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Missouri's Workers' Compensation Law: Expanding the Definitions of Medical Treatment and Medical Necessity

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**Missouri's Workers' Compensation Law:
Expanding the Definitions of Medical
Treatment and Medical Necessity**

*Mickey v. City Wide Maintenance*¹

I. INTRODUCTION

The purpose of workers' compensation law is to relieve society from the burden of providing support to workers injured on the job by shifting the burden onto the employer.² With advances in medical technology, Missouri courts have struggled to define "medical treatment" and "medical necessity" for the purpose of compensating injured workers. The Missouri Court of Appeals for the Western District of Missouri in *Mickey v. City Wide Maintenance* addressed the situation when a worker could recover for a service not explicitly covered under the definition of "medical treatment." The court found that a specially equipped van was "medical treatment" and was a "medical necessity." Thus, *Mickey* poses interesting questions about how courts will define "medical treatment" and "medical necessity" in future cases.

II. FACTS AND HOLDING

On September 20, 1995, Ross Mickey, an employee of City Wide Maintenance fell more than seventy-five feet from the AT&T building in Kansas City while washing windows.³ The fall fractured Mickey's spine, leaving him paralyzed from the waist down and confined to a wheelchair.⁴ The parties agreed that Mickey was left permanently and completely disabled from the fall.⁵

In November 1997, Mickey appeared before an administrative law judge and requested a modification to his workers' compensation award.⁶ Specifically, Mickey requested "a modified van to accommodate his wheelchair" as part of the medical treatment City Wide was responsible for under Missouri's workers' compensation law.⁷

1. 996 S.W.2d 144 (Mo. Ct. App. 1999).

2. *Id.* at 148 (citing *Bass v. National Super Markets, Inc.*, 911 S.W.2d 617, 619 (Mo. 1995)).

3. *Id.* at 146.

4. *Id.*

5. *Id.*

6. *Id.*

7. *Id.* Under Missouri's workers' compensation law, an employer is responsible for "medical, surgical, chiropractic, and hospital treatment, including nursing, custodial, ambulance and medicines, as may reasonably be required after the injury or disability, to cure and relieve from the effects of the injury." MO. REV. STAT. § 287.140.1 (1994).

At the hearing, Mickey testified about the difficulties he experienced in transporting himself and his wheelchair into and out of a normal vehicle.⁸ Mickey stated that hoisting his body weight and a thirty pound wheelchair into a vehicle, using only his upper body strength, caused severe lower back and shoulder pain.⁹ Mickey's medical expert, Dr. James Stuckmeyer, also testified that Mickey's "'persistent low back pain and spasm' c[ould] be attributed, at least in part, to his picking up the wheelchair 'from a mechanical disadvantage and put[ting] it into a vehicle.'"¹⁰ Dr. Stuckmeyer stated that Mickey's back condition would most likely deteriorate with age causing Mickey increased back pain.¹¹ Dr. Stuckmeyer opined that even though Mickey was capable of getting his wheelchair into and out of a normal vehicle, the stress it placed on his spinal cord may cause additional damage to his back.¹² Dr. Stuckmeyer also testified that a modified van for Mickey's wheelchair would decrease Mickey's back pain and spasms.¹³

The administrative law judge found that a van modified to accommodate Mickey's wheelchair did not qualify as a workers' compensation medical benefit under Missouri's workers' compensation law.¹⁴ The Labor and Industrial Commission ("Commission") affirmed the findings of the administrative law judge.¹⁵ Mickey appealed the Commission's decision asserting that "medical treatment" should be interpreted under Missouri's workers' compensation statutes to "allow the award of a modified vehicle,"¹⁶ and that "the administrative law judge erred in finding that there was no medical necessity, as is required by statute."¹⁷

The Western District reversed and remanded the Commission's decision holding that the definition of "medical treatment" under Missouri's workers' compensation law included modifications to a van to accommodate a wheelchair, and that enough evidence existed to warrant a wheelchair compatible van a "medical necessity" for Mickey.¹⁸ However, the court held that while City Wide

8. Mickey v. City Wide Maintenance, 996 S.W.2d 144, 146 (Mo. Ct. App. 1999). Mickey stated that while trying to get in and out of a normal vehicle, his wheelchair had "rolled down the street before crashing at the bottom of the hill" and that his wheelchair often stabbed him in the neck and chest while trying to get it in and out of the vehicle. *Id.*

9. *Id.* Mickey stated that the exertion required to manipulate his wheelchair into a car caused his muscles to freeze up and made him unable to move. *Id.*

10. *Id.* at 146-47.

