

**Automobile Injury Compensation Appeal Commission**

**IN THE MATTER OF an Appeal by [the Appellant]  
AICAC File No.: AC-05-138**

**PANEL:** Ms Laura Diamond, Chairperson  
Ms Janet Frohlich  
Dr. Chandulal Shah

**APPEARANCES:** The Appellant, [text deleted], was represented by Ms Laurie Gordon;  
Manitoba Public Insurance Corporation ('MPIC') was represented by Ms Cynthia Lau.

**HEARING DATE:** May 29, 2013

**ISSUE(S):**

- 1. Entitlement to further chiropractic treatment.**
- 2. Entitlement to funding for psychological intervention.**
- 3. Whether the Appellant had a reasonable excuse for the late filing of her Application for Review and if so, is she entitled to further Lump Sum Indemnity as a student beyond July 31, 1998 for a one year period. (Withdrawn)**

**RELEVANT SECTIONS:** Section 136(1)(a) of The Manitoba Public Insurance Corporation Act ('MPIC Act') and Section 5 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 Appellant was injured in a motor vehicle accident on July 4, 1997 and a second accident on July 8, 2000.

As a result of the motor vehicle accidents, the Appellant was in receipt of chiropractic and psychological treatment benefits as well as a lump sum indemnity award for the loss of a complete year of schooling.

The Appellant's case manager wrote to her on April 22, 2004 advising that the medical information on her file did not support ongoing chiropractic treatment as being medically required. In addition, the case manager wrote to advise that the causal relationship between the motor vehicle accident and the Appellant's re-attendance for psychological treatment could not be established and MPIC would not be providing funding for further psychological care.

The Appellant filed an Application for Review of this case manager's decision on May 18, 2004.

On February 20, 2004, the Appellant's case manager wrote to her regarding Personal Injury Protection Plan ("PIPP") benefits including the Appellant's entitlement to a lump sum indemnity benefit for a lost year of schooling. The case manager referred to a letter dated September 29, 1998 to the Appellant's lawyers advising that at that time she was capable of returning to her previous occupation and activities. The case manager confirmed that based upon the medical information on file there would be no further entitlement to a lump sum indemnity benefit or an income replacement indemnity benefit beyond the one year lump sum already received for the period of September 1997 to August 30, 1998.

The Appellant wrote to MPIC on September 9, 2004 (and provided an undated submission in support) requesting a further lump sum indemnity benefit for the loss of a second year at school.

On June 13, 2005, an Internal Review Officer for MPIC reviewed both the Appellant's Application for review of the chiropractic and psychological care issues, and treated the Appellant's request for a further lump sum indemnity as an Application for Review as well.

The Internal Review Officer reviewed the Appellant's file and concluded that the Appellant, who had attended for approximately 170 chiropractic treatments since the motor vehicle accident of July 4, 1997 required no further chiropractic treatment. The Internal Review Officer agreed with MPIC's Chiropractic Health Care Consultant that any symptoms presented to the chiropractor on March 29, 2004 and any subsequent need for chiropractic treatment were not causally related to the motor vehicle accidents.

The Internal Review Officer reviewed the Appellant's request for funding for re-attendance for further psychological intervention. As MPIC's Psychological Health Care Consultant had concluded that there were other sources of physical and emotional stress which would account for the Appellant's current psychological difficulties, the Internal Review Officer agreed that there was not a probable relationship between the psychological problems and the motor vehicle accident.

In regard to the Appellant's request for a further lump sum indemnity benefit, the Internal Review Officer rejected the Appellant's Application for Review as it did not contain a reasonable excuse for the late filing of the Application, beyond the 60 day time limit set out in Section 172 of the MPIC Act. Further, in regards to the merits of this claim, the Internal Review Officer concluded that the medical information on the Appellant's file established that the Appellant regained the capacity to return to school on a full-time basis and to return to

employment as of July 31, 1988 and thus the Appellant was not entitled to a further lump sum indemnity benefit.

It is from this decision of the Internal Review Officer that the Appellant has now appealed.

**Evidence and Submission for the Appellant:**

At the hearing of the Appellant's appeal, her counsel indicated that the request for a further lump sum indemnity payment was withdrawn. The appeal hearing continued, to deal with the remaining outstanding issues of entitlement to coverage for further physiotherapy treatment and for coverage for five (5) further psychological sessions provided by [Appellant's Psychologist #1].

