

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

 TOBY THORNTON,

Claimant,

vs.

CLAYTON COUNTY RECYCLING,

Employer,

and

 AMERICAN INTERSTATE INSURANCE
 COMPANY,

 Insurance Carrier,
 Defendants.

File No. 5039943.01

MEMORANDUM OF

ALTERNATE MEDICAL CARE

On October 6, 2021, Claimant Toby Thornton filed a petition concerning application for alternate care under Iowa Code section 85.27 and rule 876 Iowa Administrative Code 4.48. A hearing was held on October 18, 2021. All parties were given proper notice of the hearing. Attorney Tiernan Siems represented Thornton. Thornton appeared and testified. Susan Rubendall testified on behalf of Thornton. Attorney Cory Abbas represented Defendants Clayton County Recycling and American Interstate Insurance. Shane Hook testified on behalf of Clayton County Recycling and American Interstate Insurance.

On June 25, 2009, Thornton was injured in a rollover accident while working for Clayton County Recycling and he sustained spinal fractures at C6 and C7. Thornton has incomplete quadriplegia with limited use of his right hand and no use of his left hand. For the past 11 years Rubendall has provided home health care services to Thornton four hours per day, seven days per week, including daily digital bowel stimulation. Rubendall was employed by Home Instead. On September 13, 2021, Home Instead notified Thornton it would no longer be providing home healthcare services effective October 1, 2021. Thornton notified Clayton County Recycling and American Interstate Insurance and requested ongoing care with Rubendall. Defendants have not paid for care since October 1, 2021, and alternate care was not authorized with a third-party vendor. Thornton was dissatisfied with the care provided. Rubendall continued to provide care to Thornton without compensation.

A hearing was recorded *via* a digital voice recorder and a complete decision was dictated into the record on the day of the hearing. The deputy workers' compensation commissioner ordered Thornton's application for alternate care be granted. The decision will be reproduced in typewritten form only if the decision is appealed, and all parties are advised to follow the procedures outlined in the administrative code. Any rights of appeal run from the date the decision was dictated into the record, October 18, 2021.

Pursuant to a standing order of delegation of authority by Workers' Compensation Commissioner, Joseph Cortese, II, under Iowa Code section 86.3, the undersigned enters this decision for the workers' compensation commissioner. Appeal of this decision, if any, would be by judicial review pursuant to Iowa Code section 17A.19.

Signed and filed this 18th day of October, 2021.



HEATHER L. PALMER
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

The parties have been served, as follows:

Tiernan Siems (via WCES)

Cory Abbas (via WCES)