

## BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

MARIA ANDRADE,

Claimant,

vs.

SEABOARD TRIUMPH FOODS, INC.,

Employer,

and

INDEMNITY INSURANCE CO. OF NA,

Insurance Carrier,  
Defendants.

File Nos. 1648619.04, 19700328.04

DOI: 4/2/18 and 5/15/19

## MEMORANDUM OF

## ALTERNATE MEDICAL CARE DECISION

Head Note No.: 2701

The above captioned claims came before the undersigned for hearing on October 27, 2020. On October 15, 2020, claimant filed an application for alternate medical care under Iowa Code section 85.27 and rule 876 IAC 4.48 for File No. 19700328.04. Another alternate care proceeding was filed on October 16, 2020 in File No. 1648619.04. Both petitions were heard on October 27, 2020, after all parties were given proper notice.

Claimant alleged injuries to the right shoulder on April 2, 2018 (File No. 1648619.04), and to the left shoulder on May 15, 2019 (File No. 19700328.04). Defendants accepted liability for the right shoulder but denied it for the left shoulder.

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 a claim. Therefore, File No. 19700328.04, date of injury May 15, 2019, must be dismissed.

Defendants cannot deny liability and simultaneously direct the course of treatment. Barnhart v. MAQ Incorporated, Iowa Industrial Comm'r Report 16 (App. March 9, 1981). The claim for alternate medical care related to the left shoulder is dismissed. If the claimant seeks to recover charges occurred in obtaining care for a

condition for which defendants denied liability, defendants are barred from asserting lack of authorization as a defense to those charges.

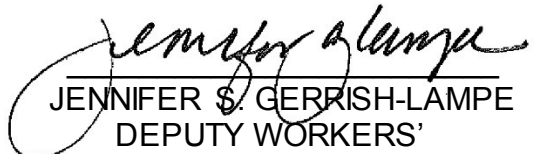
Claimant sustained an injury on April 2, 2018, (File No. 1648619.04), which arose out of and in the course of employment. Claimant is dissatisfied with the medical treatment offered by the defendants.

The hearing was recorded via digital voice recorder and a complete decision was dictated into the record on the day of the hearing. The decision will be reproduced in typewritten form only if the decision is appealed, and the parties are advised to follow the procedures outlined under the administrative code. Any rights of appeal will run from the date the decision was dictated into the record .

The deputy ordered that claimant's petition for alternate medical care in File No. 1648619.04 be granted. The decision was rendered on October 27, 2020

Pursuant to a standing order of delegation of authority by the workers' compensation commissioner pursuant to Iowa Code section 86.3, the undersigned enters this decision for the workers' compensation commissioner. There is no right of appeal of this decision to the workers' compensation commissioner. Appeal of this decision, if any, would be by judicial review pursuant to Iowa Code section 17A.19.

Signed and filed this 28<sup>th</sup> day of October, 2020.

  
JENNIFER S. GERRISH-LAMPE  
DEPUTY WORKERS'  
COMPENSATION COMMISSIONER

The parties have been served, as follows:

Al Sturgeon (via WCES)

Meredith Ashley (via WCES)