

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

JAMES CHARLES,

Claimant,

vs.

ARCONIC, INC.,

Employer,

and

INDEMNITY INSURANCE CO.,

Insurance Carrier,
Defendants.

FILED

JUN 07 2019

WORKERS COMPENSATION

File No. 5064956

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, James Charles. Claimant appeared telephonically and through his attorney, James Hoffman. Defendants appeared through their attorney, Jane Lorentzen.

The alternate medical care claim came on for hearing on June 7, 2019. The proceedings were digitally recorded. That recording constitutes the official record of this proceeding. Pursuant to the Commissioner's February 16, 2015 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 Defendants' Exhibits A through D. Claimant provided testimony. No other witnesses were called. Counsel offered oral arguments to support their positions.

ISSUE

The issue presented for resolution is whether the claimant is entitled to alternate medical care consisting of an appointment at the University of Iowa Hospitals and Clinics (UIHC) or with Marc Hines, M.D.

FINDINGS OF FACT

The undersigned, having considered all of the testimony and evidence in the record, finds:

Claimant sustained a right leg injury on May 19, 2018, when a piece of metal weighing several hundred pounds broke off of a machine and hit him in the right leg. Defendants admitted liability for this injury and the current right knee condition for which claimant seeks alternate medical care.

Defendants authorized care for claimant's right knee with Suleman Hussain, M.D. When claimant was initially evaluated by Dr. Hussain on October 3, 2018, Dr. Hussain recommended advanced imaging, such as an MRI, to look for a bone contusion, fracture, or muscle or tendon injury. (Defendants' Exhibit A, page 1) Defendants authorized an MRI and attempts were made to proceed, but claimant was unable to complete the testing due to his underlying severe anxiety and claustrophobia. (Def. Ex. A, pp. 1-2) Claimant was also unable to complete a CT scan due to his underlying claustrophobia. (Def. Ex. A, p. 2)

At claimant's most recent appointment on May 22, 2019, Dr. Hussain offered an injection, a diagnostic arthroscopy, or more attempts at advanced imaging. (Def. Ex. A, p. 2; Def. Ex. B) Claimant was given a right knee injection. (Def. Ex. B)

Claimant subsequently indicated he wished to proceed with advanced imaging with general anesthesia. (Def. Ex. A, p. 2) Dr. Hussain, however, was unwilling to offer general anesthesia for the MRI due to concerns regarding obstruction of claimant's airway and other "catastrophic complications." (Def. Ex. A, p. 2) He explained that a "request for general anesthetic and sedation for the MRI scan is well outside the norm of normal practice" because of the potential for an airway compromise or significant obstructive event. (Def. Ex. A, p. 2) Dr. Hussain opined that the risk of sedation outweighed the information that could be provided from the advanced imaging in this case. (Def. Ex. A, p. 2)

Dr. Hussain has since recommended claimant get treatment for his anxiety disorder with his primary care provider and then proceed with the MRI or CT scan when possible, or, in the alternative, wait for an open MRI when the scanner re-opens in a few months. (Def. Ex. A, p. 2; Def. Ex. C)

While I appreciate claimant's desire for a general anesthetic for the advanced imaging given his underlying claustrophobia, Dr. Hussain has convincingly explained why sedation in this scenario is dangerous and not worth the risk. Furthermore, defendants continue to offer care as alternatives to the advanced imaging, including additional injection therapy, a diagnostic arthroscopy, and waiting for an open MRI.

Furthermore, claimant offered no evidence or testimony as to what Dr. Hines or another physician at UIHC would have to offer that is different than what Dr. Hussain is offering. Claimant likewise offered no evidence that another provider would be willing to do the MRI under sedation.

For these reasons, I find the care being offered by defendants, which includes several alternatives to an MRI or CT scan, is reasonable.

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 Rule of Appellate Procedure 14(f)(5); Long, 528 N.W.2d at 124.

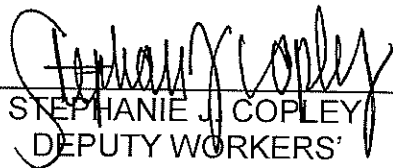
Ultimately, determining whether care is reasonable under the statute is a question of fact. Long, 528 N.W.2d at 123.

While I recognize why claimant in this case wishes to be sedated for his MRI, Dr. Hussain convincingly opined that sedation is dangerous, and defendants continue to offer several alternatives to the advanced imaging through their authorization of Dr. Hussain. These alternatives include continued injection therapy, a diagnostic scope, or an open MRI. In light of these alternatives, I found defendants are offering reasonable care. Claimant, therefore, failed to satisfy his burden to prove the care being offered by defendants is unreasonable.

THEREFORE IT IS ORDERED:

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

Signed and filed this 7th day of June, 2019.


STEPHANIE J. COPLEY
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

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