Manitoba

Automobile Injury Compensation Appeal Commission

IN THE MATTER OF an Appeal by [the Appellant]
AICAC File No.: AC-16-031

PANEL:	**Ms Laura Diamond, Chairperson** **Ms Sandra Oakley** **Dr. Chandulal Shah**
APPEARANCES:	**The Appellant, [text deleted], was self-represented on the first day of the hearing and did not attend the second day of hearings;** **Manitoba Public Insurance Corporation ('MPIC') was represented by Ms Ashley Korsunsky.**
HEARING DATES:	**August 23, 2017 and August 29, 2019 with written submission dated September 20, 2019.**
ISSUE(S):	**Whether the Appellant's permanent impairments were correctly assessed and calculated as outlined in the July 28, 2015 Case Manager's Decision.**
RELEVANT SECTIONS:	**Section 127 of The Manitoba Public Insurance Corporation Act ('*MPIC Act*') and Division 11 of Manitoba Regulation 41/94.**

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

Background

The Appellant was injured in a motor vehicle accident (MVA) on December 17, 2010. As a result, he sustained lower limb fractures, vertebrae fracture, left arm fracture and a concussion.

After receiving Health Care Services medical opinions in 2013 and 2014 regarding permanent impairment suffered by the Appellant, MPIC arranged for [physiotherapist] of [rehabilitation center] to attend the Appellant's home to complete a permanent impairment assessment.

The Appellant's impairment assessments were finalized and he was provided with a decision letter dated July 28, 2015 outlining permanent impairment awards which totaled 32% of the maximum amount payable.

The Appellant filed an Application for Review from that decision. At his internal review hearing, he submitted that further impairment awards should be provided for a sleep disorder, a brown growth on his nose and two surgeries which may result in mobility issues.

An Internal Review Officer (IRO) from MPIC reviewed a report from [Appellant's respiratory medicine specialist] which noted that following a sleep study, he had concluded the Appellant was waking due to pain through the night but did not have apnea or any sleep disorder. Thus, the IRO concluded such wakefulness would not qualify for an impairment rating.

The Appellant also submitted that at the time of the collision, he was wearing sunglasses and the right side nose piece caused a brown growth. The growth had been removed by a plastic surgeon, leaving a mild deformity. The IRO found that the Appellant did not have any medical evidence to support a causal link between the growth and the accident.

The Appellant's concerns that his mobility had been affected by his injuries was a question which the IRO indicated he should discuss with his case manager, so that any applicable PIPP benefits could be explained to him.

No further permanent impairment benefits were awarded. It is from this decision of the IRO dated November 25, 2015 that the Appellant has appealed. A Notice of Appeal was filed with the Commission on March 14, 2016.

A case conference was held in regard to the Appellant's appeal on May 12, 2017. Evidentiary issues regarding the sleep disorder and brown spot were reviewed. In regard to the issue of future surgeries which could possibly result in mobility issues, following discussion, the Appellant indicated that he would not be pursuing that issue at the appeal hearing.

He later confirmed this for his Appeals Officer and the matter was set down for hearing regarding the issues of permanent impairment entitlement for a brown spot and sleep disorder.

Hearing of August 23, 2017:

The hearing in the appeal was convened on August 23, 2017. The Appellant gave evidence and was cross-examined. Through the course of his evidence, it became apparent that further information would be required by the Commission. Accordingly, the hearing was adjourned in order for the Commission to write to medical professionals to obtain this information. The Appellant provided signed medical authorization release forms, the Commission wrote to the caregivers and further reports were obtained from the Appellant's general practitioner, [text deleted], his dermatologist, [text deleted], and plastic surgeon, [text deleted].

These reports were also reviewed by MPIC's Health Care Services Consultants who provided further reports.

These reports were added to the Appellant's indexed file and the Appellant and MPIC advised the Commission they were ready to reconvene the hearing to address the new information and reports.

Hearing of August 29, 2019:

Procedural Matters:

The secretary to the Chief Commissioner contacted the Appellant and counsel for MPIC to inquire about scheduling availability for the reconvened hearing. Counsel for MPIC agreed to the date of Thursday August 29, 2019 and on July 8, 2019 the secretary contacted the Appellant who confirmed his availability for Thursday August 29, 2019 at 9:30 a.m. The original panel which heard the first day of hearing on August 23, 2017 was scheduled to reconvene.

