BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

ANTHONY MCDANIEL, Claimant, vs. RILEY DRIVE ENTERTAINMENT V., INC., Employer, and GENERAL CASUALTY COMPANY OF WISCONSIN, Insurance Carrier, Defendants.	File No. 19700680.01 ALTERNATE MEDICAL CARE DECISION HEAD NOTE: 2701

STATEMENT OF THE CASE

This is a contested case proceeding under Iowa Code chapters 85 and 17A. The expedited procedure of rule 876 IAC 4.48 is invoked by claimant, Anthony McDaniel. Claimant appeared personally and through attorney, Dustin Muller. Defendants failed to appear. A proof of service was filed showing the defendants were properly served. There was no appearance filed by the defendants in WCES.

The alternate medical care claim came on for hearing on January 3, 2020. The proceedings were digitally recorded. That recording constitutes the official record of this proceeding. Pursuant to the Commissioner's 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 and any appeal of the decision would be to the Iowa District Court pursuant to Iowa Code section 17A.

The record consists of Claimant's Exhibit 1, as well as the claimant's sworn testimony. I find the claimant to be credible. There is no evidence in the file that liability for the claim is disputed.

ISSUE

The issue presented for resolution is whether the claimant is entitled to care recommended by the authorized treating physician.

FINDINGS OF FACT

The claimant sustained an injury to his back and head on October 14, 2019 when he slipped on some water at work at the 5Oth Street Tap. Claimant hit is head on the tile floor when he fell.

Claimant was directed by the defendants to MercyOne West Des Moines Occupational Health. Claimant was seen by Robert Kruse, M.D. Dr. Kruse recommended an MRI of the head and spine. (Exhibit 1, page 1)

Claimant has requested the MRI be authorized through the defendants' case manager. Claimant has received no response. Claimant has expressed dissatisfaction to the defendants for not proving the care recommended by the authorized physician, Dr. Krause.

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. Iowa Code section 85.27 (2013).

By challenging the employer's choice of treatment – and seeking alternate care – claimant assumes the burden of proving the authorized care is unreasonable. See Long v. Roberts Dairy Co., 528 N.W.2d 122 (Iowa 1995). Determining what care is reasonable under the statute is a question of fact. Id. The employer's obligation turns on the question of reasonable necessity, not desirability. Id.; Harned v. Farmland Foods, Inc., 331 N.W.2d 98 (Iowa 1983).

An application for alternate medical care is not automatically sustained because claimant is dissatisfied with the care he has been receiving. Mere dissatisfaction with the medical care is not ample grounds for granting an application for alternate medical care. Rather, the claimant must show that the care was not offered promptly, was not reasonably suited to treat the injury, or that the care was unduly inconvenient for the claimant. Long v. Roberts Dairy Co., 528 N.W.2d 122 (Iowa 1995).

An employer's statutory right is to select the providers of care and the employer may consider cost and other pertinent factors when exercising its choice. Long, at 124. An employer (typically) is not a licensed health care provider and does not possess

medical expertise. Accordingly, an employer does not have the right to control the methods the providers choose to evaluate, diagnose and treat the injured employee. An employer is not entitled to control a licensed health care provider's exercise of professional judgment. Assmann v. Blue Star Foods, File No. 866389 (Declaratory Ruling, May 19, 1988). An employer's failure to follow recommendations of an authorized physician in matters of treatment is commonly a failure to provide reasonable treatment. Boggs v. Cargill, Inc., File No. 1050396 (Alt. Care January 31, 1994).

I find it is unreasonable for the employer to refuse to authorize the care recommended by their own physician.

ORDER

THEREFORE, IT IS ORDERED:

The claimant's petition for alternate medical care is GRANTED. Defendants shall immediately authorize the MRI and all follow-up treatment recommended by Dr. Kruse.

Signed and filed this 3rd day of January, 2020.

JAMES F. ELLIOTT
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

The parties have been served, as follows:

Dustin Mueller (via WCES)

Riley Drive Entertainment V., Inc.
265 – 50th St.
West Des Moines, IA 50265
(Certified and U.S. Mail)

General Casualty Co. of Wisc.
1 QBE Way, PO Box 975
Sun Prairie, WI 53590
(Certified and U.S. Mail)