11. *Id.* at 147.

12. *Id.*

13. *Id.*

14. *Id.* See MO. REV. STAT. § 287.140.1 (1994).

15. Mickey v. City Wide Maintenance, 996 S.W.2d 144, 146 (Mo. Ct. App. 1999).

16. *Id.* at 149.

17. *Id.* at 151.

18. *Id.* at 152-53.

was responsible for the van and modifications to accommodate Mickey's wheelchair, it was not responsible for "repair, fuel, title, license, and insurance costs."¹⁹

III. LEGAL BACKGROUND

In 1925, the Missouri legislature adopted the state's first workers' compensation law.²⁰ This law requires employers to compensate employees for injuries "arising out of, and in the scope and course of their employment."²¹ Missouri courts have found that workers' compensation law should be "liberally construed with a view to the public welfare," and should extend to the largest class possible.²² If any doubt exists as to whether compensation should be granted to the worker, the dispute should be resolved in favor of the worker.²³

In order for a worker to be compensated under Missouri's workers' compensation law, the worker must show: (1) the remedy or treatment the worker seeks to be compensated for is included in the definition of "medical treatment," and (2) the remedy or treatment the worker seeks is a "medical necessity."²⁴

A. Medical Treatment

The definition of "medical treatment" under Missouri's workers' compensation law does not specifically include a van modified to accommodate a wheelchair, but rather includes items such as physician and surgical services, and "artificial legs, arms, hands, surgical orthopedic joints, or eyes, or braces."²⁵ Furthermore, prior to the decision in *Mickey*, no Missouri court had defined "medical treatment" to include a van modified to accommodate a wheelchair.²⁶ Other states have statutes that require a worker to show that the requested treatment is a medical "appliance" or "apparatus." Missouri statutes do not contain a specific claim for medical "appliance" or "apparatus"; these are covered under the broad definition of "medical treatment."²⁷ States are divided over whether a van modified to accommodate a wheelchair is covered by

19. *Id.*

20. *Id.* at 148 (citing *Bass v. National Super Markets, Inc.*, 911 S.W.2d 617, 619 (Mo. 1995); *West v. Posten Constr. Co.*, 804 S.W.2d 743, 746 (Mo. 1991); *Gaston v. J.H. Ware Trucking, Inc.*, 849 S.W.2d 70, 75 (Mo. Ct. App. 1993)).

21. *Mickey v. City Wide Maintenance*, 996 S.W.2d 144, 148 (Mo. Ct. App. 1999).

22. *Bass*, 911 S.W.2d at 619 (quoting MO. REV. STAT. § 3374 (1929)).

23. *Mickey*, 996 S.W.2d at 148 (citing *Bass*, 911 S.W.2d at 619; *West*, 804 S.W.2d at 746; *Gaston*, 849 S.W.2d at 75).

24. *Mickey*, 996 S.W.2d at 148, 151.

25. MO. REV. STAT. § 287.140.8 (1994).

26. *Mickey*, 996 S.W.2d at 149.

27. *Id.* at 149-50.

workers' compensation.²⁸ A number of jurisdictions have broadly interpreted medical "apparatus" or "appliance" in workers' compensation statutes to include a specially equipped van to accommodate a wheelchair.²⁹

In *Wilmers v. Gateway Transportation Co.*,³⁰ a worker, paralyzed in a car accident while working as a traffic representative, requested that his employer/insurer compensate him for a specially equipped van to accommodate his work-related injuries.³¹ The court found that a specially equipped van could be considered a "reasonably necessary 'appliance' for the purposes of [Michigan's workers' compensation law]."³² The court stated that Michigan's

28. See Elizabeth Cazden, Annotation, *Compensability of Specially Equipped Van or Vehicle Under Workers' Compensation Statutes*, 63 A.L.R.5th 163 (1998).