Section 184.1 of the *MPIC Act* provides how notices need to be given to the Appellant. It provides as follows:

> **How notices and orders may be given to appellant**
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> 184.1(1) Under sections 182, 182.1 and 184, a notice of a hearing, a copy of a decision or a copy of the reasons for a decision must be given to an appellant
>
> (a) personally; or
>
> (b) by sending the notice, decision or reasons by regular lettermail to the address provided by him or her under subsection 174(2), or if he or she has provided another address in writing to the commission, to that other address.
>
> **When mailed notice received**
>
> 184.1(2) A notice, a copy of a decision or a copy of reasons sent by regular lettermail under clause (1)(b) is deemed to be received on the fifth day after the day of mailing, unless the person to whom it is sent establishes that, acting in good faith, he or she did not receive it, or did not receive it until a later date, because of absence, accident, illness or other cause beyond that person's control.

A Notice of Hearing was sent to the Appellant via Canada Post Xpresspost and regular mail, on July 9, 2019. The regular mail was returned to the Commission on July 17, 2019 and the Canada Post Xpresspost was returned on August 1, 2019.

On August 23, 2019, the Commission's secretary telephoned the Appellant to provide a reconvene hearing reminder. The secretary advised that at that time she spoke with the Appellant, provided him with a hearing reminder for Thursday August 29, 2019 at 9:30 a.m., and confirmed the Commission's address for him.

The hearing convened at 9:30 a.m. on Thursday August 29, 2019. Counsel for MPIC was in attendance. The Appellant did not appear. The Commission staff telephoned the Appellant at 9:36 a.m. but received no answer. A message was left for the Appellant but it was not returned.

The panel then convened the hearing again at 9:50 a.m. The chairperson telephoned the Appellant at 9:55 a.m. There was no answer but a message was left.

The hearing then proceeded in the Appellant's absence. The chairperson reviewed the Appellant's testimony from the hearing of August 23, 2017 as well as the new documentary evidence which had been received. Counsel for MPIC provided a submission and the hearing was adjourned with decision pending.

On September 3, 2019 the Commission received a voice message from the Appellant which had been left on the phone of the Appeals Officer on August 28, 2019 at 3:38 p.m. The voice message advised that something had come up so the Appellant would not be attending the hearing and would need for it to be rescheduled. The Appeals Officer was on vacation on

August 28, 2019, with an out of office message left on her outgoing voice message which included the telephone number for the Commission's reception desk to be used until September 3, 2019. No message was left with the reception desk and no written request for an adjournment was received from the Appellant, in accordance with the Commission's established practice. However, due to the staff vacation schedule, the Appellant's voice message was not received or dealt with until September 3, 2019.

Counsel for MPIC was contacted to inquire whether she had objection to the Commission writing to the Appellant to provide him with an opportunity to submit a written submission. Counsel for MPIC advised that she would object to the Commission writing such a letter as it did not appear the Appellant was unable to attend the hearing due to a medical emergency and the Appellant did not answer the phone when the Commission phoned him on the date of the hearing.

The Commission considered the comments received from MPIC and the contents of the Appellant's voice message. It determined that although the Appellant did not comply with the Commission's procedures for requesting adjournments in writing, since his voice message had not been received or dealt with until after the hearing, he should be entitled to provide the Commission with a submission in writing, regarding the merits of his appeal. The Commission noted that this submission must be received in writing within two weeks, by September 20, 2019, and that counsel for MPIC would then be given an opportunity to reply.

The Appellant provided a reply in writing on September 20, 2019. A copy was provided to counsel for MPIC who indicated that she had no further comments. The panel then considered the evidence of the Appellant, including the documentary evidence and his testimony at the

hearing of August 23, 2017, the submission of the Appellant dated September 20, 2019 and the submissions of counsel for MPIC at the hearing of August 29, 2019.

Evidence and Submission for the Appellant:

Documentary Evidence

Sleep Disorder

In a report dated October 7, 2014, psychologist [text deleted] indicated that although the Appellant dislikes consuming medication, he does take Gabapentin 100 mg 3 to 4 times daily as well as during the night.

