

Automobile Injury Compensation Appeal Commission

**IN THE MATTER OF an Appeal by [the Appellant]
AICAC File No.: AC-06-004**

PANEL: Mr. Mel Myers, Q.C., Chairperson
Ms Mary Lynn Brooks
Mr. Neil Margolis

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

HEARING DATE: October 29, 2012

ISSUE(S):

1. Entitlement to Income Replacement Indemnity benefits from July 30, 2004 to March 21, 2005;
2. Entitlement to reimbursement for medications Venlafaxine, Lorazepam and Zopiclone;
3. Entitlement to reimbursement for psychological treatment.

RELEVANT SECTIONS: Sections 70(1), 71(1), and 136(1)(d) of The Manitoba Public Insurance Corporation Act ('MPIC Act') and Section 38 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 involved in a motor vehicle accident on December 13, 1998 and sustained multiple injuries, most notably internal chest and dental injuries, multiple rib fractures and bilateral foot fractures.

At the time of the motor vehicle accident, the Appellant was a heavy duty mechanic with [text deleted] for approximately 20 years. He was working in the main shops doing a variety of jobs including engines, electrical and wheels. The Appellant stated that the working conditions were good at that time, that he enjoyed his work and that [TEXT DELETED] was a good employer.

Due to the injuries sustained by the Appellant in the motor vehicle accident he was unable to return to his previous employment as a machinist at [TEXT DELETED], which involved heavy labour. The Appellant participated in a rehabilitation program.

On September 4, 2001 MPIC's case manager determined that based on the medical information on file the Appellant was unable to hold the employment he held at the time of the motor vehicle accident. As a result the Appellant was entitled to a two year determination of employment, in accordance with Sections 107 and 109(1) and (2) of the MPIC Act. The case manager advised the Appellant that based on MPIC's assessment he was determined capable of holding employment as a Machinist and Machining and Tooling Inspector. The Appellant retrained for this position and continued employment until the end of July 2004.

On July 30, 2004 the Appellant was vacationing near [text deleted]. He spent an evening at a bar with some friends and sometime after midnight he was stopped by the police and charged with impaired driving. The Appellant was devastated by the impaired driving charge and that night he attempted suicide by ingesting two bottles of pills. The Appellant was found by a friend and was taken to a hospital in [text deleted]. After spending two days there he was transferred to a psychiatric ward in [text deleted], where he spent two days under observation. The Appellant was seen by a psychiatrist who issued a discharge summary on August 4, 2004 and stated:

“DISCHARGE DIAGNOSIS:

- Axis 1: Adjustment disorder with disturbance in conduct.
Depressive disorder not otherwise specified.
Alcohol dependence.
- Axis 2: No diagnosis.
- Axis 3: None known.
- Axis 4: DUI charge.
- Axis 5: GAF (global assessment of functioning) = 65 to 70.

...He acknowledged suicidal ideation as well as acute stressor of being charged with DUI the day prior to overdose...”

In a note to file on August 13, 2004 the case manager indicated that he had a discussion with the Appellant who informed her that he was not doing very well. He further advised her that he had been off work which had something to do with an overdose. He indicated that he was very stressed about things and he had not been at work for awhile. He further indicated that:

“...Everyone at [TEXT DELETED] is unhappy. The place is run by the Americans and there is a lot of stress.”

The Appellant wrote to the case manager on September 10, 2004 and stated:

“I have tried very hard to cope with the pressures of a new job, a complete change in lifestyle and inability to lead the “normal” life I was used to before the accident, and the constant pain in my feet. Since the accident, I have constantly been on medication to help me sleep, fight depression and control the pain. At this point in my life I am unable to deal with all these issues without help.

I am unable to work. Please contact me to discuss the process to follow to reapply for Income Replacement or wage replacement for the time I am unable to work while I am receiving treatment.”

On his return to [text deleted] the Appellant was seen by [Appellant’s doctor #1], his personal physician who issued a report and stated that the Appellant has “*significant stressors and mood has not stabilized*”. [Appellant’s doctor #1] indicated that the Appellant needed psychological counselling and that he had “*stress related to DUI charge and upcoming court dates. Has lost driver license and can’t get around, cane dependant due to foot fractures. Financial worries*”.

[Appellant's doctor #1] referred the Appellant for an assessment to [Appellant's psychologist], a clinical psychologist, and [Appellant's psychiatrist], a psychiatrist at the [hospital].

