

FINDINGS OF FACT

Claimant sustained injuries to multiple body parts on January 24, 2020, when she slipped on ice and fell. Defendants admitted liability for the injury, and the current conditions for which claimant seeks alternate medical care. Defendants noted at hearing that they are continuing to investigate causation of some of the alleged injuries, but are not specifically denying any claimed conditions at this time.

Claimant slipped on ice at work on January 24, 2020, striking multiple parts of her body against her car before striking the ground. (Ex. 9) She was taken by ambulance to the emergency department at the University of Iowa Health Clinic. (Ex. 9; Ex. B) The emergency room records indicate claimant fell on her left side, and complained of pain in her left shoulder and left ribs. (Ex. B) She did not strike her head or have loss of consciousness. (Ex. B) Chest and shoulder X-rays were obtained, and did not demonstrate fracture. (Ex. B) Claimant testified, however, that two separate attending physicians in the emergency room advised her that she showed symptoms of “cracked ribs,” which do not always show on X-rays. Claimant testified that she was told to avoid taking shallow breaths, and try to breathe deeply in order to avoid contracting pneumonia due to the cracked ribs.

Claimant testified that later that same evening, she vomited at home and noticed blood in her vomit. The following day, she vomited again and there was less blood, but she then noticed blood in her stool, similar in appearance to coffee grounds. She was seen in follow up at Mercy Iowa City Occupational Health on January 29, 2020, by John Machuta, D.O. (Ex. C, p. 6-8)

Dr. Machuta noted that claimant had a prior, unrelated left shoulder injury on January 17, 2020, for which she was supposed to begin physical therapy on January 24, 2020. (Ex. C, p. 6) He noted that the chest X-ray from the emergency room was normal, and the shoulder X-ray showed no acute fracture or dislocation. (Ex. C, p. 6) Claimant also described blood in her stool, and Mr. Machuta told her to follow up with her primary care provider for evaluation of that issue. (Ex. C, p. 6) Dr. Machuta stated claimant’s chief complaint at that time was “global left shoulder pain and left lateral rib pain,” and that she denied difficulty breathing and shortness of breath. (Ex. C, p. 6) Dr. Machuta ordered an MRI of the left shoulder and told claimant to follow up on February 7, 2020.

Claimant testified that she was very unhappy with Dr. Machuta’s care. She testified that she told Dr. Machuta the additional symptoms she had experienced since the fall, including shortness of breath, ringing in her ears, her face twitching, and issues with her memory, and Dr. Machuta replied that he would not deal with any of that, as he was only going to deal with her shoulder. She also testified that when he performed the physical examination of her ribs, he pressed his fist into her ribs with enough force to cause her extreme pain, causing her to cry. After the appointment claimant stated that she reported Dr. Machuta to the office and asked not to see him again.

Claimant had an MRI of the left shoulder on February 3, 2020, and was seen in follow up at Mercy Occupational Health on February 7, 2020. (Ex. C, p. 9) On this date she was seen by Dr. Larisa Sharp, as opposed to Dr. Machuta. (Ex. C) Dr. Sharp noted that the MRI showed a focal 1.5 cm x 0.8 cm acute rotator cuff tear that involves the ventral supraspinatus insertion, as well as mild intra-articular long head biceps tendinopathy without tearing. (Ex. C, p. 9) Claimant was referred to an orthopedic surgeon “for further evaluation and management of her current symptoms that she is experiencing in her left shoulder.” (Ex. C, p. 9) With respect to her other injuries, claimant reported that she “does not throw up any blood or has no blood in the stool anymore.” (Ex. C, p. 9) She reported that a few days prior she had pins and needles pain on the left side of her neck that went to the left side of her face when she moved her neck. (Ex. C, p. 9)

Claimant testified that Dr. Sharp was better than Dr. Machuta, but she still felt as though Dr. Sharp ignored many of her complaints. For example, while she no longer had the coffee ground appearance to her stools, she continued to have bloody discharge from her rectum. Claimant further testified that Dr. Sharp advised that her complaints had to be “prioritized,” and addressed one at a time, and it was claimant’s understanding that she was being referred to Steindler Orthopedic Clinic for all of her complaints.