The Appellant submitted a report from [text deleted], a specialist in respiratory medicine, dated October 15, 2015. He indicated that, after evaluating the Appellant for sleep apnea, the Appellant did not have trouble getting to sleep but tended to wake frequently through the night with chronic pain.

> His level III sleep test demonstrated mild to moderate snoring and 132 snores per hours and only minimal borderline sleep apnea. As the sleep disturbance is predominantly due to ongoing pain there does not appear to be any evidence of either insomnia or sleep apnea.
>
> Given his difficulty in maintaining sleep secondary to pain increased analgesics and/or maybe (sic) helpful in relieving his symptoms.

The Appellant's general practitioner, [text deleted], provided a report dated October 13, 2017 indicating that the Appellant's pain in his knee/joints interferes with his sleep and frequently wakes him. Accordingly, he prescribed Celebrex and Gabapentin as pain reducing medications.

Brown growth on nose

The Appellant provided photographs of a spot on his nose which he indicated were dated December 20, 2010 and approximately the middle to end of March 2011.

He provided surgical pathology reports from a plastic surgeon, [text deleted], describing the lesion and treatment. The presumptive diagnosis of August 28, 2015 was "lentigo maligna melanoma" and a later pathology report dated February 3, 2016 diagnosed "sun-damaged skin with benign features" following a right lower eyelid excision.

A report from the dermatologist, [text deleted] dated September 22, 2017 described the presentation of the lesion and its biopsy and removal. She indicated that:

> … It was biopsied and the initial stated solar lentigo or sun freckle. He was sent to [Appellant's plastic surgeon] to remove the lesions as it was very dark and not clinically classic for a benign solar lentigo. Removal revealed a Large cell acanthoma which can appear as a sun freckle.
>
> Causes of large cell acanthoma are largely unknown. It is widely believed to be sun induced. Trauma is not widely reported.
>
> Etiology
> LCA is an epidermal neoplasm, which may possibly re related to lentigo senis.
>
> Pathophysiology
> Unknown. Multiple strains of human papillomavirus (HPV) have been identified as a cofactor in the pathogenesis. There is a definite epidemiologic association with chronic photodamage.
>
> It is more likely this was sun induced to traumatically induced.

The Appellant's general practitioner, [text deleted], provided a report dated September 29, 2017. He indicated:

> "…I first met him in 2014, 4 years after his accident. In october of 2014 he presented with a concern of lesion on his nose. He said the spot where the lesion was, was where the nose piece of his glasses sat and were crushed into his face at the time of the accident. I consulted [Appellant's dermatologist] who did an excisional biopsy

> and the diagnosis was of a solar lentigo. These are common benign lesions of the skin. They are felt to influenced from age and uv exposure. This is a benign lesion and has been excised completely. I suspect he will develop more in the future. I can not determine that the MVA was the cause of this lesion, but [Appellant's dermatologist] may be of more help."

[Text deleted], plastic surgeon, provided a report dated June 18, 2018. He indicated:

> "…you have posed two questions. The first is whether it is probable (more than 50% likely) that the brown growth on [the Appellant's] nose was causally connected to the motor vehicle accident of December 17, 2010. My opinion would be that it would be exceedingly unlikely that the brown growth was caused by the motor vehicle accident. The pathology came back as a solar lentigo. That is a lesion that is caused by sun exposure and has minimal to no chance as having been caused by the motor vehicle accident.
>
> Similarly, in your second question, if it is my opinion that the brown growth was not causally connected to the motor vehicle accident, please explain what the pathology and causation of this growth was, again unbalanced probabilities. Balance of probabilities is the lesion was caused by sun exposure. It is a benign lesion of no real consequence. The pathology showed sun-damaged skin with mild inflammation.

Testimony

The Appellant testified at the hearing of August 23, 2017. He stated that the brown spot on his nose was not there before the MVA and started appearing during his first week in hospital. It was fully formed when he left the hospital on March 9, 2018. He said that the doctors did not know what it was, originally thinking it was a melanoma, before a biopsy came back to indicate that it was not. He indicated that such a mark does not appear out of nowhere. He said he has age spots on his hand and a birth mark on his neck but that for every action there is a reaction and something caused this brown spot on his nose. In his view this was the MVA impacting upon the sunglasses on his nose.