29. See *Terry Grantham Co. v. Industrial Comm'n of Ariz.*, 741 P.2d 313, 316 (Ariz. Ct. App. 1987) (holding that a modified van was "other apparatus" that was reasonably required); *Manpower Temp. Servs. v. Sioson*, 529 N.W.2d 259, 264 (Iowa 1995) (holding that a modified van was a medical appliance similar to "crutches or a wheelchair"); *Wilmers v. Gateway Transp. Co.*, 575 N.W.2d 796, 800 (Mich. Ct. App. 1998) (holding that a van modified to accommodate a wheelchair was a necessary medical "appliance"); *Phillips Petroleum Co. v. Carter*, 914 P.2d 677, 679 (Okla. Ct. App. 1995) (holding that "specially equipped vans [were] compensable medical treatment/apparatus"); *Crouch v. West Virginia Worker's Compensation Comm'r*, 403 S.E.2d 747, 749 (W. Va. 1991) (holding that a modified van was necessary "mechanical appliance" under workers' compensation law).

30. 575 N.W.2d 796, 798 (Mich. Ct. App. 1998).

31. *Id.* at 797. The court cited the Michigan's Workers' Compensation Act, which states:

The employer shall furnish . . . to an employee who receives a personal injury arising out of and in the course of employment, reasonable medical, surgical, and hospital services and medicines, or other attendance or treatment recognized by the laws of the state as legal, when they are needed . . . The employer shall also supply to the injured employee dental service, crutches, artificial limbs, eyes, teeth, eyeglasses, hearing apparatus, and other appliances necessary to cure, so far as reasonably possible, and relieve from the effects of the injury.

MICH. COMP. LAWS ANN. § 418.315 (West 1999). Cf. MO. REV. STAT. § 287.140.1 (1994) ("[T]he employee shall receive and the employer shall provide such medical, surgical, chiropractic, and hospital treatment, including nursing, custodial, ambulance and medicines, as may reasonably be required after the injury or disability, to cure and relieve from the effects of the injury."); MO. REV. STAT. § 287.140.8 (1994) (employer may have to "furnish an injured employee with artificial legs, arms, hands, surgical orthopedic joints, or eyes, or braces, as needed, for life whenever the division or the commission shall find that the injured employee may be partially or wholly relieved of the effects of a permanent injury by the use thereof"). The *Wilmers* court found that a specially equipped van was "medically required" because of the worker's injuries and his above average height of 6'7". *Wilmers*, 575 N.W.2d at 798. Cf. *Mickey v. City Wide Maintenance*, 996 S.W.2d 144 (Mo. Ct. App. 1999) (holding that specially equipped van for wheelchair was a "medical necessity").

32. *Wilmers*, 575 N.W.2d at 799.

workers' compensation law "should be interpreted liberally in a humanitarian manner in favor of the injured employee."³³ The court concluded that the purpose of Michigan's workers' compensation law—to provide an injured worker with "services and products as are reasonably necessary to cure or relieve the effects of injury"—included providing an injured worker with a specially modified van when it was a "medical requirement."³⁴

The *Wilmers* court also concluded that the employer/insurer was required to cover the entire cost of the specially equipped van including modifications, even though the worker may have owned a vehicle absent his injury.³⁵ The court reasoned that the worker's injury prevented him from using other possible forms of transportation such as "public transportation, carpooling, bicycling and so forth."³⁶

Some jurisdictions that require the employer to pay for modifications to a specially equipped van require the worker to pay for the actual cost of the van.³⁷ For instance, in *Crouch v. West Virginia Workers' Compensation Commissioner*,³⁸ the Supreme Court of Appeals for West Virginia reasoned that the claimant "would have owned an automobile regardless of injury," and held that the employer was only responsible for modifications to the van and not the regular price of the automobile, taxes, fuel, insurance costs, and repairs.³⁹ Moreover, a few jurisdictions construe workers' compensation law narrowly and have held that a wheelchair compatible van is not compensable either because it was a personal expense or because the state's workers' compensation law did not intend to cover this type of apparatus or appliance.⁴⁰

33. *Id.* (citing *Wells v. Firestone Tire & Rubber Co.*, 364 N.W.2d 670 (Mich. Ct. App. 1984); *Matney v. Southfield Bowl*, 554 N.W.2d 356 (Mich. Ct. App. 1996)).

