



Automobile Injury Compensation Appeal Commission

IN THE MATTER OF an Appeal by [the Appellant]
AICAC File No.: AC-05-111

PANEL: Ms Laura Diamond, Chairperson
Dr. Patrick Doyle
Ms Deborah Stewart

APPEARANCES: The Appellant, [text deleted], appeared on his own behalf;
Manitoba Public Insurance Corporation ('MPIC') was
represented by Mr. Terry Kumka.

HEARING DATE: November 5, 2005

ISSUE(S): Entitlement to trigger point injections beyond August 30,
2004

RELEVANT SECTIONS: Section 136(1) 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 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 was injured in a motor vehicle accident on September 14, 1998. As a result of injuries arising from the accident, he was in receipt of Personal Injury Protection Plan ('PIPP') benefits, including chiropractic treatment funded by MPIC.

In a previous decision of this Commission dated January 15, 2004, a panel of the Commission determined that, on the balance of probabilities, epidural steroid injection treatments were

medically required for treatment of the Appellant's back problem and that the Appellant was entitled to reimbursement of the cost of epidural steroid injections by MPIC.

[Appellant's doctor #1] submitted a request for further treatment as outlined in a Treatment Plan Report dated August 30, 2004. This treatment included trigger point injection treatments.

On September 22, 2004, the Appellant's case manager indicated that the Appellant had reached a plateau in his recovery and that additional trigger point injection treatments were not medically required. Therefore, MPIC would not consider the cost of further treatment effective August 30, 2004.

The Appellant applied for an internal review of this decision of the case manager, and on May 19, 2005, an Internal Review Officer found that the medical documentation on the Appellant's file did not support that further advances in recovery were being recognized while attending for trigger point injections, indicating that he had reached a plateau in his recovery concerning this modality of treatment. As well, the Internal Review Officer found that the effectiveness of trigger point injections to address soft tissue conditions cannot be medically supported and, therefore, these were not viewed as a "medical requirement" within the PIPP legislation.

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

Submissions

The Appellant indicated that after [Appellant's doctor #1] administered the epidural steroid injection treatments to his back, almost two (2) years ago, he continued to attend at [Appellant's doctor #1] for treatment every three (3) to four (4) months. [Appellant's doctor #1] had then

administered trigger point injection treatments, which the Appellant indicated relieved his pain. He indicated that he did not feel he had reached one hundred (100) percent improvement, but that, over time and with this treatment he has experienced approximately a forty (40) to fifty (50) percent improvement in his condition. [Appellant's doctor #1] does not administer the treatment every time the Appellant sees him; rather, he estimated that he received the injections approximately every second visit. As well, the Appellant testified that he has continued to perform exercises assigned to him, and attend the [text deleted].

He submitted that it had been MPIC's decision to refer him to [Appellant's doctor #1] for treatment. The Appellant co-operated with this request and followed [Appellant's doctor #1's] recommendations for treatment, which have resulted in improvements to his condition. However, he still experiences pain and submitted that MPIC should be required to continue to fund this treatment.

Counsel for MPIC submitted that a great deal of time has passed since the Appellant's motor vehicle accident of September 1998 and that the Appellant has since reached maximum medical improvement. He pointed to findings of [Appellant's doctor #2], following an examination in September 2000, where it was noted that the Appellant had full range of motion in his lumbar spine. He submitted that the Appellant's condition has not continued to improve, but rather, his condition was staying the same and not getting better.

Counsel for MPIC referred to a memorandum prepared by [text deleted], Medical Director for MPIC's Health Care Services and dated May 3, 2005. [MPIC's doctor's] memorandum included excerpts from research material which indicated that trigger point injection treatments are not

medically required and that patients receiving such injections experienced no greater improvement than patients in a control groups which did not receive the treatment.

He argued that medical documentation on the Appellant's file showed very little improvement in the Appellant's condition. It was his view that these small improvements could be attributed not to the trigger point treatments, but rather, simply to the passage of time. He submitted that the trigger point injection therapy was elective and not medically required pursuant to the Act.

Discussion

Section 136(1) of the MPIC Act provides for reimbursement of medical care expenses incurred because of the accident. Pursuant to the regulations, such treatment must be medically required.

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

Reimbursement of victim for various expenses

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.

In order for the Appellant to succeed in his appeal, he must demonstrate, on a balance of probabilities, that the medical care which he is seeking is medically required.

The panel has reviewed the medical evidence on file, as well as the Appellant's submission and the submission of counsel for MPIC. The panel notes that [MPIC's doctor], unlike the Appellant's caregivers, has not had the opportunity to examine the Appellant. He has provided his opinion that trigger point injections "can never be described as a medically necessary or medically required treatment", and that in this case as well, "the proposed trigger point injection is not medically required".

However, the panel has given particular weight to the opinions of the Appellant's own caregiver, [Appellant's doctor #1], who has had the opportunity to examine the Appellant and to observe the effects of the various treatments which the Appellant has undergone, upon his symptoms and conditions, over time.

The panel finds that the trigger point injection treatments prescribed and administered by [Appellant's doctor #1] are medically required as a result of the motor vehicle accident and assist in the improvement of the Appellant's condition. It is the opinion of the Appellant's physician that his condition has not plateaued, and that he may require treatment every three to four months, on average.

In his report dated April 14, 2005, [Appellant's doctor #1] states:

Treatment and Recommendations: He underwent local Fluoro-Methane vapo-coolant spray and stretch treatment followed by specific stretching exercises and application of local heat modalities. He would require trigger point injection treatment to relieve the muscle and soft tissue pain. He may require one treatment every three to four months, on average, three to four treatments a year. He also has developed chronic left L5 radiculitis

and he may respond epidural corticosteroid injections. The purpose of this is to relieve the nerve root inflammation followed by thoracolumbar stabilization exercises to improve the spinal posture and strength of the paraspinal and abdominal muscles with the purpose to resolve his radiculitis.

In my opinion, his response to the treatment has not plateaued; he has only 50-60% improved and would benefit from further recommended treatment.

Accordingly, the panel finds that trigger point injection treatments, as prescribed by [Appellant's doctor #1], are medically required as a result of the motor vehicle accident. We find that when MPIC discontinued treatment benefits for the Appellant effective August 30, 2004, he had not yet reached maximum medical improvement of the injuries he sustained in the motor vehicle accident, and that further trigger point injection therapy was medically indicated and necessary. Accordingly, in the circumstances, the Commission finds that the course of treatment recommended by [Appellant's doctor #1] is medically required within the meaning of Section 5(a) of M.R. 40/94.

The Commission finds that the Appellant was entitled to trigger point injection therapy beyond August 30, 2004 and that these benefits should be reinstated by MPIC. The Appellant is entitled to reimbursement of expenses which he has incurred or may incur for trigger point injections which he continues to require as a result of a motor vehicle accident of September 14, 1998. As a result, the decision of MPIC's Internal Review Officer dated May 19, 2005 is rescinded and the foregoing substituted for it.

Dated at Winnipeg this 5th day of January, 2006.

LAURA DIAMOND

DR. PATRICK DOYLE

DEBORAH STEWART