On cross-examination the Appellant was asked why, if the spot appeared within the first week of the MVA, he did not mention it when completing his application for benefits with MPIC on January 17, 2011. The Appellant indicated that at that time he was still in hospital and trying to

recover from “almost being killed”. When asked when the photographs provided to the Commission were taken he indicated that this was around the time he left the hospital or shortly afterwards.

In regard to his claim of a sleep disorder, the Appellant indicated that since the MVA he has never been able to get more than two or three hours of sleep per night. Every day he finds himself yawning and falling asleep at different times of the day. It could be at 10:30 a.m. or 1:00 p.m. He said that he has fallen asleep with a cup of coffee in his hand, spilling the coffee. He said that it happens practically every day to some extent. He will just nod off and can’t stay awake. The Appellant indicated that this affects his life greatly. It affects his mood, which is grumpier and affects his whole personality. It also affects his social relationships and interactions with his family. He has trouble concentrating and trouble focussing. He stated that he hates taking pills but does take Gabapentin for pain in the short term. Even when he takes a prescription pill to last longer at night, it might last for an hour or an hour and a half. He then awakens three or four times in the middle of the night and can’t get into the deep sleep his body needs.

He indicated that he lives by himself on a secluded ten acres in the country, but that he has no problem with his daily routines or taking care of his property.

He indicated that he used to have a lot of confidence and participate in a lot of activities but that has been harder since the MVA, as have social interactions. However, he is back to driving regularly.

On cross-examination, the Appellant confirmed that he is able to cook for himself, drive for himself and purchase groceries for both himself and his mother. He also confirmed that he has more than one female companion but that he can't interact well and is not good at keeping up conversation, so it is difficult.

He indicated that he plays a lot of computer games and does some reading throughout the day.

He confirmed that he was not seeing a psychologist or psychiatrist in regard to his lack of sleep although he had seen [Appellant's psychologist] in the past. There was nothing they could do for him because the pain wakes him up. He confirmed that the prescription sleep medication did not help. It helped him get to sleep initially but doesn't seem to last, with his sleeping partner telling him that his leg jerks some nights and his arms go into spasms.

Submission for the Appellant:

The Appellant's email submission to the Commission dated September 20, 2019 stated:

> The strongest evidence I have are the pictures. Since the authenticity of them were never in question and pictures never lie, they tell a story. The first taken about 5 days after the accident in [hospital] shows two small brown markings on the bridge of the nose on the right side. Is it just coincidence that is the exact spot where the nose piece of sunglasses would rest? The second picture taken a few weeks after I got out of the hospital shows a fully developed dark brownish yellow thick raised spot.
>
> I have hospital records proving I was admitted December 17th,2010 and discharged on March 9th,2011. I was in critical care for the first 21 days and moved to the fifth floor for rehabilitation for the next two months. With two broken knee caps and plates and screws holding my legs together I was bed ridden with leg braces locked and holding my legs in a straight position. I was classified as non weight bearing.
>
> All three Doctors reports are different. One says melanoma, another solar lentigo, and then large cell acanthoma, all skin cancers caused by the sun. Yet none of these Doctors can agree on what it is. Since they all have a different diagnosis this is something they have never come across before and are merely guessing. A Doctor can not say....I DO NOT KNOW, so he will make an educated guess at a medical condition with similar traits.

> The pictures and hospital records proving I was in [hospital] for three months while this phenomenon developed from two small brown spots to one large brownish yellow spot are irrefutable. My bed of four in the room was not even beside the window, so I had no exposure to the sun. I was totally isolated.

Evidence and Submission for MPIC:

At the hearing of August 29, 2019, counsel for MPIC outlined the issue in dispute as whether the permanent impairments awarded to the Appellant were correctly assessed and calculated. She submitted that the onus is on the Appellant to establish on a balance of probabilities that the IRO erred in finding rateable impairments, after the full amended impairment assessment conducted on June 7, 2017 was taken into account.

The Appellant was seeking additional permanent impairment benefits for a sleep disorder and for a brown spot on his nose.

Brown spot

Counsel first addressed the brown spot on the Appellant's nose, submitting that he had failed to meet the onus on him of establishing a causal connection between the brown spot on his nose and the MVA. She noted that the first mention of a permanent impairment in this regard occurred September 15, 2014, four years after the MVA.