The Appellant testified at the hearing into her appeal. She described the motor vehicle accident of July 4, 1997 and her injuries, which included injuries to her left arm and leg, ribs, hip, shoulder, pelvis and migraines. The Appellant described her employment history as a [text deleted] prior to the motor vehicle accident and her interest in [text deleted], which led to her entering a [text deleted] course. However, due to her injuries from the motor vehicle accident, she was not able to work or return to school on a full-time basis. She described her recovery, spending the next six months in bed and receiving chiropractic treatment as well as care from her family doctor. Although she tried to return to school, the extensive sitting required by this aggravated her low back and hip.

Although she had suffered from some occasional tendonitis and bursitis in her right [text deleted] hand while [text deleted], the Appellant explained that she did not suffer, prior to the motor

vehicle accident, from any physical problems which prevented her from working. She had suffered from some migraines with some visual aura and pain.

After the motor vehicle accident, the Appellant suffered from more severe headaches, sometimes with no aura, but with extreme pain from the C-2 area of her spine to her entire head and shoulders. She called them “neck-graines”. They appeared more frequently and were more severe than any headaches she had prior to the motor vehicle accident. She also testified that she suffered from chronic neck pain going all the way from the C-1 area of her spine down the left side of her neck into her shoulders and back. The muscles on her left side would lock up and spasm involuntarily, making it difficult to turn her head from left to right. Her hip, left leg and pelvis were also irritated.

The Appellant explained that although she had seen a chiropractor approximately once a month prior to the motor vehicle accident, following the motor vehicle accident she went to physiotherapy five days a week, the chiropractor as much as twice a week and was seeing her doctor on a regular basis, at least every second week. Although she tried to step away from all of these therapies, including medication, to allow her body to heal by itself, she always ended up going back to the chiropractor after such withdrawals from care, even though she struggled with paying for it, because it was one of the most effective treatments she tried.

The Appellant also testified that she saw [Appellant’s Psychologist #1], after the motor vehicle accident, when he did an evaluation for possible head injury. She then saw him a few times over the next year for problems with mood swings, understanding oral directions and reading comprehension. After a period of treatment, the Appellant concluded that she needed time for physical healing to occur.

She then went out and tried to find employment. She found this difficult. She was frustrated, as she couldn't work as hard as she wanted to and her pain levels, which had plateaued in 1998 had not changed. Although she did some work in various settings such as a [text deleted], she found that she was losing excessive time from work due to her pain. She started receiving trigger point injections from [Appellant's Psychiatrist], and these increased her pain for the first 10 days following the injection. She had a hard time with this increase in pain and returned to [Appellant's Psychologist #1], for five appointments. He helped her to come up with some new strategies to deal with the pain, after they had reconnected. He assisted her to cope with her chronic pain and lack of mobility. The Appellant explained that she then subsequently began to see [Appellant's Psychologist #2], who is a chronic pain psychologist with [Hospital #1], and that this treatment was covered by MHSC.

On cross-examination, the Appellant was asked about claims she had made of injuries, such as a fractured collarbone, for which there was no medical or radiological evidence on her file. The Appellant explained that the doctor at the hospital had failed to document her fractures and she did not know why.

She also provided more information regarding psychological treatment she received prior to the motor vehicle accident for post-traumatic stress issues [text deleted]. She confirmed that although she had suffered many stressors in her work, family life and childhood, before the motor vehicle accident, she had always overcome them and continued to be a contributing member of society.

The Appellant also submitted reports from her doctors [Appellant's Doctor #1] and [Appellant's Doctor #2], chiropractors [Appellant's Chiropractor #1] and [Appellant's Chiropractor #2],

physiotherapist [Appellant's Physiotherapist] and from the psychologist [Appellant's Psychologist #1].

Counsel for the Appellant reviewed the medical information upon the Appellant's file beginning with reports from [Hospital #2] upon her admission which were consistent with the Appellant's testimony regarding neck pain, left rib pain, headache and jaw pain. [Appellant's Doctor #1's] Initial Health Report diagnosed neck strain and low back strain and referred the Appellant to physiotherapy. An Initial Chiropractic Report submitted by [Appellant's Chiropractor #1] showed reports of subjective and objective pain in the Appellant's left hip, mid thoracic region, rib, low back, TMJ, trouble concentrating and neck pain as well as restricted lumbar range of motion. The diagnosis was of acute spinal strain and strain with joint dysfunction, muscle spasm and guarding.

