

**Automobile Injury Appeal Commission
Province of Saskatchewan**

Citation: *U.R. v. Saskatchewan*
Government Insurance, 2006 SKAIA 029

Date: **20060426**

File: **046 of 2003**

BETWEEN

U.R., Applicant

and

Saskatchewan Government Insurance, Respondent

Appearances:

Before:

Peter Bergbusch, Chair
Carolyn Jones, Commission Member
Marjory Gammel, Commission Member

**THIS DECISION HAS BEEN EDITED TO PROTECT THE PERSONAL AND
HEALTH INFORMATION OF INDIVIDUALS BY REMOVING PERSONAL
IDENTIFIERS AND OTHER IDENTIFYING INFORMATION**

Heard at Regina, Saskatchewan
29, March, 2005

DECISION

[1] The Appellant, U.R., has appealed three decisions of Saskatchewan Government Insurance (“SGI”) regarding her entitlement to benefits under Part VIII of *The Automobile Accident Insurance Act*, R.S.S. 1978, c. A-35 (the “Act”). On May 22, 2003, she appealed a decision letter dated February 17, 2003, which outlined the amounts SGI had determined she was entitled to receive as a living assistance allowance, and a second decision dated March 26, 2003, denying her coverage for the care of her horses. On December 22, 2003, the Appellant appealed a third decision letter dated September 25, 2003, which addressed reimbursement of certain out-of-pocket expenses incurred by the Appellant as well as SGI’s coverage of acupuncture treatments.

FACTS

[2] On September 19, 2002, the minivan the Appellant was driving was stopped at a red light in Yorkton, Saskatchewan, when it was struck from behind with sufficient force to carry it all the way through the intersection. After the van came to a stop, the Appellant tried to calm her two children, who were backseat passengers. She experienced immediate neck pain and discomfort in the upper and lower back. The Appellant was placed on a spine board and her neck was put in a brace; she was taken by ambulance to the Emergency Department of the Yorkton hospital. X-rays were taken of her neck and back, and she was given some Gravol to control nausea. She was instructed to wear a soft collar for two weeks and was discharged later that day.

[3] At the time of the motor vehicle accident, the Appellant was employed by [a grain company] as a farm business representative [text deleted]. Her job required considerable travel throughout [text deleted] Saskatchewan and [text deleted] Manitoba. Her duties involved two components: first, visiting 31 licensed elevators regularly in order to ensure compliance with [the legislation]; and second, working with grain producers on contracting and delivery issues [text deleted]. Depending upon her schedule, she might spend 8 to 9

hours a day on her computer, or alternately travel to meetings with producers or at grain elevators. Sometimes she would have to travel for 3 to 4 hours between stops.

[4] The Appellant lives with her husband and children in a house located on 10 acres where they could keep horses. When they purchased the property in 2001, a horse was included in the purchase, and by September 2002 they had added 4 more. The Appellant had a history of training horses. They built fences and made other improvements to accommodate more horses. Before the motor vehicle accident, the Appellant had plans to start an “agriventure” business, offering hay rides and pony rides. However, the business was not operating at the time of the motor vehicle accident and was at least 2 to 3 years from commencing. She had ideas for catering parties and hosting events, and wanted to create a maze using straw bales. She did not have a formal business plan for [the agriventure business].

[5] The Appellant testified about an injury she had suffered while caring for the horses. At Thanksgiving in 2001, the Appellant had been moving a new mare out of the corral when a gelding attacked the mare and she was caught in the middle. One of the horses kicked the Appellant in the back and her right scapula was fractured. Although no surgery was required, she wore straps to immobilize her shoulder for 5-6 weeks and received physiotherapy thereafter. She says that the injury had no impact on her neck and she did not feel any tingling in her hands as a result of this injury. The injury had fully resolved by about 4 to 6 months before the September 2002 motor vehicle accident. She regained full range of motion in her right shoulder, although she lost some muscle mass. By the spring of 2002, the Appellant was able to ride and train horses again. She also planted the biggest garden she had ever done.

