

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

JANET KETELSEN,

Claimant,

vs.

TRINITY HEALTH CARE CENTER  
d/b/a ALVERNO HEALTH CARE  
FACILITY,

Employer,  
Self-Insured,  
Defendant.

File No. 19700542.03

ALTERNATE MEDICAL

CARE DECISION

HEAD NOTE NO: 2701

STATEMENT OF THE CASE

On June 11, 2020, claimant filed a petition for alternate medical care pursuant to Iowa Code 85.27 and 876 Iowa Administrative Code 4.48. The defendant did not file an answer. During the hearing, the undersigned confirmed that the defendant does not dispute liability for the injury of June 20, 2019, to the left upper extremity, pain shooting through the left hand, and left shoulder for which claimant is seeking treatment.

The matter was scheduled for hearing on June 23, 2020, at 10:30 a.m. The undersigned presided over the hearing held via telephone and recorded digitally on June 23, 2020. That recording constitutes the official record of the proceeding under 876 Iowa Admin. Code 4.48(12). Claimant participated through her attorney, Nathan Staudt. The defendant participated via its attorney, Lee Hook. The record consists of:

- Claimant's Exhibits, numbered 1-1 through 6-6, comprised of 28 pages of documents attached to the petition for alternate medical care.
- Defendant's Exhibit A

On February 16, 2015, the Iowa workers' compensation commissioner issued an order delegating authority to deputy workers' compensation commissioners, such as the undersigned, to issue final agency decisions on applications for alternate care. Consequently, this decision constitutes final agency action, and there is no appeal to the commissioner. Judicial review in a District Court pursuant to Iowa Code 17A is the avenue for an appeal.

## ISSUE

The issue under consideration is whether claimant is entitled to outstanding transportation and out-of-pocket expenses related to authorized, causally-related medical treatment.

## FINDINGS OF FACT

Claimant, Janet Ketelsen, sustained an injury to her left upper extremity, left shoulder, and including pain shooting to her left hand, as the result of an injury on June 20, 2019, which arose out of and in the course of her employment with Trinity Health Care Center d/b/a Alverno Health Care Facility. Defendant has accepted liability for the injury during the hearing conducted on June 23, 2020. The dispute in this case is whether or not the claimant is entitled to outstanding transportation and out-of-pocket expenses related to authorized, causally-related medical treatment.

The claimant provided exhibits consisting of mileage logs, a receipt for out-of-pocket payment(s), and a request for payment of outstanding mileage and out-of-pocket payment(s). The defendant provided a payment log purporting to show payment of the requested amounts.

During the hearing, the claimant requested that the undersigned issue an order directing the defendant to pay the allegedly owed outstanding amounts. The claimant argued that under Iowa Code 85.27, the claimant is owed these amounts and that an alternate care hearing is the correct avenue for this remedy. The defendant argued that an alternate care hearing pursuant to Iowa Code 85.27(4) is not the correct avenue for this remedy. Additionally, the defendant argued that the allegedly outstanding payments have been issued, but were sent to an incorrect address. The defendant indicated a willingness to reissue the payments.

## CONCLUSIONS OF LAW

Iowa Code 85.27(4) provides, in relevant part:

For purposes of this section, the employer is obligated to furnish reasonable services and supplies to treat an injured employee, and has the right to choose the care . . . . The treatment must be offered promptly and be reasonably suited to treat the injury without undue inconvenience to the employee. If the employee has reason to be dissatisfied with the care offered, the employee should communicate the basis of such dissatisfaction to the employer, in writing if requested, following which the employer and the employee may agree to alternate care reasonably suited to treat the injury. If the employer and employee cannot agree on such alternate care, the commissioner may, upon application and reasonable proofs of the necessity therefor, allow and order other care.

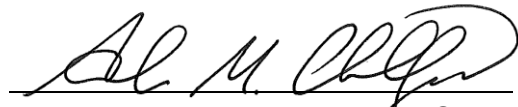
Iowa Code 85.27(4). See Pirelli-Armstrong Tire Co. v. Reynolds, 562 N.W.2d 433 (Iowa 1997). An application for alternate care shall concern only the issue of alternate care. 876 IAC 4.48(5).

The plain language of Iowa Code 85.27(4) indicates that an application for alternate care and the resulting proceedings pertain to the employer's obligation to furnish reasonable services and supplies to treat an injured employee. The statute continues to use language indicating that 85.27(4) and alternate care proceedings pertain to medical care or supplies for an injured employee, including ". . . treatment must be offered promptly and be reasonably suited to treat the injury without undue inconvenience to the employee." Id. The commissioner is allowed, upon application and proof, to allow for "other care." Id. Additionally, the Iowa Administrative Code makes it clear that applications for alternate care concern only the issue of alternate care. 876 IAC 4.48(5). Transportation and out-of-pocket expenses related to authorized, causally-related medical treatment, do not fall under alternate care proceedings pursuant to Iowa Code 85.27(4).

IT IS THEREFORE ORDERED:

1. Claimant's petition for alternate medical care is denied.

Signed and filed this 23<sup>rd</sup> day of June, 2020.



ANDREW M. PHILLIPS  
DEPUTY WORKERS'  
COMPENSATION COMMISSIONER

The parties have been served, as follows:

Nathaniel Staudt (via WCES)

Lee Pomeroy Hook (via WCES)