34. *Wilmers*, 575 N.W.2d at 799. The language of the Michigan workers' compensation law is similar to that of Missouri. *See* MO. REV. STAT. § 287.140.1 (1994); *see also supra* note 25.

35. *Wilmers*, 575 N.W.2d at 800. *See also* *Terry Grantham Co. v. Industrial Comm'n of Ariz.*, 741 P.2d 313, 316-17 (Ariz. Ct. App. 1987); *Manpower Temp. Servs. v. Sioson*, 529 N.W.2d 259, 263-64 (Iowa 1995).

36. *Wilmers v. Gateway Transp. Co.*, 575 N.W.2d 796, 800 (Mich. Ct. App. 1998).

37. *See, e.g., Meyer v. North Dakota Workers Compensation Bureau*, 512 N.W.2d 680, 684 (N.D. 1994); *Crouch v. West Virginia Workers' Compensation Comm'r*, 403 S.E.2d 747, 750-51 (W. Va. 1991).

38. 403 S.E.2d 747 (W. Va. 1991).

39. *Id.* at 751.

40. *See* *Cazden*, *supra* note 28, at 179-82; *see, e.g., Ex parte City of Guntersville*, 728 So. 2d 611, 617 (Ala. 1998) (holding that a modified van was not an apparatus that could help the injured worker's condition because the van could only improve the injured worker's independent functioning which was not the intended meaning of the workers' compensation statute); *Bogue v. SDI Corp.*, 931 P.2d 477, 478-80 (Colo. Ct. App. 1996) (holding that a specially equipped van was not a "medical apparatus" under Colorado workers' compensation law); *Hedrick v. U.S.D. No. 259*, 935 P.2d 1083, 1086 (Kan. Ct. App. 1997) (holding that a larger vehicle for an employee who had fractured her hip was

In *R & T Construction Co. v. Judge*,⁴¹ the plaintiff fell from a third story window while working for R & T Construction Company.⁴² The plaintiff was paralyzed from the neck down and confined to a wheelchair due to the accident.⁴³ The plaintiff's insurer provided a van to transport him once a week to his physician.⁴⁴ The court held that a specially equipped van was not "other prosthetic appliance" and was not compensable.⁴⁵ The court also held that while a specially equipped van would increase the plaintiff's mobility and quality of life, it was not medically necessary and was not a medical apparatus or device.⁴⁶

Prior to *Mickey*, no Missouri court had previously decided whether a modified van was compensable under workers' compensation law. However, the Commission considered the issue in a 1997 case. In this administrative decision, the Commission required an employer to provide an employee injured in the course of employment with a modified van to accommodate his wheelchair.⁴⁷ The former employee lost control of his truck and ran into a telephone pole.⁴⁸ The accident left the employee paralyzed from the waist down and in need of constant assistance for all of his daily activities.⁴⁹ The former employer provided transportation to the claimant in the form of a van/shuttle service; however, the claimant argued that his mobility was severely limited because the vans were too small for his wheelchair, often arrived late, and were sometimes unavailable.⁵⁰ To increase his mobility, the claimant requested a van modified to accommodate his wheelchair.⁵¹ The Commission required the employer to provide the employee with a van, but provided that the title of the modified van could be in the employer's or the insurer's name.⁵²

not compensable under the definition of "medical treatment"); *R & T Constr. Co. v. Judge*, 594 A.2d 99, 108 (Md. 1991) (finding that a modified van to accommodate a wheelchair was not a "prosthetic appliance" and was not compensable).

41. 594 A.2d 99 (Md. 1991).

42. *Id.* at 101.

43. *Id.*

44. *Id.* at 108.

45. *Id.*

46. *Id.*

47. Norbert Mendica, Injury No. 94-047489, 1997 WL 216289 (Mo. Labor & Indus. Relations Comm'n Apr. 21, 1997).

48. *Id.* at *3.

49. *Id.*

50. *Id.* at *4.