[6] Following the motor vehicle accident, returned to work within the week. She was concerned about the impression that might be left if she was off work for an extended period. However, she had to reduce some of her elevator visits and tried to do more work by computer in order to reduce traveling and minimize her symptoms. Because of this, she did not think she was keeping up with her workload.

[7] The Appellant began physiotherapy and massage therapy within about three to four weeks of the accident, as prescribed by her family physician. Physiotherapy consisted of heat, exercises, range of motion movements, massage therapy and acupuncture. The Appellant used banked overtime to attend sessions and did not suffer a loss of income.

[8] In February 2003, the Appellant was assessed by a secondary assessment team consisting of a physician, a physiotherapist and a chiropractor. At that time, the Appellant had numerous complaints of pain that she attributed to the accident. She had constant neck pain, on both sides of the neck, and stiffness. This pain could be alleviated for a few days with physiotherapy or massage. She also experienced constant pain between the shoulder blades, and in the low back around the L-5 area. She was also feeling some pain radiating to the left hip, but some of this pain had been present before the motor vehicle accident. She suffered daily or every other day from headaches. She was taking 4 tablets of Advil or Tylenol daily to manage these symptoms. She was also attending physiotherapy and massage sessions weekly.

[9] The secondary assessment team's diagnosis was as follows:

DIAGNOSIS

1. [The Appellant] has a WAD II neck and upper back and low back injury. This is recurrent in some regard considering her last injury some twenty years ago. There is biomechanical dysfunction with myofascial pain present in the upper cervical, upper and mid thoracic area along with thoracolumbar and left SI area.
2. [The Appellant] has a high perceived disability as far as pain scores are concerned. She describes the ability still to do full-time work.
3. The patient medically is asthmatic which is brought on by exercise. This should be noted by treating therapists who are doing rehab.
4. There was probably a flare-up of left carpal tunnel symptoms since the accident which should probably settle down with the same treatment the patient used before.

The team recommended 3 to 4 weeks of chiropractic manipulation, with continued home exercise, massage and physiotherapy, followed by a 6-8 week secondary treatment program.

A short graduated return to work program following the program was also recommended. The team suggested that the medication, Amitriptyline, might be helpful to control myofascial pain. Finally, the team recommended that SGI consider reimbursing the Appellant for her use of banked time to attend treatments and assessment.

[10] Also in February 2003, SGI advised the Appellant of its decision regarding living assistance benefits. In order to assess the Appellant's eligibility for a living assistance allowance, SGI's personal injury representative completed charts using a prescribed form. A claimant's ability to perform numerous daily activities is scored according to whether he or she is completely or partially dependent (and if partially dependent, there are three choices representing the degree of that dependence) on assistance for each activity, or independent. The maximum number of points, indicating complete dependence for all activities, is 68. In the Appellant's case, five grids were prepared for the following time periods:

Time Period	Total Score
Sept. 20 – Sept. 24, 2002	51/68
Sept. 25 – Oct. 9, 2002	33/68
Oct. 10 – Oct. 31, 2002	14/68
Nov. 1 – Dec. 31, 2002	10/68
Jan. 1, 2003 – Feb. 22, 2003	8.5/68

All of the grids were completed by the personal injury representative on February 14, 2003, and sent to the Appellant on February 17, 2003. According to the cover letter, the grids are based upon the Appellant's application for benefits and the secondary assessment report of February 4, 2003. The personal injury representative's "Injury Note" for February 14, 2003, says that the representative "went over grids for time period from MVA to present time." Other than this brief note, we had no information from the adjuster concerning the discussion she had with the Appellant as the adjuster did not testify.

[11] It is interesting to note that, in the secondary assessment report, the Appellant rated her own improvement since the accident was 25%. She said that she was able to do light housework, including washing dishes and clothes, but was not doing much cooking or making beds. Her husband had taken over the vacuuming duties and some of the window washing and housework. She was not able to feed her horses. She also had difficulty putting her hands over her head to wash and do her hair, but was generally able to care for herself.

