

Automobile Injury Compensation Appeal Commission

**IN THE MATTER OF an Appeal by [the Appellant]
AICAC File No.: AC-09-137**

PANEL: Ms Yvonne Tavares

APPEARANCES: The Appellant, [text deleted], was not present at the appeal hearing;
Manitoba Public Insurance Corporation ('MPIC') was represented by Mr. Andrew Robertson.

HEARING DATE: August 4, 2010

ISSUE(S): 1. Calculation of Income Replacement Indemnity top-up benefits.
2. Entitlement to Income Replacement Indemnity benefits beyond June 28, 2009.

RELEVANT SECTIONS: Sections 110(1)(a) and 116 of The Manitoba Public Insurance Corporation Act ('MPIC Act')

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 Appellant, [text deleted], is appealing the Internal Review Decision dated September 23, 2009, with regards to the calculation of his income replacement indemnity ("IRI") top-up benefits and his entitlement to IRI benefits beyond June 28, 2009.

The appeal hearing was held on August 4, 2009 commencing at 10:30 a.m. The Appellant did not attend the hearing or provide any written submissions to the Commission in support of his appeal.

At the outset of the hearing, it was determined that the Appellant had received notice of the hearing by virtue of his signature claiming the Xpresspost letter (containing the Notice of Hearing from the Commission) from Canada Post. As a result, the Commission proceeded with the hearing of the appeal.

Upon a consideration of the totality of the evidence before it, the Commission finds that the Appellant has not established, on a balance of probabilities, that:

1. the IRI top-up benefits paid pursuant to Section 116(1) of the MPIC Act were incorrectly calculated; or
2. there is an entitlement to IRI benefits beyond June 28, 2009. The Appellant has not provided any evidence to establish a claim to a greater IRI top-up benefit. Additionally, the medical information on the file supports the conclusion that the Appellant was capable of performing his pre-accident employment as of June 28, 2009.

As a result, the Appellant's appeal is dismissed and the Internal Review Decision dated September 23, 2009 is confirmed.

Dated at Winnipeg this 9th day of August, 2010.

YVONNE TAVARES