

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

JOHNNY ROUSE,

Claimant,

vs.

FEDERAL EXPRESS CORPORATION,

Self-Insured Employer,
Defendant.

File No. 21010775.01

ALTERNATE MEDICAL

CARE DECISION

HEAD NOTE NO: 2701

STATEMENT OF THE CASE

This is a contested case proceeding under Iowa Code chapters 85 and 17A. By filing an original notice and petition for alternate medical care, claimant, Johnny Rouse, invoked the expedited procedure of rule 876 IAC 4.48.

The alternate medical care claim came on for telephonic hearing on May 27, 2022. The proceedings were digitally recorded. That recording constitutes the official record of this proceeding. Claimant appeared personally and through his attorney, Mark Chipokas. Defendant appeared through their attorney, John Cutler.

Pursuant to the Commissioner's February 16, 2015 Order, the undersigned has been delegated authority to issue a final agency decision in this alternate medical care proceeding. Therefore, this ruling is designated final agency action. Any appeal of the decision would be to the Iowa District Court pursuant to Iowa Code section 17A.

Prior to the commencement of the presentation of evidence, counsel for the parties indicated that they may have reached an agreement that would resolve the pending disputes. Defendant admitted liability for the alleged May 13, 2021, right shoulder injury, as well as current causal connection of the treatment sought. Claimant agreed to limit his request for alternate medical care at the present time to the right shoulder and specifically to a request for authorization of a right shoulder surgery and physical therapy. Defendant agreed to authorize the requested care through the authorized surgeon, Greg Hill, M.D. All other claims pertaining to medications and/or left shoulder issues were withdrawn at this time and preserved for a later alternate medical care proceeding, if necessary.

Given the parties' agreements, no evidence was offered or received at the alternate medical care hearing. No witnesses were called, and the hearing ended with the consent of the parties to the above issues. Accordingly, I conclude that an order

directing authorization and payment of medical benefits be ordered pursuant to the parties' agreements.

ISSUE

The issue presented for resolution is whether the claimant is entitled to an alternate medical care order requiring defendant to authorize a right shoulder surgery and physical therapy, if recommended by the authorized treating surgeon, Greg Hill, M.D.

FINDINGS OF FACT

The undersigned having considered all the evidence in the record finds:

Prior to the presentation of any evidence in this alternate medical care hearing, the parties reached an agreement that defendant will authorize and pay for the requested right shoulder surgery and physical therapy on the right shoulder, if it continues to be recommended. Claimant withdraws any claims for medications or treatment of the left shoulder at this alternate medical care hearing. Claimant retains any rights to subsequently pursue medications and/or treatment of the left shoulder if agreements cannot be reached between the parties. The authorized treating surgeon to provide the above care is Greg Hill, M.D.

REASONING AND CONCLUSIONS OF LAW

The employer shall furnish reasonable surgical, medical, dental, osteopathic, chiropractic, podiatric, physical rehabilitation, nursing, ambulance and hospital services and supplies for all conditions compensable under the workers' compensation law. The employer shall also allow reasonable and necessary transportation expenses incurred for those services. The employer has the right to choose the provider of care, except where the employer has denied liability for the injury. Section 85.27. Holbert v. Townsend Engineering Co., Thirty-second Biennial Report of the Industrial Commissioner 78 (Review-Reopening October 16, 1975).

Defendant consents to authorize and pay for treatment through Greg Hill, M.D. as the authorized orthopaedic surgeon. Specifically, defendant has agreed to authorize and pay for a right shoulder surgery and physical therapy for the right shoulder, if it is still recommended by Dr. Hill. Accordingly, I conclude that such care is reasonable, necessary, and should be ordered.

ORDER

THEREFORE, IT IS ORDERED:

The claimant's petition for alternate medical care is granted.

Defendant shall immediately authorize and pay for additional right shoulder medical care provided by the authorized orthopaedic surgeon, Greg Hill, M.D.

Specifically, defendant shall authorize and pay for right shoulder surgery as well as physical therapy for the right shoulder, if it is still recommended by Dr. Hill.

All claims pertaining to medications or treatment of the left shoulder are withdrawn at this time but preserved for future alternate medical care claims, if agreements regarding such further treatment cannot be reached by the parties.

Signed and filed this 27th day of May, 2022.

A handwritten signature in black ink, reading "William H. Grell", written over a horizontal line.

WILLIAM H. GRELL
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

The parties have been served, as follows:

Mark Chipokas (via WCES)

John Cutler (via WCES)