[12] An Occupational Therapist conducted a work and home evaluation on May 30, 2003, making numerous recommendations to improve the Appellant's home office ergonomics and her driving tolerance. At the time of this meeting, the Appellant continued to complain of mild to moderate restrictions on her ability to do house cleaning and yard work. She had difficulty completing tasks requiring lifting or carrying, such as laundry, taking out the garbage and making beds. She still avoided vacuuming and had not planted a garden. She needed help to perform tasks that required her to raise her arms over her head, including some grooming and cleaning activities.

[13] A few weeks later, the personal injury representative had a telephone conversation with Ken Redl of Yorkton Physiotherapy, recorded in her "Injury Note" dated June 18, 2003 as follows:

Called Ken at Yktn Physio. [The Appellant] will be discharged June 20. He feels no RTW plan is req'd as she has cont'd to work during rehab. He feels she can manage ADL's [Activities of Daily Living] – has reported to him that she has cont'd to do ADL's – but with pain. I asked about recommendations from home and job site. He felt that [the Appellant] should go to employer first as majority of issues relate to work conditions. Given her pre-existing condition not all present day symptoms are related to recent MVA. He'll be sending out a discharge report next week.

[14] The Secondary Level Treatment Discharge Summary Report dated June 23, 2003, indicates that the Appellant met the light to medium job demands level. For a variety of lifting, carrying and pushing/pulling tasks, the Appellant met her job requirements. Despite the Appellant's own assessment that she was mildly to moderately restricted from performing certain household tasks, including laundry, taking out the garbage, making beds, etc., the

team concluded that these tasks were within the range of demands of a light to medium job. To complete her home and yard duties, the team recommended that [the Appellant] “practice time management, delegation of responsibilities and proper ergonomics with home and yard work.” The report recommends a further 6-8 weeks of manual therapy, twice a week.

[15] The Discharge Summary Report lists as a “Non Injury Related” diagnosis “Pre-existing cervical, lumbar and left hip and leg pain related to past motor vehicle accident.” Yorkton Physiotherapy’s earlier report dated February 16, 2005, also indicated that the Appellant had experienced monthly flare-ups of the neck injury she suffered in this accident. The Appellant testified that she had been involved in another rear-end motor vehicle accident in 1981 or 1982. Although she was able to drive away from that collision, she had to wear a neck collar and received physiotherapy and massage therapy for approximately 1 ½ to 2 years. She testified that eventually she made a good recovery and went on to work as an industrial welder for a period of time afterwards. The Appellant denied that she was subject to monthly flare-ups of her old neck injury or any recurring symptoms from her 1981 accident. She says that she lived a full and active life, and was “back on track” with no lasting restrictions following her recovery from the first motor vehicle accident. We were not presented with any evidence to support the contradictory statement in the February report or the Discharge Summary Report, and accordingly we prefer the Appellant’s evidence that she had fully recovered from the injuries received in the earlier accident before September 2002.

[16] The February report also indicates that the Appellant was suffering from left carpal tunnel symptoms three years prior to the September 2002 accident. The Discharge Summary Report mentions “pre-existing left carpal tunnel problems.” The Appellant testified that she developed toxemia and carpal tunnel syndrome during her first pregnancy in 1995-96. In the evening, she had to wear wrist braces, because her toxemic condition put pressure on her wrist nerves. She discussed surgery with her doctor during the pregnancy, but decided to wait until her baby was born. After her child was born, the symptoms of carpal tunnel syndrome persisted for about 5 months. She said that she did not experience any further

symptoms after 1997 or discuss surgery with her doctor again, and the condition did not recur during her second pregnancy in 2000.

[17] After the September 2002 motor vehicle accident, the Appellant began wearing her wrist braces again. She says that her symptoms were quite different from her earlier carpal tunnel syndrome: she felt numbness and dull pain running down her arms from her neck. She felt some relief from wearing the wrist braces, but felt that it was her neck that needed treatment.

