

Employer-at-Injury Program (EAIP) Q&As

By Jerry Rutherford

Q A worker with a date of injury of May 6, 2005, was in transitional work for a few days in May. This was a medical-only claim, and we requested Employer-at-Injury Program (EAIP) reimbursement on Aug. 29, 2005. The worker's attending physician declared the worker medically stationary in October 2005.

The worker has seen the doctor again, and the doctor is requesting surgery. The claims adjuster has agreed, after writing to the doctor that the need for surgery is related to the work incident of May 6, 2005. The claimant is on full regular work at this time but the doctor says he will need to do desk work for six weeks after surgery.

The claims adjuster changed the claim status with the state from nondisabling to disabling on March 14, 2006. Even though we have not filed an official aggravation form, can we request EAIP after the worker goes back to desk work following surgery?

A The EAIP may be used only once per worker claim opening, either for a nondisabling claim or a disabling claim, according to OAR 436-105-0520. If a nondisabling claim becomes a disabling claim after one year from the date of acceptance, the disabling claim is considered a new opening and EAIP may be used again.

EAIP eligibility ends when reimbursement is requested, according to OAR 436-105-0510(3)(c). Since the worker's date of injury is May 6, 2005, claim acceptance has to be subsequent to that date. You requested EAIP reimbursement on Aug. 29, 2005. The nondisabling claim was changed to disabling on March 14, 2006, which is less than one year after the claim acceptance date. Therefore, based on the rules cited above, the claim, as it stands now, is not eligible for another EAIP.

Q A worker had an auto accident on May 11, 2005 and suffered a C-5 vertebral fracture and a small laceration on the forehead. He was treated at the emergency room and discharged with instructions to wear an Aspen collar for six to eight weeks. Between the accident

date and Aug. 17, 2005, the worker saw his physician three times. The June 16, 2005 chart note stated the worker was doing his regular work, but avoiding certain aspects of the job. In late December, the employer discovered there were no documented specific work restrictions for the worker while the claim was open. The employer wrote to the worker's physician and asked him to provide what he felt would have been appropriate restrictions between the accident date and Aug. 17, 2005. The physician confirmed he had not given the worker specific work restrictions during that time. He then gave the employer what he would have considered reasonable restrictions if he had done so at the time.

Is this considered clarifying a medical release and allowable under OAR 436-105-0500(6)(g)?

A No. The rule allows an employer or insurer to get clarification about a medical release from the medical service provider who issued the release any time prior to submitting the reimbursement request. In this case there was no medical release to clarify, so this rule does not apply. Modified work that may have been provided between the accident and Aug. 17, 2005 is not eligible for EAIP reimbursement.

Q OAR 436-105-0500(6)(f) deals with referrals of workers to another medical service provider and the insurer having the option of accepting updated restrictions and releases from the medical service provider to whom the worker is referred. Does this include occupational therapists and physical therapists?

A Yes. This rule does include occupational therapists and physical therapists.

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