The Appellant began receiving chiropractic treatments in conjunction with physiotherapy treatments. She attended [Appellant's Psychologist #1], [text deleted], for a neuropsychological review and assessment. [Appellant's Psychologist #1] indicated that the Appellant had a very mild concussive injury with some complications due to her previous history and symptom focused presentation. He provided a neuropsychological assessment report dated August 24, 1997 outlining her post-concussive symptoms and mood variability and suggesting possible treatment support through a time limited course of treatments, to mobilize her to get on with her life.

A report from [Appellant's Psychologist #1] dated September 8, 1997 indicated that the Appellant had suffered a significant deterioration in her mood. Cluster B personality traits were

identified as well as a clear illness focus. [Appellant's Psychologist #1] indicated careful case management was needed and that the Appellant would benefit from anti-depressants.

[Text deleted], [Appellant's Doctor #2], reported on December 8, 1997 acknowledging a pre-existing condition of cervical osteoarthritis with cord compression but indicating that her symptoms were aggravated by the motor vehicle accident.

Reports from [Appellant's Chiropractor #1] included a recommendation for a supportive chiropractic treatment plan, on a weekly basis for four to six weeks, in a report dated February 2, 1998.

[Appellant's Doctor #2] continued to document anxiety and depression.

An independent medical examination conducted by [Independent Doctor] dated August 10, 1998 noted little evidence that the Appellant's neck would cause her any functional impairment, and stated that she would be capable of returning to employment. However, counsel noted that this assessment was based upon the Appellant performing duties for a very brief period of time, and that it should also be noted that [Independent Doctor] was not privy to some of the medical information from the Appellant's file, such as EMG and Nerve Conduction studies, which would have been helpful to assess her impairment.

[Appellant's Doctor #2] reported on September 10, 1998 indicating that the Appellant was still in severe pain. On March 3, 1999, [Appellant's Chiropractor #1] diagnosed fibromyalgia and chronic pain.



The Appellant's physiotherapist recommended continued physiotherapy treatment on March 6, 1999 and the Appellant also went to see [Appellant's Doctor #3] who identified a sleep disturbance and soft tissue pain.

The Appellant continued with chiropractic and physiotherapy treatment, with some reduction of the frequency of physiotherapy treatment, up until the second motor vehicle accident of July 8, 2000.

Further physiotherapy was recommended by [Appellant's Doctor #2] who identified multiple points of pain, headache, depression and back pain, none of which were present prior to the motor vehicle accident, in his opinion.

The Appellant attended at [Appellant's Psychiatrist], who provided a consultation report dated August 13, 2003. On November 19, 2003, [Appellant's Psychiatrist] noted that the Appellant continued to use a TENS machine and he began to treat her with trigger point therapy. He recommended a resumption of normal activities including work, as well as continuation of TENS treatment and massage therapy.

On April 5, 2004 [Appellant's Chiropractor #1] identified chronic cervical myofascial headaches as well as thoracic joint dysfunction, and recommended treatment every two to four weeks to control pain.

This recommendation was reviewed by [MPIC's Chiropractor], [text deleted] who was of the opinion, by April 13, 2004, that the Appellant's condition was the result of a pre-existing

problem and that further treatment would relate to pre-existing factors rather than directly to injuries sustained in the motor vehicle accident.

On December 20, 2004, [Appellant's Physiatrist] indicated that there appeared to have been a temporary aggravation of the Appellant's pre-existing symptoms as a result of the motor vehicle accident. Counsel questioned how [Appellant's Physiatrist] could provide this opinion, since there was no indication he had access to her pre-motor vehicle accident records.

Counsel pointed to chart notes provided by [Appellant's Doctor #4] which contained a diagnosis of the Appellant's chronic neck pain in 1997 and notes of continuing neck pain, chronic pain and fibromyalgia. [Appellant's Doctor #5] diagnosed myofascial pain syndrome with trigger points on November 10, 2008 and the Appellant began receiving trigger point treatments from [Appellant's Doctor #6], who diagnosed myofascial pain syndrome on November 19, 2008.

The Appellant also saw [Appellant's Doctor #7], who noted degenerative issues and a clinical presentation suggestive of some mechanical/musculoskeletal cervical pain. [Appellant's Doctor #7] did not recommend surgery.

[Appellant's Doctor #4] then referred the Appellant to [Appellant's Doctor #8] for a second opinion, noting a past medical history that included fibromyalgia and depression. He also referred the Appellant to the [Hospital #1] Department of Psychology, on June 25, 2010, again noting her history of fibromyalgia, depression and chronic neck pain.

The Appellant was also seen by [Appellant's Doctor #9] for weekly trigger point sessions.

