

Automobile Injury Compensation Appeal Commission

**IN THE MATTER OF an Appeal by [the Appellant]
AICAC File No.: AC-03-137**

PANEL: Ms Laura Diamond, Chairperson

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

HEARING DATE: November 15, 2006

ISSUE(S): Permanent Impairment Award for damage sustained to tooth #25

RELEVANT SECTIONS: Section 127 of The Manitoba Public Insurance Corporation Act ('MPIC Act') and Section 4 of Manitoba Regulation 41/2000

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 Appellant, [text deleted], was injured in a motor vehicle accident on August 6, 2002. She was a passenger on a bus when the driver suddenly applied his brakes and she hit her head on the steel bars of the bus, causing damage to her teeth.

The Appellant sustained damage to two (2) teeth, number 24 and 25, identified as pre-molars. Both teeth were extracted and she received implants. MPIC paid for this dental work and she was ultimately awarded a one percent (1%) permanent impairment rating for tooth number 24.

In a letter dated June 9, 2003, the Appellant's case manager awarded a further one percent (1%) permanent impairment benefit for permanent damage sustained to tooth number 25.

The Appellant sought an Internal Review of this decision. In an Internal Review decision dated August 28, 2003, an Internal Review Officer for MPIC found that:

According to Section 4.1(d) and (e), a claimant is entitled to a 1% Permanent Impairment rating for each premolar that is permanently damaged as a result of the accident. Since this is the amount that you were awarded by your Case Manager, I see no reason to interfere with her decision regarding same.

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

At the hearing into the Appellant's appeal heard on November 15, 2006, the Appellant complained of other issues she had with her teeth as a result of the motor vehicle accident, including problems with her veneers and another tooth. As these were not issues before the Commission or within its jurisdiction in the current appeal, it was suggested that she consult with a case manager or with MPIC's Customer Service Centre in this regard.

In regard to the issue under appeal, the permanent impairment benefit awarded for damage sustained to tooth number 25, the Appellant indicated that she had no submission to make in support of further benefits.

Counsel for MPIC reviewed the medical documentation on file from the Appellant's dentist and from [text deleted], Dental Consultant to MPIC's Health Care Services. The documentation indicated that teeth number 24 and 25, classified as premolars, were extracted and replaced with

implants. Computer records from the Appellant’s file indicated that the medical procedures were paid for by MPIC and that the Appellant was awarded a permanent impairment award of two percent (2%) (1% for each tooth) for the loss of these teeth.

Counsel for MPIC also reviewed the relevant legislation under Regulation 41/2000 and submitted that the permanent impairment award awarded to the Appellant for the loss of tooth number 25 was the appropriate permanent impairment award as prescribed by the statute.

Discussion

Lump sum indemnity for permanent impairment

127 Subject to this Division and the regulations, a victim who suffers permanent physical or mental impairment because of an accident is entitled to a lump sum indemnity of not less than \$500. and not more than \$100,000. for the permanent impairment.

Manitoba Regulation P215 – 41/2000

4. Alteration or loss of teeth

4.1 Previously health teeth

- (d) first premolar1%
- (e) second premolar1%

The onus is on the Appellant to establish, on a balance of probabilities, that the permanent impairment award of one percent (1%) for the loss of tooth number 25 was not appropriate.

I have reviewed the submissions of the parties, as well as the evidence on file. I find that the Appellant has not provided any evidence or arguments to show that the permanent impairment award of one percent (1%) is not appropriate in the circumstances.

Accordingly, I find that the permanent impairment award of one percent (1%) for the Appellant’s

loss of tooth number 25 is appropriate. The Appellant's appeal dated October 5, 2003 is dismissed and the decision of the Internal Review Officer dated August 28, 2003 is hereby confirmed.

Dated at Winnipeg this 23rd day of November, 2006.

LAURA DIAMOND