Claimant saw Austin Ramme, M.D., at the Steindler Orthopedic Clinic on February 17, 2020. (Ex. 9) Her chief complaint was noted to be left shoulder pain. (Ex. 9) Dr. Ramme noted that claimant sustained multiple injuries at the time of her fall on January 24, 2020, and has had little improvement since that time. (Ex. 9) He noted claimant was “very anxious and concerned regarding this and is frustrated regarding getting appointments.” (Ex. 9) He indicated claimant’s injuries included hearing loss in her left ear, radicular pain throughout her left upper extremity, radicular pain into her face, numbness and tingling of the left hand, new onset rectal bleeding, rib fracture, cervical neck pain, and shoulder pain. (Ex. 9) Claimant also reported a history of being unable to remember certain events around the time of the incident, suggestive of a concussion. (Ex. 9) Dr. Ramme noted that claimant was referred to him for evaluation of her left shoulder, but she has not been seen by a specialist for the other listed problems. (Ex. 9)

After a lengthy discussion with claimant regarding her left shoulder supraspinatus tear, Dr. Ramme determined that claimant “has other complaints that are more important than the current rotator cuff tear and should be addressed.” (Ex. 10) Dr. Ramme recommended claimant be seen by a University of Iowa neurologist for her hearing loss, concussion, cervical radiculopathy, and cervical neck pain; by general surgery for her rib fractures and posttraumatic rectal bleeding; and by an orthopedic surgeon for her cervical radiculopathy and shoulder. (Ex. 10) Dr. Ramme stated that “[c]onsolidating her care amongst multiple services should be done at the same institution to ensure good quality, continuous care.” (Ex. 10)

Defense counsel indicated that defendants have now authorized Dr. Hitchon at the University of Iowa Neurology department, and Dr. Bollier at the University of Iowa Department of Orthopedics. (Ex. A, p. 3) The University of Iowa providers require review of medical records and other paperwork prior to scheduling appointments. (Ex. A, p. 3; see also Exs. 2-4) Defendants have provided the required paperwork and records. (Ex. A, p. 3) At the time of hearing, Dr. Hitchon had agreed to see claimant, but requires a cervical MRI prior to her appointment. (Ex. A, p. 3) Defendants have authorized the cervical MRI, and are working to obtain an order and schedule same. (Ex. A, p. 3)

With respect to Dr. Bollier in orthopedics, defendants have made multiple attempts to contact his office, including prior to hearing, and each time have been advised that he has not yet completed the review of medical records. (Ex. A, p. 3) Defense counsel represented that assuming Dr. Bollier will agree to see claimant upon his review of medical records, an appointment will be scheduled.

Defendants have not authorized Dr. Ramme's referral to University of Iowa General Surgery/Trauma. Instead, defendants have authorized claimant to return to Mercy Occupational Health for assessment of her complaints of rib fractures and rectal bleeding. (Ex. A, p. 4) Donovan Fincher testified on behalf of defendants. He indicated that Mercy Occupational Health is the authorized provider for claimant's January 24, 2020 injuries. Mr. Fincher further testified that the referral to Steindler Orthopedics was made for claimant's left shoulder only.

Defendants argue that because the referral to Dr. Ramme was limited to claimant's left shoulder, he is not the "authorized treating physician" with respect to any other body part. Defendants further assert that some of the conditions in claimant's petition for alternate care are new complaints that need to be evaluated for causation. As such, defendants contend that referral back to Mercy Occupational Health for assessment of claimant's ribs and rectal bleeding is reasonable and appropriate. Claimant argues that Dr. Ramme is an authorized treating physician, and in refusing to authorize each of his three referrals, defendants are interfering with the judgment of their own treating physician. Claimant further argues that authorization of two of the three referrals is inconsistent and unreasonable.

I find that Dr. Ramme is an authorized treating physician. As such, each of his three referrals to University of Iowa must be authorized.

REASONING AND CONCLUSIONS OF LAW

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

For purposes of this section, the employer is obliged 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).

Defendants' "obligation under the statute is confined to *reasonable* care for the diagnosis and treatment of work-related injuries." Long v. Roberts Dairy Co., 528 N.W.2d 122, 124 (Iowa 1995) (emphasis in original). In other words, the "obligation under the statute turns on the question of reasonable necessity, not desirability." Id.