[18] One of the recommendations of the secondary assessment team was that the Appellant might try Amitriptyline to control her pain symptoms. The Appellant has found this medication therapy to be very demanding and says she has to schedule her life around each dose. After taking the medication, she cannot drive or look after her children's needs and wakes up the next day with a "hangover." While she started initially at 10 mg per day, her dosage was eventually increased to 50 mg per day. She testified that Dr. Press had wanted her to take this medication over a long period. She did see the benefits of this medication therapy: it enabled her to relax, so that her massage therapist was able to work more effectively on the spasms and knots in her back and neck. However, she needed to be home to take the medication by 8 p.m., or else she would not be able to work the next day. Often this was not possible because she had evening meetings with farmers. Having to go to bed so early also put a strain on her family life.

[19] In September 2003, SGI approved payment for 10 acupuncture treatments, as recommended by the Appellant's family doctor. However, SGI would not fund 6-8 weeks of further manual therapy, despite the assessment team's recommendation, because, "As discharge was June 20, 2003 this time limit has long since passed."

[20] [The Appellant] testified about the ways in which her lifestyle has been limited since the motor vehicle accident. She says that she cannot go on extended horse rides longer than one half hour because of her injuries. If she pushes it, the consequences are that she has to take painkillers, apply ice packs to her back and neck, or use a heating pad. Maintaining the

horses was the Appellant's responsibility, and she has had to sell some of them since the motor vehicle accident because she is not able to care for them as she could before. She was also an avid snowmobile rider, but now can only take short trips around the yard and to places five minutes from home. She is able to golf, but not to the same extent as before. She also says that her gardening activities have been curtailed since the motor vehicle accident. She left her garden fallow during the two years following the accident. She does stretching exercises every day, and stops every hour when she is driving to get out of the car and stretch.

[21] Since SGI discontinued her benefits, she has continued to receive a variety of treatments. After her acupuncture therapy was completed, she continued with some chiropractic treatments. She explained that she seeks therapy when the pain prevents her from functioning. She has a formal massage treatment at least once a month as her schedule permits, and family members also massage her neck and back almost every day. She had two physiotherapy treatments of "dry needling", in order to stimulate the knots in her back. In subsequent treatments, the plan was to add an electric pulse to the needles.

STANDARD OF REVIEW

[22] The powers of the Commission on an appeal are set out at Subsection 193(7) of *The Automobile Accident Insurance Act*, R.S.S. 1978, c. A-35:

- 193(7) On an appeal, the appeal commission may:
- (a) set aside, confirm or vary the insurer's decision; or
 - (b) make any decision that the insurer is authorized to make pursuant to this Part.

The Commission must act judicially and is required to hold a hearing where, as in this case, a claimant puts the insurer's findings of fact in issue.¹ If the challenged decision concerns a matter in which SGI exercises discretion, such as rehabilitation benefits, the Commission will

¹ 193 ...

(5). Unless the claimant puts them in issue, the insurer's finding of facts must be adopted on appeal.

(6). If the claimant puts the insurer's finding of facts in issue, the appeal commission may hold a hearing to determine the facts.

only intervene when an applicant establishes that SGI's decision was erroneous, or based on erroneous assumptions, or was unreasonable.²

DISCUSSION

[23] The only person who testified was the claimant. We found the Appellant to be articulate, well-spoken and straightforward in giving her testimony.

Living Assistance Benefits

[24] Living assistance benefits are provided for at s. 156 of the *Act*:

156(1) Subject to the regulations, if an insured is unable because of the accident to care for himself or herself or to perform the prescribed basic activities of daily living without assistance, the insurer shall pay a living assistance benefit to the insured for expenses related to obtaining assistance.

(2) The insurer shall calculate and reimburse the insured for the living assistance benefit in accordance with the regulations.

(3) The maximum amount of a living assistance benefit is \$947 per week.

Pursuant to s. 44 of *The Personal Injury Benefits Regulations, 2002*, A-35, Reg 3 (the "*Regulations*"), living assistance benefits are to be reimbursed in accordance with Appendix D. Appendix D prescribes the "Evaluation Grid of Required Functional Activities" completed by the personal injury representative in this case, sets out criteria for assessing the degree of assistance required by each claimant, and contains a list of definitions of the various activities of daily living listed in the grid.

