

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

DANIEL BUTZ,
Claimant,

vs.

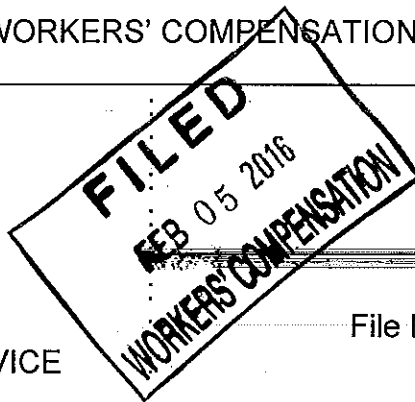
MIDWEST AMBULANCE SERVICE
OF IOWA,

Employer,

and

WEST BEND INSURANCE,

Insurance Carrier,
Defendants.



File No. 5054068

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. Claimant sustained a stipulated work injury in the employ of defendant employer on November 1, 2014. He now seeks an award of alternate medical care under Iowa Code section 85.27 and 876 Iowa Administrative Code 4.48.

The case was heard by telephone conference call on February 5, 2016. The entire hearing was recorded via digital tape, which constitutes the official record of proceedings. By standing order of the workers' compensation commissioner the undersigned was delegated authority to issue final agency action in the matter.

ISSUE

Liability is admitted on these claims. The sole issue presented for resolution is whether or not the claimant is entitled to an award of alternate medical care.

FINDINGS OF FACT

The claimant was employed by the Midwest Ambulance Service of Iowa on November 1, 2014 when he suffered an injury to the back, buttocks, and right leg. Doctors hired by the defendants have provided treatment to the claimant and include

Robert D. Rondinelli, M.D. Dr. Rondinelli released the claimant to full duty work without restrictions effective June 2, 2015.

The claimant later failed his physical for continued duty with the National Guard. The claimant now desires to return to Dr. Rondinelli for an evaluation of restrictions that may be needed due to the failure to pass the physical. At hearing a desire for further treatment was also expressed.

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, 526 2 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. v. Reynolds, 562 N.W.2d 433 (Iowa 1997), 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.

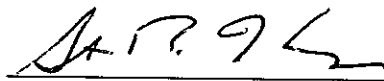
The medical evaluation that the claimant seeks is not covered by Iowa Code Section 85.27, as it is not treatment. If the claimant also desires further treatment he may seek it through proper channels and request alternative care at that time if it is denied.

ORDER

THEREFORE, IT IS ORDERED:

The application for alternate medical care is denied at this time.

Signed and filed this 5th day of February, 2016.



STAN MCELDERRY
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

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