[Appellant's psychiatrist], an experienced psychiatrist at [hospital], saw the Appellant on August 31, 2004. In his report to [Appellant's doctor #1], [Appellant's psychiatrist] reviewed the Appellant's history and noted:

1. Contrary to what the Appellant asserted in his submission, that the Appellant had a very difficult upbringing.
2. The Appellant's parents were both alcoholic and he had a rather horrific past history of parental neglect and abuse.
3. At age [text deleted] the Appellant was put into a boys' reformatory from which he ran away and was involved in a motor vehicle accident which resulted in the death of a close friend.
4. He later became involved in substance abuse and continued an antisocial pattern of life.

[Appellant's psychiatrist] further noted that:

1. The Appellant eventually straightened out, completed his education and entered into the workforce.
2. His adult history was also marked by substance abuse, alcoholism, and continued difficulties with the law.
3. The Appellant had a number of depressive episodes and several incidences of overdose with no sustained psychiatric care.
4. The Appellant's 1998 motor vehicle accident was a major incident of extreme duress in his life.

5. The loss of his previous job was also depressing to the Appellant which contributed to his depressed state.
6. The Appellant had many vegetative signs and symptoms and at the time the Appellant was assessed he offered no specific diagnosis.
7. *“this follows soon after a recent drug ingestion that was consequent of his being intoxicated and driving while impaired. He was arrested and now has lost his license, another significant loss as he cannot attend the gym which was the one highlight in his day”.*

The Appellant wrote to the case manager on September 25, 2004 and stated:

“Since the accident, I have constantly been on medication to help me sleep, fight depression and control the pain in my feet. I have not submitted any receipts to MPIC for reimbursement because the Amitriptyline I was prescribed was relatively inexpensive. The new medications I have recently been prescribed for pain management, sleep and depression are very expensive and I am submitting them for reimbursement. I have enclosed a receipt from the pharmacy for the month of August to the present.”

On October 26, 2004 the Appellant wrote to the case manager and stated:

“This is just a reminder that I am still waiting for an answer to three items:

Item 1: Membership renewal in an exercise program. Note: the renewal date is November 1, 2004

Item 2: Repayment of prescription drug expenses in the amount of \$356.84.

Item 3: Income replacement or payment during time off of work due to ongoing stress and depression caused by changes in physical capabilities.

I would appreciate anything you can do to speed up the process and get me answers, especially to Item 1. If necessary please send me the documents I will require to appeal any negative decisions.”

On October 27, 2004 the Appellant informed the case manager that the Court had imposed a one year suspension of his driver’s licence and a \$600 fine.

[Appellant's psychologist] issued a report on November 1, 2004 where she stated that the Appellant was depressed and the following were factors relating to the motor vehicle accident which were contributory:

“the pain that he experiences as a result of the accident; the change in his work situation as a result of the MVA; and, symptoms of Posttraumatic Stress Disorder (PTSD).”

At MPIC's request the Appellant saw [text deleted], a psychiatrist, who assessed the Appellant at his office on November 26, 2004. [Independent psychiatrist] provided an extensive report on the psychological status of the Appellant and in response to questions from MPIC's case manager, he stated:

“[the Appellant]'s psychiatric condition does not preclude travel to and from the workplace.

His current psychiatric limitations do not result in an inability to perform the required tasks of his job.

His psychiatric condition does not pose a safety or health risk to him or to his co-workers on the job. The significant safety risk is his suicidal ideation as described above.

A return to work may well adversely affect the natural history of his psychiatric condition. The reasons for this are as described above, from a physical perspective a return to work would be very difficult given his limitations with organizing his ability to get there and back. The problem that would arise in this situation is an interaction of his legally mandated inability to drive plus his physical problem which prevents him from utilizing other methods of getting to work, plus his psychiatric condition which, even though resolving, leaves him at high risk for deterioration to a repeat suicide attempt should these other factors in his life lead to a significantly negative impact.”

At the request of MPIC's case manager [MPIC's psychologist] reviewed the Appellant's medical file in order to provide an opinion as to whether or not the Appellant's current psychological condition is, on the balance of probabilities, causally related to the motor vehicle accident of December 13, 1998. The case manager advised [MPIC's psychologist] that the Appellant was currently off work from July 2004 and requested his opinion on whether the Appellant's reason for his absence from work was due to the injuries he sustained in the motor vehicle accident.

