Hearing dated February 1, 2008 to the Appellant and to MPIC's legal counsel which fixed the date for the appeal hearing for April 10, 2008 at 9:30 a.m. at the Commission's office in Winnipeg. In this Notice of Hearing the Commission stated that:

1. should either party fail to appear or be represented at the hearing the Commission may proceed with the hearing and render its decision.
2. alternatively, the Commission may dismiss the appeal, adjourn the hearing to a new date or take such further steps as it deemed appropriate.

The Commission was advised by the Commissioners' Secretary at the appeal hearing that a Notice of Hearing (a copy of which is attached hereto and marked Exhibit A) in respect of this appeal, dated February 1, 2008, was forwarded by Canada Post Xpresspost to the Appellant's address at [text deleted], being the address of the Appellant as set out in her Notice of Appeal. The Commissioners' Secretary further advised the Commission that the Commission received a print-out form from Canada Post which indicated that on March 10, 2008 a Notice of Appeal (Exhibit A) was served upon the Appellant at the Appellant's residence at [text deleted].

The Commission determined that the Appellant had been properly served with a Notice of Hearing in accordance with the provision of the MPIC Act and, as a result, decided to proceed with the appeal hearing.

MPIC's legal counsel provided the Commission with a written submission (a copy of which is attached hereto and marked Exhibit B). She reviewed her written submission and submitted that the Internal Review Officer was correct in determining that the Appellant had not established, on a balance of probabilities, that there was a causal relationship between the Appellant's damaged denture and the motor vehicle accident. She further submitted that:

1. MPIC had correctly determined that, pursuant to Section 136(1)(a) of the MPIC Act, the MPIC was not required to reimburse the Appellant for any dental expenses.
2. the Commission confirm the decision of the Internal Review Officer dated September 4, 2007 and dismiss the Appellant's appeal.

### **Decision**

The Commission, after considering the submission of MPIC's legal counsel, and upon examination of the documentary evidence filed in the appeal proceedings, finds that the Appellant has failed to establish, on a balance of probabilities, that MPIC erred in failing to reimburse her for all dental expenses the Appellant was claiming pursuant to Section 136(1)(a) of the MPIC Act. The Commission therefore dismisses the Appellant's appeal and confirms the decision of the Internal Review Officer dated September 4, 2007.

Dated at Winnipeg this 5<sup>th</sup> day of May, 2008.

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**MEL MYERS, Q.C.**