

Automobile Injury Compensation Appeal Commission

**IN THE MATTER OF an Appeal by [the Appellant]
AICAC File No.: AC-12-084**

PANEL: Ms Yvonne Tavares, Chairperson
Mr. Paul Johnston
Ms Nikki Kagan

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

HEARING DATE: June 19, 2013

ISSUE(S): Entitlement to permanent impairment benefits for the left
shoulder.

RELEVANT SECTIONS: Section 127 of The Manitoba Public Insurance Corporation
Act ('MPIC Act') and Schedule A of Manitoba Regulation
41/94.

**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] was involved in a motor vehicle accident on September 16, 2006, when she was rear-ended by another vehicle. As a result of the accident, the Appellant sustained soft tissue injuries to her neck, back, shoulders and headaches. The Appellant is appealing the Internal Review decision dated April 27, 2012 with respect to her entitlement to permanent impairment benefits arising from the motor vehicle accident of September 16, 2006.

On February 17, 2012, MPIC's case manager issued a decision letter which advised that the medical information on the file did not support an injury from the motor vehicle accident of September 16, 2006, which resulted in a ratable permanent impairment.

The Appellant disagreed with the case manager's decision and sought an Internal Review of that decision. The Internal Review Officer, in a decision dated April 27, 2012, dismissed the Appellant's Application for Review and confirmed the case manager's decision. The Internal Review Officer found that the medical information on the Appellant's file did not support a ratable impairment as a result of the Appellant's injuries sustained in the motor vehicle accident. However, the Internal Review Officer did refer the matter back to the case manager in order to request further information regarding whether or not the Appellant sustained a ratable impairment regarding her left shoulder.

On May 30, 2012, MPIC's case manager issued a further decision which advised the following:

At your Internal Review hearing of April 24, 2012 you advised that you should be entitled to a Permanent Impairment entitlement for left shoulder weakness and that you had an MRI that had demonstrated a problem requiring further testing. A review of the MRI dated January 20, 2012 found that you have mild AC arthrosis of the left shoulder. The rotator cuff tendons and musculature are all well maintained. Mild AC arthrosis of your left shoulder is not a ratable impairment.

Based on the information on file and in accordance with the Statute and Regulation noted above, you did not sustain an injury as a result of the above noted accident that would qualify you for an impairment payment.

The Appellant did not seek an Internal Review of that decision.

The Appellant appealed the Internal Review decision of April 27, 2012 to this Commission. The issue which requires determination on this appeal is whether the Appellant is entitled to permanent impairment benefits for her left shoulder.

Decision:

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 submissions of the Appellant and of counsel for MPIC, the Commission finds that the Appellant has not established an entitlement to a permanent impairment benefit for her left shoulder.

Reasons for Decision:

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 a permanent impairment benefit relating to her left shoulder. Having reviewed all the medical information on the Appellant's file, the Commission finds that currently there is no medical evidence establishing an entitlement to a permanent impairment benefit for the left shoulder. As noted in the case manager's decision of May 30, 2012, a review of the MRI dated January 20, 2012 found that the Appellant had a mild AC arthrosis of the left shoulder. The rotator cuff tendons and musculature were all well maintained. Further, x-rays of the Appellant's left shoulder demonstrated no significant bone or joint abnormality. A neurological review of the Appellant's left shoulder demonstrated no neurological deficit. As a result, the Commission finds that the Appellant has not established that she sustained a permanent impairment to her left shoulder as a result of the motor vehicle accident of September 16, 2006. Accordingly, the Appellant's appeal is dismissed and the Internal Review decision dated April 27, 2012 is confirmed.

Dated at Winnipeg this 18th day of July, 2013.

YVONNE TAVARES

PAUL JOHNSTON

NIKKI KAGAN