

Automobile Injury Compensation Appeal Commission

**IN THE MATTER OF an Appeal by [the Appellant]
AICAC File No.: AC-05-72**

PANEL: Ms Yvonne Tavares, Chairperson
Dr. Patrick Doyle
Ms Linda Newton

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

HEARING DATE: August 19, 2008

ISSUE(S): 1. Whether the Appellant suffered a relapse thereby entitling her to further Personal Injury Protection Plan ('PIPP') benefits;
2. Whether the Appellant's PIPP benefits should be reinstated based upon new medical information.

RELEVANT SECTIONS: Sections 117 and 171 of The Manitoba Public Insurance Corporation Act ('MPIC 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 Appellant, [text deleted] is appealing the Internal Review Decision dated February 9, 2005, with regards to the following issues:

1. whether the Appellant suffered a relapse within the meaning of Section 117 of the MPIC Act, thereby entitling her to further PIPP benefits; and

2. whether the Appellant's PIPP benefits should be reinstated based upon new medical information.

The Appellant was involved in two separate motor vehicle accidents, on March 4, 1999 and on March 8, 2002. As a result of the injuries which the Appellant sustained in those accidents, she became entitled to certain PIPP benefits pursuant to Part 2 of the MPIC Act. In a decision dated July 22, 2004, this Commission found that:

1. the Appellant failed to establish, on a balance of probabilities, that her ongoing difficulties beyond February 4, 2000, were as a result of injuries sustained in the motor vehicle accident of March 4, 1999. Therefore, there was no further entitlement to PIPP benefits beyond February 4, 2000 as a result of the March 4, 1999 accident; and
2. the Appellant was capable of holding the determined employment (as a sewing machine operator) as of August 26, 2002 and therefore she was not entitled to income replacement indemnity benefits beyond August 26, 2002 (arising from the accident of March 8, 2002).

On September 2, 2004 the Appellant's representative provided her case manager with a copy of [Appellant's doctor's] report of July 15, 2004. In his report of July 15, 2004, [Appellant's doctor] indicated that a CT scan done on April 4, 2004 showed a disc herniation at L4-5 with spinal stenosis. Mild stenosis was also present at L3-4. [Appellant's doctor] also concluded that the Appellant was disabled from doing any prolonged sitting, standing, bending or lifting activities which would include her previous duties as a sewing machine operator or as a server in a restaurant. The case manager determined that the Appellant was not entitled to a reinstatement of her PIPP benefits based upon [Appellant's doctor's] medical report. The Appellant sought an Internal Review of the case manager's decision. In his decision dated

February 9, 2005, the Internal Review Officer dismissed the Appellant's Application for Review and upheld the case manager's decision. It is from this decision that the Appellant has appealed.

An appeal hearing was held on August 19, 2008. The Appellant did not attend the hearing or provide any further submissions to the Commission in support of her 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, a causal connection between the clinical findings noted by [Appellant's doctor] in his report of July 15, 2004 and either of the motor vehicle accidents of March 14, 1999 and/or March 8, 2002. Accordingly, the Commission finds that the new medical information provided by [Appellant's doctor] does not establish:

1. that the Appellant has suffered a relapse within the meaning of Section 117 of the MPIC Act, thereby entitling the Appellant to further PIPP benefits; or
2. that the Appellant's PIPP benefits should be reinstated, pursuant to Section 171 of the MPIC Act.

As a result, the Appellant's appeal is dismissed and the Internal Review Decision dated February 9, 2005 is therefore confirmed.

Dated at Winnipeg this 22nd day of September, 2008.

YVONNE TAVARES

DR. PATRICK DOYLE

LINDA NEWTON