Counsel addressed Health Care Services reviews provided by [MPIC's Doctor], [MPIC's Psychologist], [text deleted] and by [MPIC's Chiropractor]. She submitted that [MPIC's Psychologist] failed to address the Appellant's chronic pain syndrome, even though [MPIC's Doctor], upon concluding that the Appellant sustained a temporary soft tissue injury with mild concussive effect, had referred the matter to [MPIC's Psychologist] on the basis of a likely diagnosis of a "pain type disorder".

The chiropractic consultant noted the Appellant's cervical osteoarthritis, concluding that it was improbable that any arthritic change would result from what appeared to have been a simple soft tissue injury.

Counsel submitted that the Appellant's injuries from the first motor vehicle accident had not resolved as hoped. Then, the July 8, 2000 accident again exacerbated her condition. As a result, she required ongoing supportive chiropractic care. The evidence provided by the Appellant and [Appellant's Chiropractor #1] showed that the Appellant had gone through periods of withdrawal of care and that these treatment gaps resulted in further objective findings by the chiropractor. Accordingly, it was impossible to agree with [MPIC's Chiropractor] that the Appellant had reached her pre-motor vehicle accident condition. Continuing chronic aches and pains, as well as emotional distress, were noted by [Appellant's Psychiatrist], and even [MPIC's Doctor] recognized a probable pain disorder which had developed. However, MPIC refused to provide the five additional psychiatric intervention treatments which the Appellant had sought out from [Appellant's Psychologist #1], in spite of the fact that a pain syndrome had developed as a result of the motor vehicle accident.

Accordingly, counsel submitted that the Internal Review Decision should be overturned and that the Commission should allow the Appellant's appeal to provide her with continuing coverage for chiropractic treatments and reimbursement for five psychotherapy treatments provided by [Appellant's Psychologist #1] on June 1, June 29, August 26, August 28 and September 30, 2004.

**Submission for MPIC:**

Counsel for MPIC submitted reports from its Health Care Services team, including [MPIC's Doctor], [MPIC's Psychologist], [text deleted] and [MPIC's Chiropractor] [text deleted], and relied upon reports from [Appellant's Psychiatrist], [Appellant's Doctor #7] and [Independent Psychologist] in the Appellant's indexed file.

Counsel noted that the relevant dates for chiropractic treatments sought are beyond May 10, 2004, while the psychological treatment sought is for dates beyond April 22, 2004.

Counsel submitted that MPIC had paid for chiropractic and psychological treatment before those dates on the basis of giving the appellant the benefit of the doubt regarding her reported symptoms. However, by April and May 2004, any of those symptoms ought to have been long resolved such that any symptoms remaining were due to a pre-existing medical history.

Counsel submitted that contrary to what the Appellant believed, the motor vehicle accident was not of a serious nature. The Emergency report dealt with complaints of pain and a diagnosis of multiple contusions, but not fractures.

The Appellant's doctor diagnosed sprains and strains and [Appellant's Physiatrist], in his report of December 20, 2004 noted that the Appellant had chronic aches and pains on a great portion of her body, with pain diagrams similar to those completed in November of 2003. At this point, counsel explained it was clear that the Appellant's condition was chronic. This was seven years after the motor vehicle accident and she had consistently complained that her symptoms were worsening. However, this was not connected, it was submitted, to the motor vehicle accident.

Counsel submitted that there had been no specific physical findings beyond soft tissue injuries and subjective symptoms. There was nothing objective that [Appellant's Physiatrist], [text deleted], was able to pinpoint, and he had noted that while there may have been a temporary aggravation of her pre-existing symptoms from the motor vehicle accident, he would have expected that temporary aggravation to take between eight and twelve weeks to resolve to her pre-accident situation.

[MPIC's Doctor] reviewed the Appellant's file and considered the physical aspects of her case in great detail. She reviewed the documents on the Appellant's file and commented regarding causation, indicating that there was no ongoing anatomical condition resulting from the motor vehicle accident. In her view, there was most likely a pain disorder at work, and she referred the file to [MPIC's Psychologist] for further comment.

Counsel reviewed the Appellant's history of receiving chiropractic treatments on a regular basis before the motor vehicle accident. Her evidence was that this was proactive treatment to protect her neck, shoulder and to prevent tendonitis, due to the repetitive movements of her profession. She commented on problems that she had with her hips from standing for long hours. She

indicated that she saw the chiropractor more frequently during busy times at work and was familiar with chiropractic treatment and receiving it on an ongoing basis.

