

Minnesota Supreme Court Rules Structural Modifications to Residence of Permanently Injured Employee are Remodeling Costs, not Medical Expenses, and are Subject to the Statutory Dollar Limitation for Remodeling Expenses

On April 10, 2013, the Minnesota Supreme Court ruled that the costs of making structural modifications to the residence of a permanently injured employee to permit installation of equipment deemed reasonably necessary to relieve the effects of the employee's injury are not medical treatment costs but instead are "alteration or remodeling" costs subject to the statutory dollar limits of M.S. § 176.137. In Washek v. New Dimensions Home Health, the court concluded the structural modifications were subject to the \$60,000 statutory cap then in effect for remodeling expenses and ruled they did not qualify as a "medical expense".

Tessa Washek was in a work-related car accident which left her a paraplegic. The employer and insurer admitted liability and paid various workers' compensation benefits including \$58,000 to make her home more accessible. In June 2010, Washek filed a Medical Request asking the employer and insurer to pay approximately \$15,000 for a lift system to be installed in her home to make it more accessible. Installation of this system required several modifications to her home which would have cost an additional \$13,000 - \$15,000. The employer and insurer admitted the lift system itself was a "medical expense" under M.S. § 176.135 and agreed to pay for the lift. However, they denied that the modifications to her home necessary to install the lift system were a covered medical expense. They contended these modifications were "remodeling expenses" which fell under M.S. § 176.137 and were subject to the \$60,000 cap in effect at the time of her 2002 injury. (The statutory cap on remodeling expenses has since been increased to \$75,000.) The employee contended the structural modifications were a "medical expense" and thus not subject to any caps.

A compensation judge at the Office of Administrative Hearings ruled that the modifications to the residence necessary to install the lift system were a covered medical expense. The employer and insurer appealed. The Workers' Compensation Court of Appeals reversed the trial court and concluded the structural changes required to install the lift system were a remodeling expense subject to the cap. The employee appealed to the MN Supreme Court.

The MN Supreme Court, with Justice Page dissenting, compared the medical and remodeling provisions of the MN Workers' Compensation Act and, using strict statutory construction, concluded the plain language of the medical statute did not include the structural modifications which were covered under the plain language of the remodeling statute. The net effect for the claimant? Only \$2,000 of the additional \$13,000-\$15,000 needed to modify her residence to accommodate installation of the lift system would be covered under workers' compensation.

Please contact any of the attorney's in our Workers' Compensation practice group to discuss Washek or other workers' compensation issues.