[25] We were urged to find that the assessment of the Appellant's living assistance benefits was not done properly. All of the grids, covering five time periods, were prepared at one meeting. Where a grid prepared for one period showed a dramatic improvement, there were no comments on the page to explain the change.

² *R.C. v. Saskatchewan Government Insurance*, 2003 SKAIA 1. See also *Belchamber v. Saskatchewan Government Insurance* (1997), 161 Sask. R. 292 (Q.B.); *Donen v. Saskatchewan Government Insurance*, (1998), 165 Sask. R. 261 (Q.B.); and *Collis v. Saskatchewan Government Insurance* (1998), 165 Sask. R. 108 (Q.B.).

[26] The Appellant expressed several concerns about the evaluation grids and the way that they were completed. For example, she did not know how the particular time periods for each grid were selected. She agreed that her condition had improved, but disagreed that she had progressed to approximately 50% of full capacity by September 25, 2002, and said that the adjuster had her progressing too quickly. The Appellant claimed that she is still dependent on others for numerous activities that she was able to do herself before the motor vehicle accident, including cleaning windows, gardening activities such as moving dirt or compost; ferriering horses' feet; and vacuuming. She now needs a housekeeper to come in once a week, but had not needed help before the accident. She says that the reference to yard work on the grids does not give adequate weight to the demands of maintaining an acreage. She testified that when she raised questions about the grids, the personal injury representative told her that the only thing she could do was appeal.

[27] SGI's counsel argued that [the Appellant] had worked with the personal injury representative to prepare the functional abilities grids. The fact that they were all completed at one sitting is not significant, since in any event their completion is "an artificial process."

[28] Given that the personal injury representative completed the grids in reliance upon the Secondary Assessment Report of February 4, 2003 and the Appellant's Application for Benefits, it is difficult to see how she could have divided the Appellant's recovery from her injuries into 5 separate periods of time. Nothing we have read in those documents leads to this breakdown. In addition, the Secondary Assessment Report does suggest that the Appellant's recovery was not as advanced on February 4, 2003 as the grids indicate. According to the grid prepared for the period January 1, 2003 to "present time" (February 14, 2003), [the Appellant] required moderate assistance to do laundry, was completely dependant on others for assistance to do heavy housekeeping and "Yardwork/Gardening/Shoveling," and required minimal assistance to purchase supplies. However, the Secondary Assessment Report indicates that the Appellant had trouble making the beds and was not doing much in the way of "heavy cooking." The report also says that the Appellant had difficulty lifting her hands over her head to do her hair and tried to get help to wash her hair. It appears, therefore, that the Appellant required at least some assistance in

the categories of “bathing/hygiene,” “preparing meals,” “grooming,” “light housekeeping,” and possibly “cleaning up after meals,” which are defined in Appendix D of the Regulations³ and listed on the grid. Yet none of these were listed for the periods November 1 to December 31, 2002 and January 1, 2003 to “present time.”

[29] On the grid for October 10 to 31, 2002, the Appellant was evaluated as completely dependent in the activity of preparing supper, but the next grid (November 1 to December 31) indicates that she is fully capable to prepare all meals, despite the contrary statement in the Second Assessment Report of February 4, 2003. The grid for October 10 to 31, 2002 and subsequent grids also omit any limitation for “bathing/hygiene” and “grooming.”

[30] We have concluded that the three grids prepared for the time periods after October 9, 2002, do not reflect accurately the Appellant’s limitations during those periods. Those three grids are inconsistent with the observations in the Secondary Assessment Report and with the Appellant’s own description of her restrictions, which we accept. The Appellant’s counsel requested that we refer the matter of the Appellant’s living assistance benefits back to SGI for reassessment. We direct SGI to re-evaluate the Appellant’s functional abilities from October 10, 2002, in the following categories: “bathing/hygiene,” “preparing meals,” “grooming,” “light housekeeping,” and “cleaning up after meals.”

³ **Appendix D**

1. For the purposes of Appendix D:

...

(b) **“bathing/hygiene”** means the ability of the insured to bath, wash, rinse and dry his or her body. This may be in the tub or shower or may be a sponge bath or bed bath;

...