Similarly, 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. See Iowa Code § 85.27(4). Thus, by challenging the employer's choice of treatment and seeking alternate care, claimant assumes the burden of proving the authorized care is unreasonable. See Iowa R. App. P 14(f)(5); Long, 528 N.W.2d at 124. The commissioner is justified in ordering alternate care when employer-authorized care has not been effective and evidence shows that such care is "inferior or less extensive" than other available care requested by the employee. Long, 528 N.W.2d at 124; Pirelli-Armstrong Tire Co. v. Reynolds, 562 N.W.2d 433, 437 (Iowa 1997).

An employer's right to select the provider of medical treatment to an injured worker does not include the right to determine how an injured worker should be diagnosed, evaluated, treated, or other matters of professional medical judgment. Assmann v. Blue Star Foods, File No. 866389 (Declaratory Ruling, May 19, 1988). Reasonable care includes care necessary to diagnose the condition, and defendants are not entitled to interfere with the medical judgment of their own treating physician. Pote v. Mickow Corp., File No. 694639 (Review-Reopening Decision June 17, 1986).

Additionally, when a designated physician refers a patient to another physician, that physician acts as the defendant employer's agent. Permission for the referral from defendant is not necessary. Kittrell v. Allen Memorial Hospital, Thirty-fourth Biennial Report of the Industrial Commissioner, 164 (Arb. November 1, 1979) (aff'd by industrial commissioner). See also Limoges v. Meier Auto Salvage, I Iowa Industrial Commissioner Reports 207 (1981). 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 found that Dr. Ramme is an authorized treating physician. Claimant was referred to Dr. Ramme by Mercy Occupational Health for evaluation and treatment of her shoulder. Defendants' argument that the authorization of care with Dr. Ramme was limited to the shoulder only is further interference with care, as it amounts to defendants attempting to dictate how Dr. Ramme chooses to evaluate, diagnose, and treat his patient. During the appointment with Dr. Ramme, he discussed claimant's additional complaints, and determined that "[c]onsolidating her care amongst multiple services should be done at the same institution to ensure good quality, continuous care." (Ex. 10) Defendants have since authorized two of his three referrals, including his referral to neurology and orthopedics. The refusal to authorize his referral to general surgery for evaluation of her rib pain and rectal bleeding is an additional unreasonable interference with Dr. Ramme's professional medical judgment.

The offered alternative of authorizing claimant to return to Mercy Occupational Health for those complaints is not reasonable care. At prior appointments at Mercy, claimant expressed her complaints of ongoing rib pain, shortness of breath, and rectal bleeding. She was offered no specific treatment or further referrals related to those complaints. Dr. Machuta told her to talk to her primary care physician, as he was only concerned with her shoulder. Defendants' position regarding new complaints is inconsistent as well, as neither the rib pain nor the rectal bleeding are new complaints. Rather, the potential concussion and hearing loss do not appear in the prior records from Mercy, yet the referral to University of Iowa Neurology has been authorized.

Defendants are not entitled to second guess the medical recommendations of the authorized physician. I conclude that the medical treatment offered by defendants, in authorizing a return visit to Mercy Occupational Health, is not reasonably suited to treat claimant's work injury. By refusing to follow recommendations of an authorized physician, and authorize the referral to University of Iowa General Surgery/Trauma Service, defendants are not providing reasonable medical care.

Therefore, I conclude that claimant has proven her claim for alternate medical care. Defendants are ordered to authorize Dr. Ramme's referral to University of Iowa General Surgery/Trauma Service, in addition to the authorizations to neurology and orthopedics that have already taken place.

ORDER

THEREFORE IT IS ORDERED:

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

Defendants shall immediately authorize Dr. Ramme's referral to University of Iowa General Surgery/Trauma Service, and take the necessary steps required by the clinic in order to schedule an appointment as soon as possible.

Defendants shall continue in their efforts to secure the cervical MRI in order to schedule with Dr. Hitchon, and authorize an appointment with Dr. Bollier should he agree to see her.

Signed and filed this 16th day of March, 2020.



JESSICA L. CLEEREMAN
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

The parties have been served, as follows:

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