

Vehicle Modifications

Concerns regarding accessible transportation arise most often in serious or catastrophic injuries. In addition to questions of reasonableness and medical necessity, there is an underlying legal question of which expenses can qualify as medical or vocational expenses: vehicles that are modified to be handicapped accessible or only the modifications themselves. In general, Minnesota workers' compensation courts have denied claims for a modified vehicle as a reasonable and necessary medical expense.

The WCRA has found that the vast majority of its members deny vehicle purchases for injured workers and limit themselves to paying only for the cost of vehicle modifications necessary to accommodate the employees' injuries. Therefore, we will only reimburse vehicle modification expenses that are incurred as a result of the injury and not for the vehicle itself. In order to accommodate an injured employee's desire to purchase a vehicle, a number of members have advanced permanency benefits to facilitate the purchase.

The Workers' Compensation Court of Appeals (WCCA), in *Cotter v. Niro Atomizer*, 47 W.C.D. 622 (1992), rejected an employee's request that the insurer pay for the installation of a modified truck seat and the purchase of a recliner that had been prescribed by the employee's physician. The court stated the following standard in the case: "It is well settled, however, that the reasonableness and necessity of medical treatment expenses must be proved by the employee. The fact that a medical expense has been incurred does not make that expense reasonable and necessary." The WCCA held that simply presenting the treating physician's prescriptions for the apparatus did not meet the employee's burden of proof.

While the WCRA will continue to maintain this policy with respect to vehicle purchases submitted as medical expenses, the WCCA, in *Peter Wong v. Won Ton Foods*, 50 W.C.D. 289 (1993), created an exception to the general rule. In the Wong case, the WCCA upheld the award of a handicap-equipped van as an expense of vocational rehabilitation under [Minn. Stat. § 176.102](#), subd. 1(b).

In *Wong*, the compensation judge and the WCCA determined that other forms of transportation were not readily available and the injured employee was unable to transfer himself from a wheelchair to the family's handicap-equipped vehicle. The compensation judge granted the

employee's request for the modified vehicle, indicating the van would give the injured employee the ability to travel to and from gainful employment.

In the few published cases since *Wong*, the WCCA has held that a modified vehicle is best understood as a rehabilitation expense, not a medical expense. See *Smith v. Fairview Hospital*, 2000WL 798169, *3 (Minn. Work. Comp. Ct. App.). In *Smith*, the injured worker failed to prove that a modified van was reasonable and necessary when no return to work was expected. The WCCA also found there was no real evidence that the employee would be able to drive the van with the proposed modifications.

In *Hansen v. Woodcraft Industries, Inc.*, 2002 WL 1008245, 8 (Minn. Work. Comp. Ct. App.), the employee claimed she could no longer drive her standard transmission vehicle because of her work-related leg condition. The WCCA affirmed the compensation judge's decision that a vehicle with an automatic transmission was not a compensable medical expense.

The WCRA requests that members provide prompt notification of any pending claims or potential claims that may involve purchases of or modifications to vehicles to accommodate an injured worker's disabilities. Below is a list of general guidelines members should follow regarding vehicle modifications.

- ◆ Carriers/members should obtain objective/medical documentation supporting a claim that van modifications, rather than modifications to a car, are medically necessary.
- ◆ Modified vehicles being claimed as a vocational rehabilitation expense will need supporting documentation regarding return to work plans, etc.
- ◆ Vehicle modifications should be considered no more frequently than once every five years. More frequent or additional modifications to the vehicle may be considered only if medical documentation supports a change in the injured worker's medical condition and justifies the need.
- ◆ Luxury items (e.g., DVD players) are not eligible for reimbursement.
- ◆ Reasonable vehicle modification repairs will be reimbursed, but routine maintenance of modified vehicles will not be reimbursed.
- ◆ Insurance and other licensure expenses are not eligible for reimbursement. Injured workers are responsible for insuring the vehicle and modification equipment.