Counsel submitted that the request for supportive care had not been substantiated, and was not much different from the care the Appellant had been receiving prior to the motor vehicle accident. The Internal Review Officer had reviewed invoices for 107 chiropractic treatments the Appellant had received since the motor vehicle accident in July 1997. This, it was submitted, was a substantial amount of care given the type of injuries in her neck and lower back.

[Appellant's Chiropractor #1] had provided treatment only two days prior to the motor vehicle accident in July 1997. Then, following the motor vehicle accident, she indicated that the anticipated duration of in-clinic care would be for approximately six months. Now, the Appellant is seeking chiropractic treatment beyond 2004. [MPIC's Chiropractor] recognized that the Appellant's current condition was due to a pre-existing problem.

It was worth noting, counsel submitted, that X-rays taken of the Appellant, even in January of 2003, identified no acute abnormalities nor were there any neurological abnormality findings. The Appellant's physical exams were normal, but for mildly reduced cervical and spinal range of motion. There was nothing to suggest that the accident in 1997 was severe.

[Appellant's Doctor #7], in his report dated March 16, 2010 noted the mildly restricted range of motion in the cervical spine with no obvious motor deficits of the upper and lower extremities and muscle tone was in normal limits. His recommendation was for an "expectant attitude". No immediate treatment was recommended by him.

[Appellant's Chiropractor #2's] chiropractic report of April 8, 2010 set out diagnoses for the Appellant of cervical osteoarthritis, chronic myofascial pain syndrome, chronic spinal strain/joint dysfunction, cervical spine radiculopathy and chronic cervicogenic headaches.

[MPIC's Chiropractor] reviewed these diagnoses in a memorandum dated November 29, 2011, indicating that it was improbable that any arthritic changes would result from the Appellant's simple soft tissue injury, resulting in the cervical osteoarthritis. Recognizing that the Appellant had chronic spinal pain, [MPIC's Chiropractor] noted that it was improbable that these resulted from the long distant motor vehicle accident which resulted in soft tissue injuries. He noted that there was no evidence of cervical spine radiculopathy, and that the Appellant had suffered from headaches, described as migraine, in the period prior to the motor vehicle accident, and was in fact under the care of a neurologist who had described her headache as a significant problem back then.

Therefore, counsel submitted that it should be concluded, based upon the medical and chiropractic opinions on the Appellant's file, that the Appellant did not suffer from ongoing physical symptoms as a result of the motor vehicle accident, in 2004, that would require further ongoing or supportive chiropractic care.

In regard to the Appellant's request for five further psychotherapy treatments in 2004, counsel noted the Appellant's admission that she had received psychological treatment on and off since the 1970's, and that this treatment had been discontinued only one year prior to the motor vehicle accident.

The Appellant's neuropsychological assessment with [Appellant's Psychologist #1] in August 1997 disclosed a past history of migraine headaches, previous psychological intervention 18 years before and recent family problems. Deficiencies in these areas did not result from the motor vehicle accident.

Although the Appellant attended for psychological treatment with [Appellant's Psychologist #1], [MPIC's Psychologist] of MPIC's Health Care Services team called the necessity of these treatments into question. This led to an independent assessment provided by [Independent Psychologist] and dated May 11, 2012. [Independent Psychologist] noted the Appellant's pre-motor vehicle accident history of psychological difficulties, [text deleted]. Clearly, counsel noted, the Appellant had significant psychological difficulties prior to the 1997 motor vehicle accident.

[Independent Psychologist] noted that a review of the Appellant's extensive medical records did not appear to substantiate many of the injuries she reported experiencing subsequent to the accident in question and that there appeared to be little evidence linking her current symptoms of chronic pain to the accident.

[Independent Psychologist] provided a diagnosis of a pain disorder associated with both psychological factors and a general medical condition, as well as cluster "B" personality traits. The Appellant presented as somatically focused and disability oriented. However, [Independent Psychologist] concluded that there did not appear to be a causal relationship between the Appellant's symptoms of chronic pain and the accident of July 4, 1997. Rather, the medical records suggested that her symptoms of pain were related to degenerative changes and as such,



the causal relationship between her psychological response and her symptoms of chronic pain and the accident was not present.

Although counsel recognized that [Appellant's Psychologist #1] was recommending further psychological treatment based upon a deviation between her initial assessment in 1997 and what he found when he examined her in 2004, [Appellant's Psychologist #1] failed to take into account a holistic consideration of the Appellant's earlier condition, as well as the workplace stressors which affected the Appellant. Counsel for MPIC reminded the panel that [Appellant's Psychologist #1's] report of August 24, 1997 did not note psychological issues as a result of the motor vehicle accident, beyond a mild concussive injury.