In an interdepartmental memorandum of January 19, 2005 [MPIC's psychologist] reviewed the reports of [Appellant's doctor #2], [Appellant's psychiatrist], [Appellant's doctor #1], [Appellant's psychologist] and [independent psychiatrist].

In respect of [Appellant's doctor #2]'s report, [MPIC's psychologist] stated

“Reviewer’s Comment

Based on this information, the claimant’s current adjustment difficulties are related to his DUI charge.”

In respect of [Appellant's psychiatrist]'s report [MPIC's psychologist] stated:

“[Appellant's psychiatrist] indicates that the claimant’s loss of his previous job as a heavy vehicle operator continues to be a source of depression for him as this was a significant event in his life and does contribute to his depressed state. [Appellant's psychiatrist] further states that he claimant had many vegetative signs and symptoms of depression at the time he assessed him on August 31, 2004, but offers no specific diagnosis. [Appellant's psychiatrist] indicates that *“this follows soon after a recent drug ingestion that was consequent of his being intoxicated and driving while impaired. He was arrested and now has lost his license, another significant loss as he cannot attend the gym which was the one highlight in his day”*.

Reviewer’s Comment

Based on this information, the claimant’s current depressive symptoms are related to his DUI charge.”

[MPIC's psychologist] concluded that based on this information the Appellant's current depressive symptoms were related to his DUI charge.

In respect of [Appellant's doctor #1]'s report, [MPIC's psychologist] stated that the Appellant's current depressive symptoms were related to his DUI charge.

In respect of [Appellant's psychologist]'s report (November 1, 2004), [MPIC's psychologist] stated

“It is noted that [Appellant's psychologist] does not indicate in her report how depressed she feels the claimant is, nor does she comment on the claimant's ability to work at the present time.”

On review of [independent psychiatrist]'s report (November 26, 2004), [MPIC's psychologist] stated (in his report of November 26, 2004):

1. “Diagnostically, [independent psychiatrist] offers the opinion that the claimant does have a major depressive episode and that it is in partial remission and that he also has alcohol abuse and perhaps this is in early partial remission. There is no indication from [independent psychiatrist] that the claimant has PTSD or any other Axis diagnoses.”
2. [Independent psychiatrist] noted that the Appellant's psychiatric limitations did not result in an inability of the Appellant to perform the required tasks of his job.
3. [Independent psychiatrist] indicated that the Appellant's psychiatric condition did not pose a safety or health risk to him to his co-workers on the job.

[MPIC's psychologist] concluded, based on the Appellant's medical file, that the Appellant's current psychological condition and subsequent perceived inability to work would not, on the balance of probabilities, be causally related to the motor vehicle accident of December 13, 1998.

[MPIC's psychologist] set out his reasons on the issue of causation as follows:

“This opinion is based on the fact that prior to the recent DUI and the claimant's subsequent suicide attempt he was working on full time basis and was not receiving any particular psychiatric/psychological intervention. As noted in several of the reports reviewed, the claimant has no doubt suffered mood disturbance related to the MVA and the subsequent negative effects this has had on his life. However, the claimant also has a history of depressive episodes, substance abuse, several incidents of overdose (as indicated by [Appellant's psychiatrist]) work difficulties and problems with the law which all predated the MVA in question and have continued since that time...”

In the writer's opinion, the DUI and suicide attempt, and not the MVA in question, is the primary event that has led to the claimant's current psychological condition and his perceived inability to work. Based on the information reviewed, if the DUI had not occurred, the claimant would likely still be at work...

Also, it is apparent from the information in [independent psychiatrist]'s report that the claimant is choosing not to go back to work at this particular time and that the main reason he gave for not returning to work appeared to be having to face his co-workers which may involve explaining his DUI and suicide attempt. Furthermore, the claimant indicated to [independent psychiatrist] that he did plan on returning to work after Christmas which indicates to the writer that the claimant himself believes that he is capable of working at the present time.

As far as the claimant's pharmacological treatment is concerned, based on the above opinion that his current psychological state is DUI related and not MVA related, psychiatric medications (the venlafaxine and lorazepam) prescribed after July 30, 2004 would not be considered a medical necessity due to a lack of causality. His other medications prescribed in 2003 and 2004 would be considered a medical necessity.

