WCAT Decision Number: WCAT-2004-00103-RB
WCAT Decision Date: **January 12, 2004**
Panel: Nora Jackson, Vice Chair

Introduction

In a decision letter dated June 13, 2002, a Workers' Compensation Board (Board) case manager advised the worker that he would not be reimbursed for taxi fare from his home to the Comox Airport. The worker appeals that decision (Appeal A).

Issue(s)

Was the worker entitled to reimbursement of the cost of the taxi between his home and the Comox Airport?

Jurisdiction

This appeal was filed with the Workers' Compensation Review Board (Review Board). Pursuant to Bill 63, the *Workers Compensation Amendment Act (No. 2), 2002*, the former Review Board and Appeal Division have been replaced by the Workers' Compensation Appeal Tribunal (WCAT) effective March 3, 2003. Section 38 of the legislation provides that all Review Board appeals are to be transferred to WCAT to be completed as WCAT appeals, unless a panel of the Review Board had completed an oral hearing, or unless written submissions were completed and a panel of the Review Board had commenced deliberations, before March 3, 2003.

As this appeal was not considered by a Review Board panel by March 3, 2003, it was transferred to WCAT and has been considered as a WCAT appeal except that no statutory time frame applies to the making of this decision. One effect of this change is that WCAT must apply policies set by the board of directors and the former governors of the Board.

Evidence, Reasons and Findings

I have reviewed the evidence in the claim file, any submissions made by the worker and the accident employer in support of their respective positions, the *Workers Compensation Act* (Act) in effect at the time of the events here in question, and applicable Board policy as set out in the *Rehabilitation Services and Claims Manual, Volume I* (RSCM). Interested parties have received full disclosure of the claim file, and the medical and claim history will not be repeated in detail here except as relevant to the current appeal.

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The worker was employed by the employer as a labourer. In 1971, the worker was 22 years old; he began working for the employer in December 1970. On February 6, 1971, the worker injured his left eye in the course of his employment. He submitted an application for compensation to the Board, and his claim was accepted for a corneal laceration of the left eye. Wage loss and health care benefits were paid, and an enucleation was required. The Board provided a prosthesis for the left eye. Ultimately a pension was awarded. Ongoing eye care in Vancouver was required, and transportation was regularly paid.

In a decision letter dated June 13, 2002, a Board case manager advised the worker that he was not entitled to reimbursement for taxi fare between his home and the Comox Airport. The distance between the worker's home and the airport was less than 24 kilometres. Board policy, as set out in item #82.10 of the RSCM, provided that if bus service was available and was a reasonable means of transportation for a worker, taxi fare would not be paid, nor would taxi fare be paid for a journey of less than 24 kilometres, unless the worker's condition required transportation by taxi and prior permission had been received from the Board.

In support of his appeal of the June 13, 2002 decision, the worker has argued that item #82.10 states:

> … Transportation expenses are not normally paid in regard to … 2. The portion of any journey which takes place within a distance of 24 kilometres of the destination …

As the worker's final destination was Vancouver, a distance greater than 24 kilometres, he was of the opinion he should be eligible to reimbursement pursuant to Board policy. Furthermore, although he was within the boundaries of the bus service, the flight that he was catching was an early one, and therefore no bus service was available.

The employer has made no submission in support of its position, although given the opportunity to do so.

Subsequent to the June 13, 2002 decision here being appealed, the worker again attended to Vancouver in June 2003 for his annual eye appointment. The Board reimbursed the worker for the cost of the taxi from his home to the Comox Airport and from the Comox Airport to his home.

I allow the worker's appeal. Board policy regarding payment of transportation for distances greater than 24 kilometres refers to the distance between the worker's home and airport, not the distance to his final destination (there was no question that his airfare was paid). On that ground, the worker's appeal must fail.

However, the worker was unable to take bus transportation because of the early hour of his flight. It was surely not the intent of Board policy to penalize the worker in requiring

him to pay his taxi fare when the fact that he has taken an early flight and returned on the same day has saved the Board the cost of overnight accommodations. In the event, I find that the bus was unavailable and not a reasonable means of transportation for the worker. The Board is directed to reimburse the cost of taxi transportation to and from the Comox Airport, upon presentation of appropriate receipts.

Conclusion

With regard to the issue of whether the worker is entitled to reimbursement for transportation costs for taxi to and from the Comox Airport in June 2002, I allow the worker's appeal. The Board's June 13, 2002 decision is varied. The Board is directed to pay the cost of taxi transportation to and from the Comox Airport in June 2002, upon presentation of appropriate receipts. No expenses were requested in the mounting of this appeal, and none are awarded by this panel.

Nora Jackson
Vice Chair

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