

Automobile Injury Compensation Appeal Commission

**IN THE MATTER OF an Appeal by [the Appellant]
AICAC File No.: AC-07-86**

PANEL: Ms Yvonne Tavares, Chairperson

APPEARANCES: The Appellant, [text deleted], appeared on her own behalf; Manitoba Public Insurance Corporation ('MPIC') was represented by Ms Danielle Robinson.

HEARING DATE: April 14, 2008

ISSUE(S): Entitlement to funding for a new mattress

RELEVANT SECTIONS: Sections 136 and 138 of The Manitoba Public Insurance Corporation Act ('MPIC Act') and Section 10(1) of Manitoba Regulation 40/94

AICAC NOTE: THIS DECISION HAS BEEN EDITED TO PROTECT THE PERSONAL HEALTH INFORMATION OF INDIVIDUALS BY REMOVING PERSONAL IDENTIFIERS AND OTHER IDENTIFYING INFORMATION.

Reasons For Decision

The facts giving rise to this appeal may be briefly summarized as follows:

1. The Appellant, [text deleted], was injured in a motor vehicle accident on July 20, 2006. As a result of that accident, the Appellant sustained soft tissue injuries to her neck, back and right hip, along with a right shoulder rotator cuff tear.
2. On November 17, 2006, the [Appellant's Chiropractor] provided a medical report to MPIC wherein he advised that the Appellant would benefit from a new mattress as her current mattress was worn out.
3. The Appellant requested consideration from MPIC for the purchase of a new mattress to

- alleviate her shoulder and hip pain and enable her to obtain a better sleep.
4. In a letter dated December 15, 2006, MPIC's case manager advised the Appellant that a new mattress was not considered medically required in the management of her injuries and therefore MPIC would not consider funding the cost of a new mattress.
 5. The Appellant subsequently filed an Application for Review of that decision. By letter dated May 22, 2007, the Internal Review Officer confirmed the case manager's decision on the basis that the medical material on the file did not establish that a new mattress was a medical necessity.
 6. The Appellant filed a Notice of Appeal with this Commission on July 31, 2007 in relation to that Internal Review decision. At the hearing of the appeal, the Appellant submitted that the mattress was a medical necessity because it was prescribed for her by [Appellant's Chiropractor] as a means to alleviate the pain from her motor vehicle accident-related injuries and to assist with her sleep. She also argued that because she has [text deleted] she was advised not to take too many medications as they could be damaging [text deleted]. Since she is therefore unable to take pain medications, she feels that a new mattress would be a viable alternative to assist with her pain management. She therefore requested that the Commission allow her appeal

Sections 136(1) and 138 of the MPIC Act provide that:

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:

...

(d) such other expenses as may be prescribed by regulation.

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)(d) of Manitoba Regulation 40/94 provides that:

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:

...
(d) reimbursement of the victim at the sole discretion of the corporation for

...
(iii) medically required beds, equipment and accessories.

Discussion

Upon a careful review of all of the medical, paramedical and other reports and documentary evidence filed in connection with this appeal, and after hearing the submissions of the Appellant and of counsel for MPIC, the Commission finds that the Appellant has not established, on a balance of probabilities, that a new mattress is medically required pursuant to subsection 10(1)(d)(iii) of Manitoba Regulation 40/94. There was no evidence submitted to establish that a new mattress would materially improve the Appellant's condition or make any meaningful contribution to her rehabilitation. Although [Appellant's Chiropractor] advised that the mattress might assist with the Appellant's sleep problems, this recommendation alone did not render the mattress a medical necessity. Additionally, [Appellant's Doctor's] report of April 23, 2007 did not assist the Appellant in establishing that a new mattress would be medically required. In that report [Appellant's Doctor] advised that:

During her last visit to me on April 17, 2007, she requested a letter that she can get a new mattress to help her shoulder pain. She believes that a mattress would be helpful to relieve the pain that she is having at night on the right shoulder. I have no scientific evidence to think that this would indeed be helpful. [The Appellant] has [text deleted] and is therefore unable to take analgesics to help her to sleep at night. In light of this, an appropriate mattress would probably be an option.

Rather, the mattress must be considered an elective treatment strategy and not a medical requirement. Accordingly, the Appellant's appeal is dismissed and the Internal Review decision of May 22, 2007 is therefore confirmed.

Dated at Winnipeg this 5th day of May, 2008.

YVONNE TAVARES