51. *Id.*

52. *Id.* at *5. The dissent stated that a specially equipped van should not be covered by workers' compensation because Section 287.140 of the Missouri Revised Statutes does not "authorize an award for employee's personal transportation." *Id.* at *1. Furthermore, such an award does not follow the "central purpose of the Workers' Compensation Law" because the van was awarded to preserve the employee's "spontaneity" of mobility. *Id.* at *2. The dissent also feared that requiring an employer to have available to its employees at any time a modified van could force employers to

B. Medical Necessity

For a claimant to recover under Missouri's workers' compensation law he must be able to show a "medical causal relationship" between the injury and the medical condition for which he is seeking to recover.⁵³ If a worker can show a present medical necessity, he can recover for his injury.⁵⁴ However, Missouri's workers' compensation law does not require a worker "to wait until he finds himself totally disabled in order to file a claim for compensation."⁵⁵ Even if a claimant cannot show a present need for medical treatment, he can still recover if he can show a "reasonable probability" of a future need for medical treatment.⁵⁶ A claimant must have a medical expert attest that there is a "reasonable probability," not a "mere possibility," that the claimant is likely to require future medical treatment.⁵⁷

Until *Mickey*, no Missouri court had addressed whether a van modified to accommodate a wheelchair was a medical necessity. Other jurisdictions are divided on whether a claimant can show a medical need for a modified van.⁵⁸ Some courts have found, limited to the facts of each particular case, that a modified van was a medical need or necessity.⁵⁹ For instance, the claimant in *Cottonham v. Rockwood Insurance Co. of Rockwood, Pennsylvania*,⁶⁰ was the assistant dean of student personnel when he fell from a third story building.⁶¹ The fall fractured his vertebrae and left him a paraplegic and confined to a wheelchair.⁶² The court concluded that because the claimant was in constant pain, which caused him to arrive late and leave early from work, the installation of a ramp and hand controls in the claimant's van was medically necessary.⁶³

be required to purchase such a vehicle. *Id.*

53. *Mickey v. City Wide Maintenance*, 996 S.W.2d 144, 149 (Mo. Ct. App. 1999) (citing *Modlin v. Sun Mark, Inc.*, 699 S.W.2d 5, 7 (Mo. Ct. App. 1985)).

54. *Mickey*, 996 S.W.2d at 146.

55. *Lutman v. American Shoe Mach. Co.*, 51 S.W.2d 701, 707 (Mo. Ct. App. 1941).

56. *Mickey*, 996 S.W.2d at 149 (citing *Mathia v. Contract Freighters, Inc.*, 929 S.W.2d 271, 277 (Mo. Ct. App. 1996)).

57. *Mickey*, 996 S.W.2d at 149 (citing *Mathia*, 929 S.W.2d at 277).

58. *See* *Cazden*, *supra* note 28, at 182-84.

59. *See* *Terry Grantham Co. v. Industrial Comm'n of Ariz.*, 741 P.2d 313, 317 (Ariz. Ct. App. 1987) (traveling long distances was dangerous for a claimant who could not perspire, therefore, a specially equipped van was "medically necessary"); *Cottonham v. Rockwood Ins. Co. of Rockwood, Pa.*, 403 So. 2d 773, 778 (La. Ct. App. 1981) (hand controls in paraplegic claimant's van were medically necessary); *Cazden*, *supra* note 28, at 182-83.

60. 403 So. 2d 773 (La. Ct. App. 1981).

61. *Id.* at 774.

62. *Id.* at 775.

63. *Id.* at 775, 778.

Alternatively, a number of courts have held that a modified van was not compensable as a medical need or necessity.⁶⁴ In *Brigham & Winningham v. Mapes*,⁶⁵ the injured claimant requested that her employer provide her with a mini-van modified to accommodate her "Pacesaver scooter."⁶⁶ The Florida District Court of Appeals found that the claimant's need was not apparent and there was "no 'uncontroverted' testimony by [claimant's physician] that a van [was] medically necessary."⁶⁷ The court reasoned that while a modified van would have been beneficial to the claimant, it was not medically necessary, thus it was not compensable.⁶⁸