(e) **“cleaning up after meals”** means the ability of the insured to clear the table and do dishes;

...

(j) **“grooming”** means the ability of the insured to shave, wash his or her hands and face, groom hair, apply make-up and maintain his or her oral hygiene;

...

(m) **“light housekeeping”** means the ability of the insured to perform light household duties such as sweeping, dusting, making beds, wiping counters and tables and maintaining general tidiness;

...

(o) **“preparing meals”** means the ability of the insured to prepare meals. Preparation of each meal is evaluated separately;

...

[31] The Appellant argues that the grids do not take into account the circumstances of someone who resides on an acreage. The numerical value assigned to each activity specified in the Evaluation Grid of Required Functional Activities is prescribed by the Regulations. The category of “Yardwork/Gardening/Shoveling” has been assigned a maximum value of 2, for those who are completely dependent, out of a total maximum score of 68. SGI does not have discretion to assign a value greater than 2 for this activity, even where a claimant lives on a property which requires greater effort to maintain than the norm. The personal injury representative correctly, in our view, concluded that the Appellant is completely dependent on others for assistance to perform these activities and assigned her the maximum value possible.

[32] The Appellant also criticized the personal injury representative for completing five grids to cover five separate time periods at one sitting. The problem, as we see it, is that the information that the SGI employee relied upon does not support the selection of five separate time periods and, as we have found, the grids were not completed correctly.

Rehabilitation Benefits

[33] According to the *Act*, SGI is to provide such rehabilitation benefits as it “considers necessary or advisable to contribute to the rehabilitation of an insured, to lessen the insured’s disability caused by the accident and to facilitate the insured’s recovery from the accident”: subs. 112(1).

[34] The fundamental issue for her is continuing treatment of rehabilitation benefits. Her counsel argued that funding to standard practice amounts did not amount to fulfillment of SGI’s statutory obligations. Since June 2003, when benefits were terminated, she has continued with a variety of treatments at her own expense. She takes exception to the conclusions of the secondary treatment team, because her improvement had only been achieved after 5 to 6 weeks of intensive conditioning, 3 hours per day. She argued that it was not realistic to expect that she could maintain this level of conditioning on a continuing basis, and SGI would never agree to continue funding for this kind of program indefinitely.

[35] She argued that she simply wanted to be able to carry on with her work and family commitments and her lifestyle with some degree of normalcy. She argued that some treatments might permit her to maintain her functioning at an optimal level, even if they are not otherwise rehabilitative. She also testified that she continues to seek treatment because she needs to. The Appellant was asking for funding for a level of treatment that would provide her with the relief necessary for her to pursue her normal activities.

[36] The Appellant asked that we order SGI to reinstate rehabilitation benefits so that she can receive the treatments recommended by Dr. Press. Dr. Press indicated in a letter dated March 18, 2005, that the Appellant's ongoing pain symptoms are consistent with a diagnosis of myofascial pain syndrome, possibly resulting from trauma. She had referred the Appellant to Dr. Robert McDougall, a rheumatologist in Regina. She also recommended that the Appellant have further physiotherapy.

[37] SGI's counsel suggested that the Appellant was "gilding the lily" in presenting testimony inconsistent with medical reports. SGI's position is that the Appellant had received the maximum coverage available for physiotherapy and massage treatments, and has also received funding for 10 acupuncture treatments. Accordingly, the claimant was not entitled to further benefits.

[38] The Appellant had received coverage for 44 massage treatments, the maximum allowed under SGI's policy. However, the Commission is not bound to follow this policy. Nevertheless, the decision to fund further massage treatments is discretionary under subs. 12(e) of the *Regulations*, and the Commission will not reverse this decision unless it was erroneous, or based on erroneous assumptions, or unreasonable.