In terms of the claimant's continued treatment with [Appellant's psychologist], it is the writer's opinion that this therapy would not be causally-related to the MVA in question and therefore would not be considered a medical necessity. Although [Appellant's psychologist] suggests the presence of PTSD symptoms and depression, the three psychiatrists who have seen the claimant recently do not identify such PTSD symptoms." (Underlining added)

Case Manager's Decision – Income Replacement Indemnity/Medication/Psychological

Counselling, February 9, 2005:

On February 9, 2005 the case manager issued her decision rejecting the Appellant's claim for reimbursement of IRI, medication and psychological counselling from [Appellant's psychologist].

The case manager stated:

“We have reviewed all the medical reports submitted as well as the report from [independent psychiatrist] which was based on an independent medical examination on November 26, 2004. Our Health Care Services department, Psychological Consultant, [MPIC's psychologist] has reviewed the medical information submitted and provided the following opinion:

1. With respect to the Income Replacement Indemnity, [MPIC's psychologist] concurs with the opinion of [independent psychiatrist] that your current psychological

condition would not preclude you from traveling to and from work nor would it result in an inability to perform the essential tasks of your job.

2. With regard to your medication, the psychiatric medications (venlafaxine and lorazepam) prescribed after July 30, 2004 would not be considered a medical necessity due to the motor vehicle accident of December 13, 1998. Your other medications prescribed in 2003 and 2004 would be considered a medical necessity. Please provide the original pharmacare receipts in order that reimbursement may be made.
3. In terms of continued treatment with [Appellant's psychologist], this therapy would not be causally related to the motor vehicle accident. As this treatment is not considered a medical necessity arising from the motor vehicle accident there is no entitlement for funding.

While it is possible that you suffer from post traumatic stress disorder symptoms related to the motor vehicle accident in 1998, it is not a probable current diagnosis given the fact that you were working full time and not receiving any psychiatric/psychological treatment prior to the DUI and subsequent suicide attempt in the summer of 2004. It is [MPIC's psychologist]' opinion that it was this significant event that led to your current symptoms."

On March 11, 2005, [Appellant's doctor #1] who had been treating the Appellant since the motor vehicle accident issued a medical note which stated "Fit to return to work on Monday March 21/05."

On March 22, 2005 the Appellant made an Application for Review of the case manager's decision of February 9, 2005.

In a note to file dated April 7, 2005 the case manager indicated that the Appellant had called and indicated that he had gone back to work before Good Friday and that he was taking the bus to work.

Internal Review Officer's Decision – October 19, 2005:

The Internal Review Officer, in his decision of October 19, 2005 dismissed the Appellant's Application for Review and confirmed the case manager's decision of February 9, 2005.

The Internal Review Officer extensively reviewed all of the relevant documentation on file in arriving at his decision. Relying primarily on the psychiatric reports of [Appellant's doctor #2], [independent psychiatrist] and [MPIC's psychologist] he concluded that the Appellant's inability to return to work was not due to the motor vehicle accident but rather the impaired driving charge.

In respect of the Appellant's request for reimbursement of medication, the Internal Review Officer stated:

“You have been taking medications for depression since 1999. The medications prescribed for you in late 2004 were “not new – only the name has changed”. These medications were a “medical necessity” prior to July, 2004 and continue to be a “medical necessity” at the present time. (Note: This was one of the main assertions made in your December 17, 2004 letter mentioned above.)”

In respect of PIPP benefits, the Internal Review Officer approved the statement of MPIC's departmental manager who sent a letter on March 1, 2005 to the Appellant which indicated that MPIC was only able to consider the payment of PIPP benefits where the circumstances indicated a work-related disability and the need for medical intervention (counselling and medications) were related to a motor vehicle accident, which did not appear to be the case at that time. For these reasons the Internal Review Officer dismissed the Appellant's Application for Review.

Appeal:

The Appellant filed a Notice of Appeal dated January 12, 2006.

The relevant provisions of the MPIC Act and Manitoba Regulation 40/94 are:

Definitions

[70\(1\)](#) In this Part,

"**bodily injury caused by an automobile**" means any bodily injury caused by an automobile, by the use of an automobile,...

Application of Part 2

[71\(1\)](#) This Part applies to any bodily injury suffered by a victim in an accident that occurs on or after March 1, 1994.

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:

(d) such other expenses as may be prescribed by regulation.

Medication, dressings and other medical supplies

38 The corporation shall pay an expense incurred by a victim for the purchase of medication, dressings and other medical supplies required for a medical reason resulting from the accident.

The Internal Review Officer requested [MPIC's psychologist] to provide his comments and to review several medical reports that had been added to the Appellant's file since the last review of January 19, 2005. [MPIC's psychologist] was asked to advise whether the new information provided in these reports would alter his previous opinion on causality.

