AUTOMOBILE INJURY COMPENSATION APPEAL COMMISSION

IN THE MATTER OF an appeal by [the Appellant]
AICAC File No.: AC-98-128

PANEL:	**Mr. J. F. Reeh Taylor, Q.C. (Chairman)** **Mr. Charles T. Birt, Q.C.** **Mrs. Lila Goodspeed**
APPEARANCES:	**Manitoba Public Insurance Corporation ('MPIC')** **represented by Ms Joan McKelvey** **Appellant represented by himself**
HEARING DATE:	**November 19th, 1998**
ISSUE(S):	**Who should pay for additional program of chiropractic care recommended by a second chiropractor?**
RELEVANT SECTIONS:	**Section 136(1), 138 and Regulation 40/94 of the MPIC Act ('the 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 FACTS:

The facts of this case are clearly set out in Acting Review Officer's letter dated September 3rd, 1998 and we incorporate them into this decision. The letter is attached to and becomes part of our Reasons as it relates only to the facts of this case.

THE ISSUE(S):

The Appellant decided that after one year of treatments with his chiropractor, [text deleted], his condition was not improving. He felt he had not returned to his pre-accident status and wanted a second medical opinion to see if there was another method of treatment that would help return him to normal.

[Appellant's chiropractor #1] reported that when he last treated [the Appellant] on April 30th, 1998 the Appellant was experiencing moderate intermittent pain in his low back and moderate infrequent pain in his neck and that he had attained 80% of his pre-accident status in these two areas of injury. He had recovered fully from all other injuries he had sustained in the accident.

[Text deleted], a chiropractic consultant for MPIC, stated in his report of November 12th, 1998 after reviewing all of the medical evidence on this file that he did not deny that [the Appellant] had some residual symptoms resulting from the auto accident and that they had appeared to stabilize with the treatment of [Appellant's chiropractor #1]. He also believed that [the Appellant's] condition had plateaued as a result of this treatment and that he had achieved maximum benefit from this program.

[The Appellant] wanted to improve and consulted a second chiropractor to see if a different course of chiropractic treatment could return him to his pre-accident status. He saw [Appellant's chiropractor #2], of the [text deleted] Chiropractic Centre, on May 27th, 1998 and started an intensive treatment program receiving two chiropractic treatments in May, eight in

June , three in July, four in October and four in September. [Appellant's chiropractor #2] states in a report dated September 28th,1998 that "[the Appellant] has attained a near accident status. ..... In the months of October and November [the Appellant] will attend on a tri-monthly to semi-monthly schedule and it is felt that by December 31st, 1998 that he will have attained the additional 20 % to achieve a pre-accident health status". He felt that [the Appellant] needed only another 8 - 10 treatments to return him to his pre-accident status.

We have been told countless times by many different caregivers that when a program of treatment is established for a patient a series of objectives or goals should be set and a time frame should be established in which they are to be accomplished. In the event these goals or objectives are not met, or the patient is not responding, or the patient has plateaued but not at the desired level, then the patient and the program should be re-evaluated. Either a different treatment program should be implemented or the patient should be referred to another medical caregiver for evaluation and possible different treatment program. his concept has been accepted by this Commission.

According to the evidence supplied at the hearing [the Appellant] received a different type of chiropractic treatment from [Appellant's chiropractor #2] than the one he received from [Appellant's chiropractor #1]. Both [the Appellant] and [Appellant's chiropractor #2] felt there was a marked improvement in his condition and believed that by December 31st,1998 he would attain his pre-accident status.

Under the circumstances of this case we are of the view that the quest for a second opinion and

subsequent treatment was the correct way to proceed and agree that MPIC should pay for this treatment and related expenses.

The last visit by [the Appellant] to [Appellant's chiropractor #1] was on May 21st,1998 and if he had continued with [Appellant's chiropractor #1] he would have received another two treatments by June 30th, 1998. MPIC paid [the Appellant] for these two treatments and they will be credited against the two treatments he received from [Appellant's chiropractor #2] in May 1998. [Appellant's chiropractor #2] advised that he would be treating [the Appellant] tri-monthly to semi-monthly in October and November and we presume in December and this should work out to eight treatments. Therefore [the Appellant] should receive compensation for 27 treatments for the period of June 1st to December 31st 1998 plus the cost of one set of X-rays taken by Dr. Lowdewyks. [The Appellant] shall also be paid interest on these funds as set out by the Act and Regulations.

DISPOSITION:

The Acting Review Officer's decision of July 22nd, 1998 is, therefore, rescinded and the foregoing is substituted for it.

Dated at Winnipeg this 15th day of December, 1998.

J. F. R.TAYLOR, Q.C.

CHARLES T. BIRT, Q.C.

LILA GOODSPEED