The Appellant was referred to a dermatologist to see if this scar or skin condition (which appeared to be brown and irregular on an exam) was a mole or a scar. This was the first time it had even been raised, although he had lots of previous contact with MPIC and caregivers over the last four years.

The Appellant's hospital discharge summary listed all his injuries in the MVA and the brown spot was not listed there, even after three months in the hospital interacting with many practitioners and undergoing many exams.

The Appellant's Application for Compensation, completed in 2011 did not mention the spot either. In his Notice of Appeal, the Appellant claimed the spot was caused by the impression of his sunglasses on his nose, indicating that photos taken two days after the MVA showed it. Yet there was no mention on his Application for Compensation of this problem.

Further, counsel submitted that the Appellant had not submitted any evidence from a medical practitioner which supported that this spot was related to the MVA. Rather, caregiver reports provided opinions that this was not a mark connected to the MVA.

[Appellant's dermatologist], in her report dated September 22, 2017, described the biopsy of a solar lentigo or sun freckle and the removal of a Large cell acanthoma which can appear as a sun freckle. She noted that the cause of large cell acanthoma are largely unknown but it is widely believed to be sun induced. Trauma is not widely reported as a cause in this regard. In her opinion, It is more likely this is sun induced to traumatically induced.

[Appellant's general practitioner's] report indicated that he could not determine that the MVA was the cause of this lesion, but that [Appellant's dermatologist] might be of more help.

The surgeon who removed the growth, [Appellant's plastic surgeon] reported on June 18, 2018 and stated quite clearly that the lesion was caused by sun exposure and that there was minimal to

no chance of it having being caused by the MVA. He concluded that, on a balance of probabilities, the lesion was caused by sun exposure.

Sleep Disorder

In regard to the issue of a sleep disorder, counsel for MPIC referred to the report provided by [Appellant's respiratory medicine specialist] on October 15, 2015. She described this report as conclusive and showing that the sleep disturbance was predominantly due to ongoing pain without evidence of insomnia or sleep apnea. She submitted that this is not a sleep disorder which would fall under Division 11 of Manitoba Regulation 41/94, which sets out the permanent impairments for a psychiatric condition, syndrome or phenomenon.

In reviewing that regulation, counsel submitted that AICAC does not have the evidence here to conclude that the appellant is entitled to a permanent impairment under that provision. The Appellant was taking minimal medications which do not appear to have caused adverse effects. He seems to be managing activities of daily living. He lives on a ten acre property without any difficulties regarding maintenance and no evidence of having to hire anyone for help or receives personal care benefits. He cooks for himself, drives, gets his own groceries and takes his mother to purchase groceries.

Although he indicated that he does not socialize very often, the documents indicate that he had never been an overly social person, preferring to be a conductor for the rail line so that he could work on his own with just one other person and no one harassing him. Further, the Appellant did admit to having a few female companions.

Counsel submitted that there was insufficient evidence of any impairment in performing the activities of daily living, functioning socially, or in his sense of well being. Nor was there evidence that he requires regular medications or treatments to be able to do any of those things.

Accordingly, counsel for MPIC submitted that the Appellant was not entitled to any further permanent impairment award benefits.

Discussion

The onus is on the Appellant to show, on a balance of probabilities, that he is entitled to further impairment awards under the *MPIC Act*, in this case for a brown spot on his nose and a sleep disorder. The *MPIC Act* and Manitoba Regulation 41/94 provide:

> **Lump sum indemnity for permanent impairment**
>
> 127(1) Subject to this Division and the regulations, a victim who suffers permanent physical or mental impairment because of an accident is entitled to a lump sum indemnity of not less than $500 and not more than $100,000 for the permanent impairment.