[MPIC's psychologist] reiterated his previous opinion that there was no causal connection between the Appellant's inability to work and the motor vehicle accident and he also stated that:

1. In respect of the Appellant's pharmacological treatment it was his opinion that the Appellant's current psychological state was DUI related and not related to the motor vehicle accident.
2. The psychiatric medications (the venlafaxine and lorazepam) prescribed after July 30, 2004 would not be considered a medical necessity due to a lack of causality.
3. His other medications prescribed in 2003 and 2004 would be considered a medical necessity.
4. The amitriptyline that the Appellant had been prescribed prior to the DUI would be considered medically required.

[MPIC's psychologist] concluded his report by stating:

“Based on the review of the recently submitted medical documentation, it is the writer's opinion that the information provided in these documents would not alter the writer's opinion as discussed in the memorandum dated January 19, 2005.

Specifically, the writer continues to feel that the claimant's perceived inability to work between July 30, 2004 and March 21, 2005 would not be MVA related. Furthermore, his need for psychological treatment during this period and his need for the psychotropic medications including Venlafaxine, Zopiclone and Lorazepam would not be causally related to the MVA in question. On the other hand, the claimant's use of the medication, Amitriptyline, would be considered MVA related, as indicated above.

The writer would note that in [Appellant's doctor #1]'s recent report of November 18, 2009 he does not indicate that the claimant's inability to work for the July 30, 2004 to March 21, 2005 period was MVA related. He also did not indicate that the medications Venlafaxine, Zopiclone and Lorazepam or the psychological treatment with [Appellant's psychologist], were considered in any way causally related to the MVA in question. As such, this report essentially supports the opinion of the writer.” (Underlining added)

[Appellant's doctor #1] wrote a further report to the Claimant Adviser dated December 7, 2010 which was reviewed by [MPIC's psychologist] in his report to MPIC of May 26, 2011. [MPIC's psychologist] stated:

“These comments from [Appellant's doctor #1] are entirely consistent with the opinion of the writer who has previously indicated that the claimant's need for additional psychotropic medication, therapy with [Appellant's psychologist], his attendance at AA

and his inability to work were in no way causally related to the MVA in question.”
(Underlining added)

In conclusion, [MPIC’s psychologist] indicated that [Appellant’s doctor #1]’s report did not alter his previous opinion on the issue of causality. [MPIC’s psychologist] further stated:

“To summarize, the claimant’s use of the three psychotropic medications and need for psychological intervention was related to the DUI event and subsequent suicide attempt that he made following this event, not the MVA in question. Furthermore, there is only a possible causal relationship between the claimant’s perceived inability to work between July 30, 2004 and March 21, 2005 and the MVA of December 13, 1998.” (Underlining added)

Appeal Hearing:

The hearing took place on October 29, 2012. The Appellant appeared on his own behalf and commenced his testimony by reading from a three page statement which was filed with the Commission. In this statement, the Appellant:

1. Discussed the events surrounding the motor vehicle accident in 1998 which resulted in the loss of his employment as a heavy duty machinist at [text deleted] (which he loved) and was employed by [text deleted] as a machinist and tooling inspector (which he disliked).
2. As a result of the injuries sustained in the accident, he suffered from depression, stress issues and sleeping disturbance and required counselling.
3. He did not have any insight into his condition at that time but now with counselling, he realized that he suffered a major depression and symptoms of post-traumatic stress disorder.
4. Subsequent to the motor vehicle accident he began abusing alcohol by binging on weekends and as a result he was charged with impaired driving, which he states is “the last straw” that broke him emotionally.

5. "I decided I could not continue to suffer through my life disabled and in pain. I attempted to take my own life."
6. He denied MPIC's reports which indicated the reason for his attempted suicide was because he was a product of a bad and depraved childhood, that he drank because he was predisposed to do so because of his upbringing, and that the reason he tried to take his life was solely because he got caught driving under the influence of alcohol.

