BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

PATRICIA HINTZ,

Claimant,

vs.

WILLOW GARDENS CARE CENTER,

Employer,

and

AMERICAN COMPENSATION INSURANCE CO.,

Insurance Carrier,
Defendants.

File No. 5063287

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, Patricia Hintz. Claimant appeared personally and through her attorney, Bill Nicholson. Defendants appeared through their attorney, Thomas Wolle.

The alternate medical care claim came on for hearing via telephone conference on June 2, 2017. The proceedings were digitally recorded. The 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 claimant's exhibits 1 and 2, which include a total of 8 pages. The record also contains defendants' exhibit A, which contains 1 page. All exhibits were received without objection. Claimant testified and counsel provided helpful argument at hearing.

ISSUE

The issue presented for resolution is whether the care offered by defendant is unreasonable and claimant is entitled to an order compelling defendants to provide alternate care with Dr. Stanley Mathew.

FINDINGS OF FACT

The undersigned having considered all the evidence in the record finds:

Patricia Hintz, claimant, sustained an injury to her bilateral shoulders as a result of her work activities at Willow Gardens Care Center on October 13, 2016. Defendants agree that the work injury is compensable and that claimant's current condition is causally related to the work injury.

During the course of claimant's medical treatment, which has included a partial and a total shoulder replacement, claimant sought care from her own physician, who recommended that she be seen by Dr. Stanley Mathew, a pain specialist. Claimant had been seen by Dr. Mathew on two occasions and felt very good about the evaluations and interaction she had with him.

Claimant later received authorized care from Tejinder S. Swaran Singh, M.D., of the University of Iowa Hospitals and Clinics, for the purpose of an evaluation for possible CRPS. (Exhibit 1, page 1) Although claimant testified that she believed Dr. Singh found that she had CRPS, the medical record indicates that Dr. Singh determined that claimant did not have CRPS. (Ex. 1, p. 5) Dr. Signh then stated:

> Patient is managing her pain currently with use of hydrocodone. She is instructed to continue as directed by prescribing MD. Patient has a good relationship with Dr. Stanley Mathews [sic] (pain physician in Cedar Rapids) and can continue to follow up with him.

(Ex. 1, p. 6)

Defendant, however, did not authorize Dr. Mathew, but instead authorized Cedar Rapids Pain Associates and Dr. Miller at that clinic. (Ex. A) Defendants scheduled an appointment for claimant with Amy Freeman, ARNP at Cedar Rapids Pain Associates for June 2, 2017 at 10:45 a.m. (Id.) Claimant canceled that appointment citing a conflict with this hearing which commenced at 8:30 a.m., on the same day.

There was no evidence that claimant had any prior experience or treatment at Cedar Rapids Pain Associates. Rather, she testified that she preferred to be seen by Dr. Mathew, based on her prior positive experience with him.

REASONING AND CONCLUSIONS OF LAW

The employer shall furnish reasonable surgical, medical, dental, osteopathic, chiropractic, podiatric, physical rehabilitation, nursing, ambulance and hospital services and supplies for all conditions compensable under the workers' compensation law. The employer shall also allow reasonable and necessary transportation expenses incurred for those services. The employer has the right to choose the provider of care, except where the employer has denied liability for the injury. Section 85.27. Holbert v. Townsend Engineering Co., Thirty-second Biennial Report of the Industrial Commissioner 78 (Review-Reopening October 16, 1975).

In this case the employer has not denied liability and maintains the right to choose the care, provided the care is reasonable.

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); Bell Bros. Heating v. Gwinn, 779 N.W.2d 193, 209 (Iowa 2010); 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. Long v. Roberts Dairy Co., 528 N.W.2d 122 (Iowa 1995). 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).

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. Long v. Roberts Dairy Co., 528 N.W.2d 122 (Iowa 1995).

The question is whether or not the defendants are meeting their obligation to provide reasonable care. The care being offered is for ongoing pain management at a pain clinic. Dr. Mathew is also a pain specialist and claimant prefers to be seen by Dr. Mathew rather than by Cedar Rapids Pain Associates. Although claimant had a positive experience and has confidence in Dr. Mathew, I found that there was no evidence that claimant had a previous negative experience with Cedar Rapids Pain Associates.

Applying the Long case cited above, I conclude that although claimant is dissatisfied with the care being offered, claimant failed to show that the authorized care, Cedar Rapids Pain Associates, is unreasonable. There was no evidence presented that the care has not been offered promptly, is not reasonably suited to treat the injury, or is unduly inconvenient.

I conclude that the authorization of Dr. Miller and Cedar Rapids Pain Associates is reasonable under the present circumstances and that claimant has failed to carry her burden of proof.

ORDER

THEREFORE IT IS ORDERED:

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

Signed and filed this 5th day of June, 2017.

TOBY J. GORDON
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

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