

Automobile Injury Compensation Appeal Commission

IN THE MATTER OF an Appeal by [the Appellant]
AICAC File No.: AC-11-105

PANEL: Ms Yvonne Tavares

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

HEARING DATE: August 15, 2012

ISSUE(S): Whether the Appellant's Income Replacement Indemnity Benefits were correctly calculated.

RELEVANT SECTIONS: Section 81(2) of The Manitoba Public Insurance Corporation Act ('MPIC Act') and Section 3(2) and Schedule C of Manitoba Regulation 39/94.

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 May 26, 2011, with regards to the calculation of his income replacement indemnity ("IRI") benefits. The appeal hearing was held on August 15, 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 his appeal. As the Appellant's residence was noted to be in [text deleted], Manitoba, the Commission attempted to telephone the Appellant at the commencement of the hearing. However, there was no answer at either of the telephone numbers which the Commission had on file for the Appellant.

At the outset of the hearing, it was determined that the Appellant had received Notice of the Hearing by virtue of the 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 consideration of the totality of the evidence before it, the Commission finds that the Appellant has not established, on a balance of probabilities, that his IRI benefits were incorrectly calculated. The Commission finds that the Appellant was a full-time self-employed earner as of the date of the motor vehicle accident. The Appellant's IRI benefits are therefore determined in accordance with Section 81(2) of the MPIC Act. Subsection 3(2) of Manitoba Regulation 39/94 provides for the Appellant's Gross Yearly Employment Income ("GYEI") to be based upon the greatest of business income (as further set out in ss. 3(2) of Manitoba Regulation 39/94), or according to Schedule C. The greatest GYEI for the Appellant was determined at Level 3 of Schedule C. The Appellant has not submitted any evidence which would result in a different calculation method for his IRI benefits.

As a result, the Appellant's appeal is dismissed and the Internal Review Decision dated May 26, 2011 is confirmed.

Dated at Winnipeg this 17th day of August, 2012.

YVONNE TAVARES