In *Bogue v. SDI Corp.*,⁶⁹ the claimant was an incomplete paraplegic with limited movement of his upper extremities due to injuries from a work related accident.⁷⁰ The claimant, who resided in a nursing home, relied on his former employer/insurer to provide his transportation to medical appointments, but he relied on his mother for his other transportation needs.⁷¹ The claimant requested a specially equipped van to accommodate his wheelchair so that he could "regain [the] level of independence he enjoyed before his accident and to prevent injuries" caused by transferring him from his mother's car to his wheelchair.⁷² Furthermore, the claimant stated that he was unable to use public transportation because he was susceptible to extreme weather conditions.⁷³ The court reasoned that a specially equipped van would not "cure [the] claimant of his injuries or relieve him of the medical symptoms of his quadriplegia," and was merely for gaining independence and maintaining an active lifestyle; thus, the court held that the requested vehicle was beyond the scope of Colorado's workers' compensation laws.⁷⁴

64. *Brigham & Winningham v. Mapes*, 610 So. 2d 623, 623 (Fla. Dist. Ct. App. 1992) (finding that a wheelchair lift for motorized scooter to claimant's present vehicle was adequate and there was no medical necessity for specially equipped van); *Diamond R. Fertilizer v. Davis*, 567 So. 2d 451, 455-56 (Fla. Dist. Ct. App. 1990) (holding that a specially equipped van was not a medical necessity for claimant with central nervous system disorder); *Aino's Custom Slip Covers v. DeLucia*, 533 So. 2d 862, 865 (Fla. Dist. Ct. App.), *reh'g denied*, 544 So. 2d 199 (Fla. 1988) (holding that a modified van was only a convenience and pleasure for the claimant, not a medical necessity); *Mississippi Transp. Comm'n v. Dewease*, 691 So. 2d 1007, 1015 (Miss. 1997) (finding that a modified van was not medically necessary while claimant was residing at a nursing home or for home respite visits).

65. 610 So. 2d 623 (Fla. Dist. Ct. App. 1992).

66. *Id.* at 623.

67. *Id.*

68. *Id.*

69. 931 P.2d 477 (Colo. Ct. App. 1996).

70. *Id.* at 478.

71. *Id.*

72. *Id.*

73. *Id.*

74. *Id.*

IV. INSTANT DECISION

In *Mickey*, the Western District held that City Wide was responsible for compensating Mickey with a modified van to accommodate his wheelchair.⁷⁵ The court held that Mickey's workers' compensation claim for a wheelchair compatible van was compensable because it was both "medical treatment" and a "medical necessity."⁷⁶

The court stated that a modified van to accommodate a wheelchair was "medical treatment" because the "modifications [were not] merely for convenience; they [were], rather, requested for their medical benefit."⁷⁷ The court reasoned that while a specially equipped van was not included in Missouri's definition of "medical treatment" under Section 287.140 of the Missouri Revised Statutes, the modifications would "relieve [Mickey] of the pain that [was] caused by maneuvering his wheelchair in and out of a vehicle."⁷⁸ The court further stated that it would be illogical to deny Mickey a modified van because the van "would prevent inevitable, compensable future injuries."⁷⁹ The court stated that its decision to allow Mickey to recover a modified van furthered the humane purpose of Missouri's workers' compensation law.⁸⁰

The court also held that Mickey had both a present medical necessity and a future medical necessity for a specially equipped van.⁸¹ The court determined that a future medical necessity existed because there was a "reasonable probability" that medical problems would arise from Mickey lifting his wheelchair in and out of a normal vehicle.⁸² The court explained that it would not require Mickey's condition to deteriorate, and would not interpret the statute

75. *Mickey v. City Wide Maintenance*, 996 S.W.2d 144, 152 (Mo. Ct. App. 1999).

76. *Id.* at 151-52.

77. *Id.* at 151. City Wide argued that a specially equipped van was not "medical treatment" because it was not included in the statute. *Id.* at 152. In response to the court's question of whether they provided Mickey with a wheelchair, City Wide conceded that they did, even though a wheelchair is not explicitly mentioned in the workers' compensation statute. *Id.* at 151. In response to City Wide's answer, the court stated that the "[r]espondent seem[ed] to argue that although some items c[ould] be awarded which [were] not specified in the statute, the expense of van modifications [was] not one of them." *Id.* at 152.

78. *Id.*

79. *Id.*

80. *Id.*

81. *Id.* at 152. The court reasoned that a van with a wheelchair lift would "decrease the 'rotational stress' on [Mickey's] back" and would also relieve some of his current pain. *Id.* at 151.

