

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

DAN LAURIE,
Claimant,

vs.

AGRILAND FS,
Employer,
and

EMC INSURANCE COMPANY,
Insurance Carrier,
Defendants.

FILED

JAN 23 2019

WORKERS' COMPENSATION

File No. 5061458

ALTERNATE MEDICAL
CARE CONSENT ORDER

HEAD NOTE NO: 2701

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, Dan Laurie. Claimant appeared personally and through his attorney, David Drake. Defendants appeared through their attorney, Kent Smith.

The alternate medical care claim came on for hearing on January 23, 2019. The proceedings were digitally recorded. That recording constitutes the official record of this proceeding. The evidentiary record consists of Claimant's Exhibit 1 and Defendants' Exhibit A. There was no testimony. The lawyers presented arguments. During the course of the hearing the parties reached an agreement which is memorialized in this consent order.

It is important to set forth the procedural history of this case. Claimant filed his first petition for alternate medical care on June 27, 2018. Claimant sought a new treating physician because his physician did not have any further treatment to offer. The parties reached an agreement and a consent order was issued by the undersigned on July 10, 2018. Defendants were given two weeks from the date of the order to schedule an appointment for the claimant to see a qualified orthopaedic surgeon who would be willing to potentially treat the claimant.

Claimant filed a second petition for alternate medical care on September 21, 2018. Claimant was again seeking a treating physician because defendants had not yet designated such a physician. Instead of providing a treating physician, defendants sent the claimant to Bryan Warne, M.D. for a second opinion. On October 3, 2010, the

undersigned issued an alternate medical care decision. Defendants were ordered to authorize an orthopaedic surgeon to provide treatment. Defendants were further ordered to provide that doctor with authorization, prior to the appointment, to provide treatment for the claimant's work-related injury.

Claimant filed a third petition for alternate medical care on November 21, 2018. Claimant sought to have defendants provide an authorized treating physician as ordered in the October 3, 2018 decision. By the date of the alternate care hearing, the defendants had scheduled an appointment for claimant to see Dr. Matthew Bollier at the University of Iowa Hospitals and Clinics Work Injury Recovery Center on December 17, 2018 at 10:00 a.m. At the time of the hearing claimant was willing to attend the appointment as long as it was for treatment, and not for another second opinion or for an IME. Counsel for the defendants assured the undersigned that the appointment with Dr. Bollier was for treatment. The parties were able to reach an agreement and on December 5, 2018, the undersigned issued a consent order. The order stated:

Specifically, claimant requests medical treatment for his right knee. Prior to today's scheduled hearing the defendants scheduled an appointment for Mr. Laurie to see Matthew Bollier, M.D. at the University of Iowa Hospitals and Clinics Work Injury Recovery Center. The appointment is scheduled for Monday, December 17, 2018 at 10:00 a.m. Defendants have agreed that prior to the scheduled appointment, defendants will send a preauthorization letter to Dr. Bollier's office. The letter will confirm that the scheduled appointment is for an evaluation of Mr. Laurie's treatment needs. The letter will also confirm that any testing the doctor feels is necessary to determine treatment recommendations is authorized by the defendants. Additionally, the letter will also confirm that Dr. Bollier is authorized to provide treatment to Mr. Laurie for the work injury. Both parties agree that a consent order is appropriate and that a formal hearing is unnecessary to resolve this contested case dispute.

THEREFORE, IT IS ORDERED:

Pursuant to the agreement of the parties, defendants shall send the above stated correspondence to Dr. Bollier prior to the scheduled appointment.

Consent Order (Dec. 5, 2018)

This brings us to the fourth petition for alternate medical care filed by the claimant on January 10, 2019. The petition states, "[d]efendants have failed to provide an authorized treating physician as ordered by Deputy Pals in three prior orders." (Alt. Care Pet., page 1) The evidence demonstrates that claimant did attend a December 2018 appointment with Dr. Bollier. The notes from that appointment clearly state that Dr. Bollier saw the claimant for the purposes of an IME and that there was no doctor-patient relationship established. The record is void of any letter from the defendants to Dr. Bollier's office as ordered in the December 5, 2018 consent order. Claimant's

counsel indicated he never received a copy of any such letter. Defense counsel was unable to explain why any such correspondence had not been provided to claimant's counsel. Dr. Bollier's IME report stated the claimant's current complaints were related to the reported work incident of December 5, 2012. Dr. Bollier made recommendations for further treatment. His report clearly stated that this was an independent medical examination only no follow up arrangements were made. (Claimant's Ex. 1) Based on the information provided to the undersigned by the parties, it is not clear to the undersigned if defendants complied with my order of December 5, 2018.

After claimant filed his fourth petition for alternate medical care, defense counsel faxed a letter to claimant's counsel dated January 22, 2019. The letter stated that Dr. Mysnyk is an orthopedic surgeon at the Steindler Clinic in Iowa City. Dr. Mysnyk has agreed to become the authorized treating physician for the claimant's right knee injury. An appointment has been scheduled for the claimant to see Dr. Mysnyk on January 28, 2019 at 3:00 p.m. (Defendants' Ex. A) Claimant is willing to attend this appointment with Dr. Mysnyk; however, the claimant understandably wants some written assurance that the doctor's office has been given written authorization to be the authorized treating physician for his right knee injury.

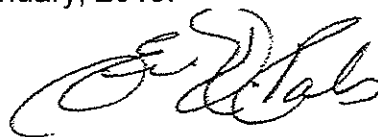
The parties agreed that the claimant would attend the appointment if the defendants provided a letter to Dr. Mysnyk's office before the close of business on January 24, 2019. The letter shall provide Dr. Mysnyk, the Steindler Clinic, with the authority to be the authorized treating provider for the right knee injury. The letter shall request that if the Clinic cannot agree to be the authorized treating provider then they should inform defendants immediately. Defense counsel is to provide claimant's counsel with a copy of the letter at the same time the letter is sent to the clinic.

Although the parties did not agree to this, defendants are hereby put on notice that failure to comply with this order could result in a finding that the care being offered to the claimant is not reasonable or prompt.

THEREFORE IT IS ORDERED:

Defendants shall provide a letter to Dr. Mysnyk's office before the close of business on January 24, 2019. The letter shall provide Dr. Mysnyk, the Steindler Clinic, with the authority to be the authorized treating provider for the right knee injury. The letter shall request that if the clinic cannot agree to be the authorized treating provider then they should inform defendants immediately. Defense counsel is to provide claimant's counsel with a copy of the letter defendants send to the Steindler Clinic at the same time defendants send the letter to the clinic.

Signed and filed this 23rd day of January, 2019.



ERIN Q. PALS
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

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