

Automobile Injury Compensation Appeal Commission

**IN THE MATTER OF an Appeal by [the Appellant]
AICAC File No.: AC-10-170**

PANEL: Ms Yvonne Tavares, Chairperson
Ms Diane Beresford
Mr. Paul Johnston

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

HEARING DATE: May 1, 2012

ISSUE(S): Entitlement to reimbursement of further chiropractic treatments.

RELEVANT SECTIONS: Sections 136(1)(a) of The Manitoba Public Insurance Corporation Act ('MPIC Act')

AICAC NOTE: THIS DECISION HAS BEEN EDITED TO PROTECT THE PERSONAL HEALTH INFORMATION OF INDIVIDUALS BY REMOVING PERSONAL IDENTIFIERS AND OTHER IDENTIFYING INFORMATION.

Reasons For Decision

The Appellant, [text deleted], is appealing the Internal Review Decision dated October 12, 2010, with regards to entitlement to funding for further chiropractic treatments. The appeal hearing was held on May 1, 2012 commencing at 9:30 a.m. The Appellant did not attend the hearing or provide any written submissions to the Commission in support of her appeal.

At the outset of the hearing, it was determined that the Appellant had received notice of the hearing by virtue of her signature claiming the Xpresspost letter (containing the Notice of

Hearing from the Commission) from Canada Post. As a result, the Commission proceeded with the hearing of the appeal.

Upon a careful review of all of the medical, paramedical and other reports and documentary evidence filed in connection with this appeal, and after hearing the submission of counsel for MPIC, the Commission finds that the Appellant has abandoned her appeal of the Internal Review Decision dated October 12, 2010.

The criteria to be considered in order to determine whether an appeal has been abandoned are:

1. There must have been a continuous intention to prosecute the appeal;
2. There must be a reasonable explanation for any delay in prosecuting the appeal;
3. There must be arguable grounds of appeal.

Upon reviewing the foregoing factors, the Commission finds that:

1. The Appellant has not diligently proceeded with the prosecution of her appeal. A series of attempts were made by the Commission in order to locate the Appellant. None were successful. The Appellant failed to respond to any telephone calls or letters sent to her by the Commission. Accordingly, the Commission finds that the Appellant has not displayed a continuous intention to prosecute her appeal.
2. The Appellant has not provided any explanation for failing to pursue her appeal and therefore has not met the requirement to provide a reasonable explanation for her failure to pursue her appeal.
3. The Appellant has not provided any evidence in order to support her appeal. The onus is on the Appellant to establish that she required further chiropractic care. The medical documentation before the Commission suggests that she has received maximum

therapeutic benefit from the treatment she received and that her condition reached a plateau. The Appellant did not provide any additional oral or documentary evidence in support of her appeal. As a result, 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, that she is entitled to further chiropractic treatment.

As a result, the Appellant's appeal is dismissed and the Internal Review Decision dated October 12, 2010 is confirmed.

Dated at Winnipeg this 15th day of May, 2012.

YVONNE TAVARES

DIANE BERESFORD

PAUL JOHNSTON