Therefore, counsel submitted that the Appellant's appeal, both in regard to further chiropractic and further psychotherapy sessions should be dismissed, and the decision of the Internal Review Officer upheld, as the Appellant had failed to establish, on a balance of probabilities, that further ongoing or supportive chiropractic care or psychotherapy treatments were medically required as a result of injuries sustained in the motor vehicle accident.

### **Discussion:**

The MPIC Act provides:

#### **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;

Manitoba Regulation 40/94 provides:

**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 is prescribed by a physician;

(b) when care is medically required and dispensed outside the province by a person authorized by the law of the place in which the care is dispensed, if the cost of the care would be reimbursed under *The Health Services Insurance Act* if the care were dispensed in Manitoba.

The onus is on the Appellant to show, on a balance of probabilities, that the further chiropractic and psychological treatment she seeks are medically required as a result of the motor vehicle accidents. The panel has reviewed the evidence submitted by the parties, as well as the submissions of counsel. The parties agreed that the Appellant had reached maximum medical improvement from chiropractic care and that she was clearly seeking supportive chiropractic care at a frequency of approximately one or two times monthly.

In reviewing the Appellant's file and the evidence presented at the appeal hearing, the panel notes that there is not a significant difference between the type and frequency of treatment that the Appellant is seeking and the chiropractic care she was receiving prior to the motor vehicle accident. The Appellant suffered from some pre-existing issues in her neck, shoulder, elbows and hip prior to the motor vehicle accident, which she attributed to the repetitive nature of her work as a [text deleted]. In addition, subsequent radiological investigations had disclosed some degenerative age related changes in these and other areas.

As a result, the panel finds that any need for supportive chiropractic care which the Appellant may have felt, was not related to ongoing difficulties resulting from the motor vehicle accident, but rather was a continuation of the chiropractic care she had received for her pre-motor vehicle accident condition.

In regard to psychological treatment, the panel has carefully reviewed the report of [Independent Psychologist], which concluded that the Appellant's psychological condition was not causally connected to the motor vehicle accident, and [Appellant's Psychologist #1's] report of September 17, 2004 regarding the continuity of the Appellant's symptoms, as he did not see her between 1988 and 2004. He relied on information from her family physician, which suggested a continuity of symptoms and recommended an aggressive course of psychologically based treatment combined with an active and physical rehabilitation.

While [Independent Psychologist] did a thorough review and presented a well considered opinion regarding the lack of a causal connection between the motor vehicle accident injuries and the Appellant's chronic pain condition, the panel finds [Appellant's Psychologist #1's] assessment of the causal connection between the motor accident and the Appellant's condition in 2004 and his recommendation for treatment to be reasonable.

The Appellant gave evidence regarding her experiences with [Appellant's Psychologist #1] including the improvement in her condition she experienced both in 1997, and again in 2004. She spoke of reconnecting with him when her pain levels increased and working with him to find an improved coping strategy for dealing with her pain. There is no evidence that this treatment involved far-reaching treatment regarding all her psychological issues. Rather, it took the form

of a direct behavioural approach to dealing with her pain, similar to the approach that had been taken during earlier treatments in 1997 and 1998.

The panel finds that this treatment was reasonable, medically required, and connected to the chronic pain condition of pain complaints that [Appellant's Psychologist #1] believed was exacerbated and aggravated by the motor vehicle accident and for which the Appellant, in his opinion as the treating psychologist, required assistance.

Accordingly, the panel finds that the five psychological treatments after May 2004 which the Appellant underwent with [Appellant's Psychologist #1] were medically required, and as such, the Appellant should be entitled to reimbursement for these treatments (on June 1, June 29, August 26, September 30 and October 20, 2004) by MPIC.

Accordingly, the Internal Review decision dated June 13, 2005 is upheld in regard to further chiropractic treatments and overturned in regards to funding for psychological intervention. The Appellant's appeal for further chiropractic treatments is dismissed and her appeal for funding for psychological intervention is allowed, as noted above. The Appellant will be entitled to reimbursement for the five psychological treatments with [Appellant's Psychologist #1] after May 2004.

Dated at Winnipeg this 3<sup>rd</sup> day of July, 2013.

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**LAURA DIAMOND**

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**JANET FROHLICH**

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**DR. CHANDULAL SHAH**