

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

By Jerry Rutherford

Q If the restriction at the time of purchase of a worksite modification is “light duty,” will reimbursement for worksite modification be allowed if clarification after the purchase date provides specific restrictions? In this particular case the doctor’s release said the worker was to work on light duty until the next appointment in 30 days. The employer asked the worker if he knew what the doctor meant, and the worker said he was told not to lift more than 10 pounds and not to bend or twist repetitively. The employer immediately purchased modifications to overcome these restrictions.

A If the employer made worksite modification purchases based upon what they understood the worker’s restrictions were at the time, and later clarification proved their understanding to be accurate, then reimbursement should be allowed. In a case like this, the employer believed the restrictions were known on the date the purchases were initiated, so 436-105-0520(2)(a) was satisfied if the employer was correct. We want the employer to be reimbursed for what is done correctly even if it takes some information gathering to allow reimbursement. 436-105-0500(6)(g) 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.

Q Under the EAIP rules effective July 1, 2005, the payroll record only has to include the dates and hours worked if the worker has hourly restrictions. If the first or last payroll period for wage subsidy includes days of paid leave, it is not evident from the payroll record whether any days are not eligible. Is it sufficient to document a phone call to an employer to clarify which dates were taken as vacation, holiday or other paid leave?

A In the case you described, the Workers’ Compensation Division would accept your documented phone call to the employer. As an insurer you are required to administer the EAIP and have documentation showing how you determined the reimbursement for wage subsidy. If, however, there is conflicting documentation, in the claim file for instance, OAR 430-105-0550(2) states “...the division will utilize a preponderance of evidence standard to decide eligibility for reimbursement and if there is no clear preponderance, reimbursement will be allowed.”

Q If the one year and 30th day lands on a Saturday, Sunday or legal holiday, can the Employer-at-Injury Program Reimbursement Request Form 2360 be sent to the division the next business day?

A Yes. OAR 436-105 does not say so, but the division will accept a request sent on the next business day under these circumstances. ■

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