He further stated that:

1. He experienced major depression and post-traumatic stress disorder following the motor vehicle accident in 1998 and this continued until he hit bottom in 2004.
2. His recovery from the suicide attempt was a slow process and he was unable to return to work until March of 2005.
3. He was entitled to benefits for the time he was off work due to the fact that he suffered from depression and post-traumatic stress symptoms as a direct result of the motor vehicle accident.
4. He should be entitled to reimbursement for psychological counselling received from [Appellant's psychologist] during his recovery period.
5. [Appellant's psychologist] confirmed in her report to MPIC that he suffered from stress, depression and symptoms of post-traumatic stress disorder as a result of the motor vehicle accident and requested reimbursement for the cost of [Appellant's psychologist]'s services.
6. As a direct result of the injuries sustained in the motor vehicle accident he is required to take the medications "Venlafaxine, Lorazepam and Zopiclone" and that MPIC should reimburse him for these drugs.

Discussion:

The Commission finds that the Appellant was a very impressive witness; who made his submission in a very dignified manner. The Commission has a great deal of sympathy for the Appellant and the difficult ordeal he has experienced as a result of the motor vehicle accident, his work environment and the effect that the DUI charge affected him. However, the Commission is required to determine whether the Appellant's appeal meets the standard or proof required by the law entitling him to the benefits he is seeking from MPIC. The Commission finds that the Appellant has not established on a balance of probabilities that he was entitled to IRI benefits from July 30, 2004 to May 21, 2005, reimbursement of medications (Venlafaxine, Lorazepam and Zopiclone) and reimbursement for psychological treatment provided by [Appellant's psychologist].

The Commission finds that:

1. The Appellant's injuries suffered in the motor vehicle accident of 1998 had an adverse effect on his quality of life.
2. He was unable to continue employment as a heavy duty machinist and was required to take a job as a machining and tooling inspector, which he did not like.
3. Notwithstanding the difficulties encountered by the Appellant as a result of the motor vehicle accident he continued to work after the motor vehicle accident in 1998 to the end of July 2004.
4. [MPIC's psychologist] agreed with the psychiatric opinions of [Appellant's psychiatrist] and [independent psychiatrist] who determined that the Appellant ceased working in July 2004 because he was charged with impaired driving on July 30, 2004 and not due to the motor vehicle accident which occurred on December 13, 1998.

[MPIC's psychologist] did an extensive review of the relevant medical reports and concluded that:

1. The Appellant's psychological condition and inability to work was not, on a balance of probabilities, causally related to the motor vehicle accident of December 13, 1998.
2. Prior to the DUI incident and the Appellant's subsequent suicide attempt, the Appellant had been working on a full time basis and was not receiving any particular psychiatric/psychological intervention.
3. The DUI incident and suicide attempts were the primary events that led to the Appellant's current psychological condition and his perceived inability to work.
4. Based on the information he reviewed, had the DUI incident not occurred the Appellant would still be at work at [text deleted].
5. The Appellant's request for payment of certain medications and psychological counselling were not causally related to the motor vehicle accident and was therefore not considered to be a medical necessity

The Appellant relied primarily on [Appellant's psychologist]'s opinion that as a result of the motor vehicle accident he suffered from depression and PTSD. The Commission notes that:

1. [MPIC's psychologist] accepted the psychiatric opinion of [independent psychiatrist] that there was no evidence that the Appellant was suffering from PTSD when he assessed him.
2. In her opinion, [Appellant's psychologist] did not comment on the DUI incident to determine whether there was a causal connection between the motor vehicle accident and the Appellant's complaints.

3. However [Appellant's psychiatrist], [independent psychiatrist], and [MPIC's psychologist], in their reports, found that the Appellant's depressive symptoms were not related to the motor vehicle accident but rather to the DUI charge.

In these circumstances the Commission gives greater weight to the opinions of [Appellant's psychiatrist], [independent psychiatrist] and [MPIC's psychologist] on the issue of causality as it relates to the Appellant's request for IRI and reimbursement of certain medications and psychological counselling provided by [Appellant's psychologist].

Decision:

For these reasons, the Commission therefore finds that the Appellant has failed to establish on the balance of probabilities that there was a causal connection between the injuries sustained in the motor vehicle accident and his inability to return to work between July 30, 2004 and March 21, 2005; and as a result the Commission rejects the Appellant's appeal in respect of IRI benefits.

For the same reasons, the Commission finds that the Appellant has failed to establish on a balance of probabilities that the Appellant was entitled to be reimbursed for the medications of Venlafaxine, Lorazepam and Zopiclone and for the reimbursement of the cost of psychological treatment.

The Commission therefore dismisses the Appellant's appeal and confirms the Internal Review Officer's Decision of October 19, 2005.

Dated at Winnipeg this 19th day of December, 2012.

MEL MYERS, Q.C.

MARY LYNN BROOKS

NEIL MARGOLIS