

REHAB ADVISORY HOME REMODELING

The statutory benefits given below are clearly defined in Minn. Stat. § 176.137 and need to be followed to ensure that the benefits will be awarded by the State of Minnesota and will be eligible for reimbursement by the WCRA.

- The benefits are limited to a maximum of \$30,000 for injuries occurring prior to October 1, 1992 and up to \$60,000 for injuries occurring between October 1, 1992 and May 28, 2011. For dates of injury after May 28, 2011, the maximum limit is \$75,000.
- The employee must be permanently disabled.
- All costs must be itemized.
- The architect fees or certified accessibility specialist costs must be included within the statutory benefit limit.
- All remodeling must be related to the worker's compensation injury.
- The remodeling must be for the injured employee's principal residence only.
- Any remaining funds within the statutory limit may be utilized at a later date for additional remodeling of the same or a different residence.

The clear intent of the law is to enable the employee to "move freely into and throughout the residence and to otherwise adequately accommodate the disability." The specific procedures described below were developed to ensure that the remodeling is completed to benefit the injured employee and not to provide the employee with discretionary funds.

First, identify the functional limitations of the injured employee to determine the reasonable and necessary residence alterations. This functional capacity assessment is often performed by a physical therapist or by the staff of a rehabilitation facility specializing in this field rather than a physician.

Second, obtain a home assessment to determine the necessary modifications. The primary areas of the home that need to be considered are the garage; access into the home, bedroom, bathroom, kitchen; and interior circulation. Many details in each area of the residence need to be considered in order to accommodate each disability. Once again, accessibility consultants specializing in this area can complete the home assessment.

The alteration of remodeling of an existing residence, or the building or purchasing of a new home must be done under the supervision of a licensed architect familiar with the state codes on accessibility features of residences unless the remodeling or alteration project is:

- Approved by the Council on Disability
- Performed by a residential building contractor or residential remodeler: and
- Approved by a certified building official or certified accessibility specialist

Third, the remodeling blueprints should be put out for bid to several general contractors. It is important to obtain at least two bids to document that the itemized costs are the "prevailing costs in the community for remodeling or alteration of that type" of any remodeling of an existing residence or the building or purchase of a new or different residence that is proposed by the licensed architect. The following information must be provided to the State Council on Disability to substantiate a remodeling claim.

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- The First Report of Injury or documents showing the date of injury and address(es) of the current (and proposed) residences.
- The medical records documenting the employee's disability.
- The Permanent Partial Disability ratings or statement from a medical professional indicating the disability is permanent.
- The names and addresses of all interested parties for purposes of service of the award.
- A letter from the employer/employer's representative stating whether or not the case will be contested.
- The home assessment proposing the necessary modifications.
- The architectural drawings or blueprints of the remodeling project and the architect's certification or certified accessibility's approval that the remodeling is necessary to accommodate the employee's permanent impairment.
- The construction bids of at least two contractors itemizing the cost of each modification documenting the "prevailing costs in the community"

The above information must be mailed to:

Accessibility Advocate
 Minnesota State Council on Disability
 121 East 7th Place, Suite 107
 St. Paul, MN 55101

Finally, the State Council on Disability will review the proposed remodeling or construction plans and, if approved, will forward them to the Department of Labor and Industry. An Award for Residence Remodeling pursuant to Minn. Stat. § 176.137 will then be issued. If the proposed remodeling is contested by the carrier/employer, the documents will be forwarded to the State of Minnesota Office of Administrative Hearing for further action.

Minn. Stat. § 176.137, subd. 3 provides that, if it is not practical to remodel an existing residence, the statutory benefits may be applied toward the purchase or lease of a new or different residence if the new or different residence would better accommodate the disability. Documentation must be provided to explain this necessity, and the same procedural measures itemized above must be followed. The same information, except the new home blueprints instead of the remodeling blueprints, must be provided to the State Council on Disability, and an Award for Remodeling/Purchase of a residence will still be issued by a compensation judge.

For any questions regarding home remodeling in workers' compensation cases, please contact the WCRA claims services department. Send us an email at claimservices@wcra.biz