WCAT Decision Number: WCAT-2004-00101-AD
WCAT Decision Date: **January 12, 2004**
Panel: Sarwan Boal, Vice Chair

Introduction

The worker appeals the Workers' Compensation Review Board (Review Board) findings of December 13, 2002, which denied the worker's appeal and upheld two decision letters of July 24, 2001 and July 3, 2002 of a case manager of the Workers' Compensation Board (Board).

In the July 24, 2001 decision letter, the case manager advised the worker that the evidence on file indicated that he was not required to stay overnight as part of his travel on June 4 and July 18, 2001. Therefore, according to Board policy item #83.10 of the *Rehabilitation Services and Claims Manual, Volume 1,* (RSCM), he was not eligible to receive medical subsistence benefits for those days. The case manager further advised the worker that he was not entitled to receive transportation expenses between Town A and Town B, because the distance was less than 24 kilometres, as required by the Board's policy item #82.10 of the RSCM.

In the July 3, 2002 decision letter, the case manager again refused to reimburse any transportation costs associated with his travel from Town A to Town B, while he was undergoing treatment for infection. The case manager also declined to pay costs associated with purchasing a neck pillow, in accordance with policy item #77.29 of the RSCM.

The worker is representing himself, and has provided a January 2, 2003 notice of appeal. The employer is not participating in this appeal.

I agree with the appeal coordinator to deny the worker's request for an oral hearing, and find that an oral hearing is not necessary to fully and fairly adjudicate this matter.

Issue(s)

Whether the worker is entitled to subsistence allowances for two nights away from home, to attend medical appointments on June 4 and July 18, 2001;

Whether the worker is entitled to transportation expenses in relation to his travel between Town A and Town B; and

Whether the worker is entitled to reimbursement of the costs of purchasing a neck pillow.

Jurisdiction

This appeal was filed with the Appeal Division. On March 3, 2003, the Appeal Division and the Review Board were replaced by the Workers' Compensation Appeal Tribunal (WCAT). As this appeal had not been considered by an Appeal Division panel before that date, it has been decided as a WCAT appeal. (See the *Workers Compensation Amendment Act (No. 2), 2002,* section 39.)

Background and Evidence

The worker was employed as a truck driver. On February 16, 2001, he sustained injuries to his left shoulder and left arm, when he slipped and fell while tossing a wrapper over his load. The Board accepted his claim for left shoulder and left arm injuries. Subsequently, the Board accepted a permanent aggravation of his underlying cervical degeneration and neck surgery on April 11, 2002.

On February 26, 2001, the worker requested transportation allowances to attend the physiotherapy treatments in Town B. The worker informed the Board that the round-trip was 37 kilometres from his hometown A to Town B, where he attended physiotherapy treatments.

In a log entry of March 12, 2001, an entitlement officer documented:

> I note that the worker is requesting mileage reimbursement for his physiotherapy appointments. Since 37 km falls under the deductible limit, I will have spoke [sic] to the worker today and advised him about this minimum. The worker states that he will be sending his mileage on a monthly basis.
>
> The worker advises that he is going to physiotherapy 2-3 time per week, however, he does not believe that his condition is improving. He has notified his attending physician of this.

In a log entry of April 5, 2001, a nurse advisor documented that, according to the worker's attending physician, the worker was not responding to the physiotherapy treatments. The nurse advisor therefore recommended an occupational rehabilitation program (ORP), if the employer was unable to offer modified work to fit the medical restrictions.

In another log entry of April 5, 2001, a team assistant documented, in part:

> [The worker] submitted dates and times for his appointments for physio, doctor, hospital, etc. from Feb 21 to Mar 30.

> I have discussed this with the Entitlement Officer. If kilometres were paid on a daily basis no payments would be made because [Town A] to [Town B] return is under the 48 km deductible. The Entitlement Officer has agreed that the trips can be calculated on a weekly basis for a grand total, subtract the 48 km deductible and pay $0.30 on the balance.
>
> NOTE: Physio treatments have only been accepted up to and including March 20 and at this time no further treatments have been authorized. Therefore, I have paid only up to March 19. The Entitlement Officer will review the file further and provide direction if required for the remaining visits.

In a May 7, 2002 letter to the Board, the worker requested reimbursement for the cost of a neck pillow and transportation costs to travel from Town A to Town B to attend the hospital twice daily, because he had developed an infection. The worker also said that he was unable to drive on those occasions, and that someone else drove him to and from the hospital.

In a log entry of May 23, 2001, the case manager documented a telephone conversation with the worker regarding the travel costs from Town A to Town B to attend medical appointments. The case manager noted "While he may have received payment previously by the Entitlement Officer this was an error.", and he again denied the worker's request.

Submission

The worker, in his notice of appeal, argued in essence that he is entitled to the travel expenses between Town A and Town B, and the reimbursement for his neck pillow. The worker further argued that, in his July 2, 2002 letter, Dr. H recommended that the Board should purchase a neck pillow for him.

Law and Policy

Policy item #77.29 of the RSCM deals with miscellaneous items, and provides:

> Generally, an item of equipment designed as a medical appliance (for example, a wheelchair) is acceptable as a health care benefit expense if it is medically required because of the compensable condition. Periodically, however, the Board receives requests to provide equipment not normally considered a medical appliance. Examples are hair-pieces, computers, televisions and specialized sports equipment. Unless the equipment is for the purpose of providing medical treatment for the compensable condition, or the individual is otherwise unable to carry out

> the normal functions of daily living and the equipment is designed for those reasons, it is not considered a health care benefit expense. In these circumstances, however, consideration may be given to providing such items as a rehabilitation expense.

Policy item #83.10 of the RSCM deals with eligibility for subsistence and provides, in part:

> Subsistence may be paid where a journey, for which the Board is paying transportation expenses (see #82.10), requires the worker to spend one or more nights away from home. It may continue to be paid for the duration of a treatment or vocational rehabilitation program which has been approved by the Board, and which requires the worker to spend a period of time away from home.
>
> In determining whether a journey or program requires a worker to stay from home overnight, regard will be had to whether the worker can travel from home and return daily for a cost less than the amount that would be paid for subsistence.

Reasons and Findings

With respect to subsistence allowances for two nights, the worker has not provided any reasons, medical or otherwise, as to why he had to stay overnights away from home on June 4 and July 18, 2001 for his medical appointments. Based on the evidence on file, I concur with the case manager and the Review Board panel, that the worker was not required to spend one or more nights away from home on June 4 and July 18, 2001.

With respect to the transportation expenses between Town A and Town B, I find the policy item #82.10 of the RSCM is very clear that transportation expenses are not normally paid in regard to "The portion of any journey which takes place within a distance of 24 kilometres of the destination." The evidence on file indicates the distance between Town A and Town B is approximately 18 kilometres one-way. Therefore, it does not meet the requirement in policy item #82.10. I therefore deny the worker's appeal on this issue, as well.

With respect to the reimbursement for his cervical pillow, I am not satisfied, from the medical evidence on file, whether this was medically required because of the compensable condition. I deny the worker's appeal on that issue, as well.

Conclusion

I deny the worker's appeal on all three issues, and confirm the Review Board findings of December 13, 2002.

Sarwan Boal
Vice Chair

SB/jyo

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