

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

KRISTIE LANGHURST,

Claimant,

vs.

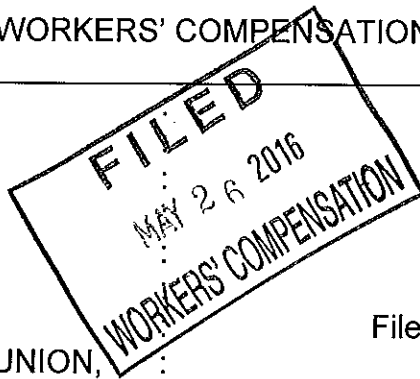
IOWA HEARTLAND CREDIT UNION,

Employer,

and

CONTINENTAL WESTERN INSURANCE,

Insurance Carrier,
Defendants.



File No. 5056608

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. The expedited procedure of rule 876 IAC 4.48 is invoked by claimant, Kristie Langhurst.

The alternate medical care claim came on for hearing on May 25, 2016. The proceedings were digitally recorded, which constitutes the official record of this proceeding. By order filed February 16, 2015, this ruling is designated final agency action.

The record consists of claimant's exhibits 1-7; defendants' exhibits A-B.

ISSUE

Claimant is seeking an order requiring defendants to pay future medical bills within 30 days.

FINDINGS OF FACT

Claimant, Kristie Langhurst sustained an injury arising out of and in the course of her employment with Iowa Heartland Credit Union in Mason City, Iowa on July 28, 2015. Claimant was working at the credit union as a Teller and she also worked in Member Service on July 28, 2015, when the credit union was robbed by a man with an AK-47 and 4 bombs. As a result of that injury claimant has been diagnosed with anxiety and Post-traumatic Stress Disorder (PTSD). (Testimony)

Ms. Langhurst has been receiving treatment for her anxiety and PTSD at Pamela Little, Inc. in Mason City, Iowa. This treatment is authorized by the defendants. When claimant initially began treatment she was required to bring billing slips from Pamela Little, Inc. to her employer to show that she had attended the appointment. A blank example of these bills is in evidence as Exhibit 5, page 1. Claimant testified that these billing slips would show a running total of the balance owed for her treatment. She testified that there was continuously a balance owed. To her knowledge Pamela Little, Inc. has had a running balance on the account for her treatment. Claimant testified that seeing the unpaid balances caused her to worry that Pamela Little, Inc. would refuse to treat her. Ms. Langhurst testified that she was worried that these unpaid bills would affect her credit score. She testified that this concern over the balance owed increased her anxiety and affected her ability to heal. (Testimony)

Ms. Langhurst testified that she wants the treatment and care she is receiving from Pamela Little, Inc. and is satisfied with the care. She is not dissatisfied with the care she is receiving; she wishes to continue her care with Pamela Little, Inc. She further testified that she has not had to pay any of the bills herself. Pamela Little, Inc. has not demanded any type of payment from Ms. Langhurst, nor have they threatened to stop her treatment. She has not been denied any treatment, nor has she ever had difficulty scheduling an appointment with Pamela Little, Inc. due to the balance owed. According to Ms. Langhurst, Pamela Little is not the type of therapist who would stop treatment over delayed payment of bills. (Testimony)

Through her petition for alternate medical care claimant is seeking an order from this agency "requiring defendants to pay future medical bills within 30 days." (Alternate Care Petition) Defendants contend that payment of medical bills does not fall within the purview of an alternate medical care proceeding. I find that payment of medical bills and specifically, an order seeking payment of future medical bills is not appropriate for an alternate care proceeding.

REASONING AND CONCLUSIONS OF LAW

Under Iowa law, the employer is required to provide care to an injured employee and is permitted to choose the care. Pirelli-Armstrong Tire Co. v. Reynolds, 562 N.W.2d 433 (Iowa 1997).

[T]he 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.

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 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). In Pirelli-Armstrong Tire Co., 562 N.W.2d at 433, the court approvingly quoted Bowles v. Los Lunas Schools, 109 N.M. 100, 781 P.2d 1178 (App. 1989):

[T]he words "reasonable" and "adequate" appear to describe the same standard.

[The New Mexico rule] requires the employer to provide a certain standard of care and excuses the employer from any obligation to provide other services only if that standard is met. We construe the terms "reasonable" and "adequate" as describing care that is both appropriate to the injury and sufficient to bring the worker to maximum recovery.

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" care than other available care requested by the employee. Long; 528 N.W.2d at 124; Pirelli-Armstrong Tire Co.; 562 N.W.2d at 437.

In the present case, claimant does not contend that she is dissatisfied with the treatment provided by the defendants. In fact, claimant testified that she is not dissatisfied with the care she is receiving from Pamela Little, Inc. Claimant's complaint is solely related to the alleged delay by defendants in payment of the bills for the treatment. There has been no showing that the timing of the payment of bills has in any way delayed or affected the treatment from Pamela Little, Inc. Claimant is seeking an order regarding payment of future medical bills. As the case currently stands, an alternate care proceeding is not the appropriate vehicle to remedy any alleged delayed payment. This is not a case where treatment has been denied due to lack of payment. If that were the case, then perhaps an argument could be made that defendants had abandoned the care. However, in the present case there is no dispute regarding the actual care and treatment. Rather, the issue centers on medical bill payments.

The alternate care proceeding is designed to provide a claimant who is dissatisfied with her care to seek an order granting the injured worker alternate care. In the present case, the claimant is not dissatisfied with her care, nor is she seeking an alternate type of care. Rather, claimant is seeking to have the treatment bills paid in a more timely fashion. A petition for alternate medical care is not the appropriate vehicle for issues regarding payment of bills. For these reasons, claimant's petition for alternate medical care is denied.

ORDER

THEREFORE IT IS ORDERED:

Claimant's petition for alternate medical care is denied.

Signed and filed this 26th day of May, 2016.



ERIN Q. PALS
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

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