

In the Medical Services of
Holly A. Larsen, Claimant
Contested Case No: 08-368H
PROPOSED & FINAL ORDER

August 14, 2009

Holly A. Larson, Petitioner
SAIF Corporation, Respondent

Before Darren L. Otto, Administrative Law Judge

A hearing was convened and concluded in the above-entitled matter on August 5, 2009 in Portland, Oregon before Administrative Law Judge Darren Otto of the Workers' Compensation Board. Claimant appeared by telephone and was represented by her attorney John Hoadley. The employer, Healthy Options through Prevention and Education, and its insurer, SAIF Corporation, were represented by their attorney Carrol Smith. Exhibits 1 through 8, 2A, 2B, 3A, 5A, 6A, and 6B were received into evidence.

ISSUES

Claimant seeks reimbursement of \$223.04 for three nights of lodging. The issue is whether that lodging expense was reasonably related to the industrial injury.

FINDINGS OF FACT

On September 1, 2008, claimant began working for the employer in Hillsboro, Oregon (Claimant [cl] testimony). During the week of September 1 to 5, 2008, the employer sent some employees, including claimant, to Salem, Oregon to participate in training exercises (Cl. testimony; Ex. 5). The employer paid for claimant's hotel stay in Salem until Friday, September 5, 2008, when she was expected to return home with the co-worker who had given her a ride. *Id.*

On Thursday, September, 4, 2008, claimant injured both knees while jumping from a picnic table top during a bonding exercise (Cl. testimony). She immediately sought medical treatment at the Salem Hospital Emergency Room where Ken Pak, M.D., diagnosed bilateral knee pain (Exs. 1 & 2). Dr. Pak discharged claimant from the hospital that day with Ace wraps, crutches, and a prescription for Vicodin (Ex. 2). Claimant was having difficulty using the crutches because she had pain in both legs and elected to leave the hospital with the assistance of a wheelchair. *Id.* She scheduled a follow up appointment with an orthopedic surgeon in Salem on Monday, September 8, 2008 (Cl. testimony; Ex. 2)

Claimant decided to stay in Salem after the training exercises ended on Friday, September 5, 2008 because she had knee pain, lived in a third story condominium, and wanted to follow up with the orthopedic surgeon (Cl. testimony). After that appointment on Monday, September 8, 2008, claimant rode home with another co-worker. *Id.* The hotel bill for three nights from Friday, September 5, 2008 to Monday, September 8, 2008 was \$223.04. *Id.*

Claimant sought reimbursement for her weekend hotel expense which SAIF denied (Cl. testimony; Ex. 5). Claimant requested review of that decision and, on December 3, 2008, an Administrative Order of Dismissal found insufficient information to initiate review (Ex. 7). Claimant requested a hearing from that dismissal order.

FINDINGS OF ULTIMATE FACT

Claimant's hotel expense in the amount of \$223.04 incurred from September 5, 2008 to September 8, 2008 was not reasonably related to her industrial knee injury.

CONCLUSIONS OF LAW AND OPINIONS

Claimant seeks reimbursement for her hotel expense of \$223.04 on the grounds that it was reasonably related to her compensable knee injury. SAIF asserts that the hotel expense was not reasonably related to the industrial injury and claimant's request should be denied.

OAR 436-009-0025(1)(b) provides that the insurer shall reimburse claim-related service costs if the request clearly shows the costs are related to the accepted compensable injury or disease. More specifically, OAR 436-009-0025(2)(b) provides that a worker may be entitled to reimbursement for lodging based on the need for overnight travel to attend the appointment. Pursuant to OAR 436-009-0025(4), however, the employer may deny reimbursement requests which are unreasonable or not related to the accepted injury or disease. OAR 436-009-0025(1)(c) also provides that if the claim is in deferred status, requests which are at least 30 days old at the time of claim acceptance become due immediately upon claim acceptance and shall be paid within 14 days.

Claimant's reference to the traveling employee rule in support of reimbursement of her hotel costs is not persuasive. That rule, as espoused in *Savin Corp. v. McBride*, 134 Or App 321 (1995), determines initial compensability issues, not related medical services. Instead, the above referenced administrative rules apply. Therefore, claimant must show there was a need to stay in the hotel for three nights after the employer's training exercises had ended which was reasonably related to her knee injury. Based on the evidence presented, claimant has failed to carry that burden of proof. Neither the employer nor the emergency room physician directed claimant to stay at the hotel after September 4, 2008. Instead, claimant was released from the hospital with Ace wraps, crutches, and a prescription for Vicodin. Although she elected to leave the hospital via wheelchair and spent much of the weekend in bed at the hotel, she was not restricted to a wheelchair or bed rest. She also was not required to stay until Monday to follow up with another physician. She could just as easily have scheduled an appointment with a doctor closer to home. Finally, the fact that claimant rode down to the training exercises with a co-worker and lived in a third story apartment did not mean that she had to stay in Salem through the weekend. She could have arranged transportation and assistance into her residence if needed. Claimant stayed in the hotel over the weekend because she did not feel comfortable returning home in pain without seeing a doctor again. She did not need to stay in Salem, though. Therefore, those reasons were insufficient to establish a reasonable relation between her hotel bill and the industrial injury and her request for reimbursement is denied.

ORDER

Claimant's request for reimbursement of hotel expenses in the amount of \$223.04 for the period of September 5, 2008 to September 8, 2008 is denied.