DIVISION 11: PSYCHIATRIC CONDITION, SYNDROME OR PHENOMENON

Class	Symptom or condition	Impairment rating
Class 1	A psychiatric condition, syndrome or phenomenon that, including adverse effects of medication, impairs the person's ability to perform the activities of daily living, ability to function socially or sense of well-being, to such an extent that he or she requires continuous supervision in an institutional or confined setting.	100%
Class 2	A psychiatric condition, syndrome or phenomenon that, including adverse effects of medication, impairs the person's ability to perform the activities of daily living, ability to function socially or sense of well-being, to such an extent that he or she requires periodic supervision in an institutional or confined setting for 50% or more of the time.	70%
Class 3	A psychiatric condition, syndrome or phenomenon that, including adverse effects of medication, impairs the person's ability to perform the activities of daily living, ability to function socially or sense of well-being, to such an extent that he or she requires periodic supervision in an institutional or confined setting for less than 50% of the time.	35%
Class 4	A psychiatric condition, syndrome or phenomenon that, including adverse effects of medication, impairs the person's ability to perform the activities of daily living, ability to function socially or sense of well-being, to such an extent that he or she requires psychiatric follow-up on a monthly basis.	15%
Class 5	A psychiatric condition, syndrome or phenomenon that, including adverse effects of medication, impairs the person's ability to perform the activities of daily living, ability to function socially or sense of well-being, to such an extent that he or she requires regular medication, psychiatric intervention or both on an occasional basis (less than once per month).	5%

The panel has considered the documentary evidence presented, the testimony and written submission of the Appellant, and the submission of counsel for MPIC.

Brown spot

The issue regarding the brown spot on the Appellant's nose can be framed as a question of causation. While the Appellant alleged that his brown spot was caused by injury from his sunglasses during the MVA, the medical opinions of his caregivers (including his dermatologist and plastic surgeon) indicate that this was not caused by trauma. Rather, in their view, this lesion was caused by sun exposure.

[Appellant's dermatologist] indicated:

> It is more likely this was sun induced to traumatically induced.

[Appellant's plastic surgeon] indicated:

> … My opinion would be that it would be exceedingly unlikely that the brown growth was caused by the motor vehicle accident. The pathology came back as a solar lentigo. That is a lesion that is caused by sun exposure and has minimal to no chance as having been caused by the motor vehicle accident.
>
> … Balance of probabilities is the lesion was cause by sun exposure. It is a benign lesion of no real consequence. The pathology showed sun-damaged skin with mild inflammation.

While the panel understands from the Appellant's evidence and submission that he firmly believes that the sun spot was caused by the MVA, the Commission has given more weight to the expert evidence provided by the dermatologist and plastic surgeon who cared for him, and assessed, treated and biopsied the lesion.

Accordingly, the Commission has concluded that the brown spot for which the Appellant seeks a further permanent impairment benefit was not caused by the MVA and therefore, he is not entitled to a further permanent impairment in this regard.

Sleep disorder

The issue which arises in regard to the Appellant's claim for an impairment award for a sleep disorder is a question of whether the description and features of this problem can be considered to be a psychiatric condition, syndrome or phenomenon under Division 11 of Manitoba Regulation 41/94.

The essential elements of these conditions are described in Division 11 as:

- including adverse effects of medication
- impairing the person's ability to perform the activities of daily living, ability to function socially or sense of well-being

The panel finds that the Appellant has not provided objective evidence that he suffers from a sleep disorder or other psychiatric condition, syndrome or phenomenon, caused by the MVA. The expert evidence provided from [Appellant's respiratory medicine specialist] indicates that the Appellant does not suffer from a sleep disorder:

> … As the sleep disturbance is predominantly due to ongoing pain there does not appear to be any evidence of either insomnia or sleep apnea.

Further, the Appellant's own testimony indicated that his ability to perform the activities of daily living and/or to function socially have not been impaired, as is set out in Division 11 of Manitoba Regulation 41/94. He continues to maintain his home and property, cooks and cares for himself, shops for himself and his mother, and socializes with female companions. Neither his

medications or condition impair these abilities. He testified that he has no problem with his regular routines or taking care of his property.

Accordingly, the Commission finds that the Appellant has failed to meet the onus upon him of showing, on a balance of probabilities, that he suffers from a psychiatric condition, syndrome or phenomenon caused by the MVA which would entitle him to a further permanent impairment benefit.

Accordingly, the Commission, on the basis of the evidence provided, finds that the Appellant has failed to meet the onus upon him of showing on a balance of probabilities that he is entitled to any further permanent impairment awards for a skin or a sleep disorder caused by the MVA. The Appellant's appeal is therefore dismissed and the decision of the Internal Review Officer dated November 25, 2015 is upheld.

Dated at Winnipeg this 8th day of October, 2019.

LAURA DIAMOND

SANDRA OAKLEY

DR. CHANDULAL SHAH