[39] The claimant filed in evidence a letter from Ken Redl, the physiotherapist who participated in the secondary assessment team that evaluated the Appellant. Mr. Redl had examined the claimant again on December 12, 2003. He summarized his findings as follows:

My impression is that of ongoing cervical, thoracic and lumbo-sacral joint irritation with no obvious joint restrictions of movement or neurological deficit. There were

signs of myofascial tightness in the sub-occipital region bilaterally. Chronic muscle atrophy is noted in the right shoulder girdle.

My suggestions to [the Appellant] were the same as on discharge from Secondary level treatment in June of 2003: regular aerobic exercise and strengthening exercises are the only effective way of combating the stresses of a stressful, sedentary job. She admits she has not kept up with exercise due to family and work concerns. Symptomatic care by massage, chiropractic or physical therapy will only provide temporary relief of pain. No further appointments were scheduled for this lady; she has been encouraged to start up with regular exercise immediately.

The claimant presented no medical evidence to contradict Mr. Redl's opinion that further massage, chiropractic or physical therapy treatments would not be rehabilitative. We are not satisfied that SGI's decision to terminate funding for further treatments was unreasonable.

[40] However, the decision letter dated September 25, 2003, also denies coverage for the cost of wrist braces because the Appellant suffered from pre-existing carpal tunnel syndrome, as indicated in the Discharge Summary Report dated June 23, 2003. However, the initial Secondary Assessment dated February 4, 2003, states that the Appellant had suffered left carpal tunnel symptoms three years before the accident, and these had resolved completely at that time. The symptoms had returned in November 2002. There were some objective findings that supported the conclusion that carpal tunnel syndrome had returned since the accident. The Appellant testified that she had not experienced any symptoms from carpal tunnel syndrome from 1997 to the date of the accident, but that she had experienced wrist pain again shortly after the accident. She testified that this pain was relieved somewhat when she wore wrist braces. We accept the Appellant's evidence that she was asymptomatic for several years prior to the accident, and that these symptoms of carpal tunnel syndrome recurred post-accident. On the basis of the evidence, it is reasonable to conclude that these symptoms were caused by the motor vehicle accident. Accordingly, we find that SGI's decision to deny coverage for the cost of wrist braces was unreasonable, and we direct SGI to reimburse the Appellant for this cost. SGI should also consider whether any other treatment is "necessary or advisable" to contribute to the Appellant's rehabilitation from this injury.

[41] Finally, SGI also denied reimbursement for travel costs for the Appellant to attend treatment, beyond \$4.00 per visit, because treatments were done on workdays. The

Appellant testified, however, that she went to physiotherapy sessions from her home in gym clothes, and she did not conduct work in that sort of clothing. While, as noted above, we found the Appellant to be a credible witness, we are simply unable to determine from the materials filed what additional amount she is claiming for reimbursement of travel to attend physiotherapy. SGI invited the Appellant to clarify whether her treatments were on workdays, but she did not do so. Accordingly, the Appellant has not demonstrated that SGI erred in determining the amount of her reimbursement for travel to attend treatments.

Care of Horses

[42] The Appellant accepted during the hearing that SGI had not issued a decision letter regarding her claim for family enterprise benefits under s. 118 regarding her plans for an “agriventure” business. We do not have jurisdiction to address this issue.

[43] The Appellant also seemed to suggest that she ought to be compensated for her inability to care for her horses while she was recovering from her injuries. She appears to view this as an activity of daily living that should be reflected in her entitlement to living assistance benefits. However, nothing in the Evaluation Grid of Required Functional Activities addresses the care of domestic animals, and we make no order in this regard.

CONCLUSION

[44] The decision letter dated February 17, 2003, is set-aside, and SGI is directed to reassess the amount of the Appellant’s living assistance benefits, in accordance with our reasons in this decision. The decision letter dated September 25, 2003 is set aside to the extent that the claimant is entitled to reimbursement for the cost of wrist braces.

[45] SGI shall also reimburse the Appellant for her costs in accordance with subs. 193(11) of the Act, to a maximum amount of \$2,500 as prescribed by s. 96 of the *Regulations*.

Dated at Regina, Saskatchewan, on April 26, 2006.

Peter Bergbusch, Chair

Carolyn Jones, Commission Member

Marjory Gammel, Commission Member