82. *Id.*

“to deny the Commission the power to order compensation which would have a protective effect” on his health before granting relief.⁸³

In finding that Mickey’s claim for a specially equipped van to accommodate a wheelchair was both “medical treatment” and a “medical necessity” under Missouri’s workers’ compensation law, the court held that Mickey could recover the cost of the van.⁸⁴ However, the court stated that the employer/insurer was not responsible for the full cost of the modified van.⁸⁵ The court remanded the case to the Commission to determine the amount of expenses the employer/insurer was responsible for by using the standards set forth in *Crouch*.⁸⁶

V. COMMENT

In a case of first impression,⁸⁷ the *Mickey* court expanded Missouri’s workers’ compensation law further than any Missouri court had since the enactment of the workers’ compensation statutes. The court interpreted “medical treatment” to include a specially equipped van, even though it was not included in Missouri’s workers’ compensation statute.⁸⁸ The court opted to construe the statute liberally and joined those jurisdictions that allow compensation for specially equipped vans.

In deciding that a specially equipped van was compensable, the court cautioned that the “decision should not be interpreted to provide the support for relief in cases which contain facts beyond those facts presented here.”⁸⁹ Although the court clearly sought to limit its decision to the facts before it, this decision will undoubtedly have repercussions beyond *Mickey*. However, the *Mickey* decision differs slightly from other jurisdictions that broadly define “medical treatment”: Missouri Revised Statutes Section 287.140 does not provide recovery for a medical “apparatus” or “appliance.”⁹⁰ Allowing a worker to recover for a specially equipped van may lead to further expansion of the definition of “medical treatment” to include other technological advances such as home and office modifications.⁹¹ This result would be beneficial to the injured worker, and is consistent with the humane statutory purpose of Missouri’s workers’ compensation law. Furthermore, the expense of providing compensation for a reasonable probability of a future medical necessity can be

83. *Id.* at 152.

84. *Id.* at 151-52.

85. *Id.* at 152.

86. *Id.*

87. *Id.* at 149.

88. *Id.* at 151; See MO. REV. STAT. § 287.140 (1994).

89. *Mickey v. City Wide Maintenance*, 996 S.W. 2d 144, 151 (Mo. Ct. App. 1999).

90. *Id.* at 152.

91. See *R & T Constr. Co. v. Judge*, 594 A.2d 99 (Md. 1991).

offset by future savings associated with the prevention of further injuries. However, the expense associated with expansion of workers' compensation benefits will most likely be offset by increasing insurance premiums and having the "ultimate purchaser of the employers' goods or services" bear at least a portion of the increased costs.⁹²

It is not clear what the court would have decided if Mickey did not have an actual or a reasonable probability of future medical injury and only sought a modified van for independence or to prevent his exposure to the cold, like the claimant in *Brigham*.⁹³ However, the court in *Mickey* did state that Mickey "should not be thwarted in his effort to establish independent travel."⁹⁴

In the future, a Missouri court sympathetic to a worker's independence could find that the probability of being injured during a transfer from a vehicle to the worker's wheelchair, or an injury due to exposure to extreme weather conditions, constitutes a reasonable probability of future medical necessity. A court construing the statute in this manner would likely find for the claimant and render a decision consistent with the humane purpose of Missouri's workers' compensation law.

VI. CONCLUSION

As a result of the court's decision in *Mickey*, it is unclear how broadly the definitions of "medical treatment" and "medical necessity" will be interpreted in the future. However, given the facts of *Mickey*, it is clear that the terms may include modifications to vehicles, but whether that will be extended to home or office modifications is yet to be determined. Future cases involving similar issues must determine how much further Missouri courts are willing to expand the definition of "medical treatment," and if claimants will be allowed to recover for similar types of modifications without first showing a clear medical necessity.

JEAN M. GUIGNON

92. JAMES S. RANKIN, JR., *MISSOURI WORKERS' COMPENSATION LAW AND PRACTICE* § 1-2 (2d ed. 1997).

93. *Brigham & Winningham v. Mapes*, 610 So. 2d 623, 623 (Fla. Dist. Ct. App. 1992).

94. *Mickey*, 996 S.W.2d at 152.

