

## BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

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JOHN ROJAS,  
Claimant,

vs.

QUAKER MANUFACTURING, LLC,  
  
Employer,

and

INDEMNITY INSURANCE CO. OF NA,  
  
Insurance Carrier,  
Defendants.

File No. 22700111.01

ALTERNATE MEDICAL  
CARE DECISION

HEAD NOTE NO: 2701

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## 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, John Rojas. Claimant appeared through attorney, Nate Willems. Claimant's spouse, Chasity Rojas was also present for claimant. Defendants were properly served. (Claimant's Exhibit B) A Hearing Order was filed February 7, 2022. Defendants were mailed a notice of the Hearing Notice. Defendants did not file an answer, appearance or any other prehearing motion. Defendants did not appear for the telephone conference hearing.

The alternate medical care claim came on for hearing on February 17, 2022. The proceedings were digitally recorded. That recording constitutes the official record of this proceeding. Pursuant to the Commissioner's 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 claimant's exhibits A through C. Claimant's spouse, Chasity Rojas testified briefly at hearing. In addition, I have taken administrative notice of the compliance file in this matter.

## ISSUE

The issue presented for resolution is whether the defendants have denied liability for claimant's alleged January 11, 2022, work injury.

## FINDINGS OF FACT

The claimant has alleged that he sustained an injury which arose out of and in the course of his employment on January 11, 2022. The defendants filed a First Report of Injury on February 4, 2022, which indicated they denied liability for the claim. Claimant filed his petition for alternate medical care on February 4, 2022, apparently expecting the defendants to answer and formally deny liability for the alleged work injury in order to receive an order that the defendants had waived any authorization defense. Defendants did not answer or appear at the alternate care hearing and the matter proceeded to hearing. At hearing, claimant's spouse acknowledged that claimant had received a letter from the defendants denying liability for his claim.

## REASONING AND CONCLUSIONS OF LAW

Before any benefits can be ordered, including medical benefits, compensability of the claim must be established, either by admission of liability or by adjudication. The summary provisions of Iowa Code section 85.27 as more particularly described in rule 876 IAC 4.48 are not designed to adjudicate disputed compensability of claim.

The Iowa Supreme Court has held:

We emphasize that the commissioner's ability to decide the merits of a section 85.27(4) alternate medical care claim is limited to situations where the compensability of an injury is conceded, but the reasonableness of a particular course of treatment for the compensable injury is disputed. . . . Thus, the commissioner cannot decide the reasonableness of the alternate care claim without also necessarily deciding the ultimate disputed issue in the case: whether or not the medical condition Barnett was suffering at the time of the request was a work-related injury.

. . . .

Once an employer takes the position in response to a claim for alternate medical care that the care sought is for a noncompensatory injury, the employer cannot assert an authorization defense in response to a subsequent claim by the employee for the expenses of the alternate medical care.

R. R. Donnelly & Sons v. Barnett, 670 N.W.2d 190, 197-198 (Iowa 2003) (fn 2).

Since the defendants did not appear at hearing or otherwise file any type of response to the alternate care petition, it was not immediately apparent whether they had accepted or denied liability on this claim. Frankly, even reading Claimant's Exhibit

C, which was correspondence between the claimant and a third-party administrator for defendants, the precise position of defendants is not entirely clear. Claimant, however, through his spouse's testimony acknowledged that he received a letter from the defendants which was in compliance with 876 Iowa Administrative Code section 3.1(2). In addition, while the defendants have not filed a Subsequent Report of Injury, as required in Rule 3.1(2), they did indicate in their First Report, that the claim is denied. Thus, the claimant's petition seeking medical treatment must be dismissed because the defendants refuse to accept liability for the condition for which claimant seeks treatment. The defendants thereby lose their right to control the medical care claimant seeks in this proceeding and the claimant is free to choose that care on his own. Bell Bros., Heating and Air Conditioning, v. Gwinn, 779 N.W.2d 193 (Iowa 2010).

As a result of the denial of liability for the condition sought to be treated in this proceeding, claimant may obtain reasonable medical care from any provider for this treatment but at claimant's expense and seek reimbursement for such care using regular claim proceedings before this agency. The defendants are precluded from asserting an "authorization" defense at any future hearing.

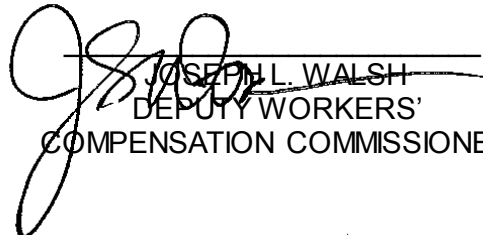
ORDER

THEREFORE IT IS ORDERED:

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

Defendants are precluded from asserting an "authorization" defense in any future proceedings before this agency.

Signed and filed this 18<sup>th</sup> day of February, 2022.

  
JOSEPH L. WALSH  
DEPUTY WORKERS'  
COMPENSATION COMMISSIONER

The parties have been served, as follows:

Nate Willems (via WCES)

Quaker Manufacturing LLC  
418 Second Street NE  
Cedar Rapids, IA 52401

Indemnity Ins. Co. of North America  
PO Box 1000  
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