BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

MATTHEW ALEXANDER, Claimant, vs. IOWA MOLD AND TOOLING CO., INC., Employer, and TRAVELERS INDEMNITY CO. OF CT, Insurance Carrier, Defendants.	FILED JUN 07 2018 WORKERS COMPENSATION	File No. 5055952 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, Matthew Alexander. Claimant appeared through his attorney. Defendants appeared through their attorney.

The alternate medical care claim came on for hearing on June 7, 2018. The proceedings were digitally recorded. That recording constitutes the official record of this proceeding. Pursuant to the Iowa Workers' Compensation 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 through 4, and Defendants' Exhibit A-1 and A-2. All exhibits were offered and received into evidence.

FINDINGS OF FACT

Claimant sustained a work-related injury on January 4, 2016. The injury resulted in a crush injury to the right wrist and a crush injury to the left small finger.

Defendants authorized treatment for claimant at Mayo Clinic. Keith A. Bengston, M.D., was named an authorized treating physician. Dr. Bengston recommended an evaluation by the Mayo Pain Clinic for placement of a trial of a spinal cord stimulator to treat claimant's right hand crush injury complicated by complex regional pain syndrome. Defendants authorized the evaluation. (Exhibit 1)

On March 8, 2018, the physicians in the Pain Clinic ordered MRI testing of the thoracic spine in order to determine proper canals for placement of the spinal cord stimulator leads. (Ex. 4, page 2) The physicians noted "a T2 hyperintense lesion at T9-T10." The mass measured 8 mm. (Ex. 4, p. 2)

Dr. Bengston opined the 8 mm mass had to be reviewed via magnetic resonance imaging (MRI) after 3 months. MRI testing is scheduled for June 13, 2018. Dr. Bengston opined if the mass had not grown in size by June, then claimant could have the trial placement for the spinal cord stimulator. If the mass had expanded in size, then the spinal cord stimulator trial was out of the question so long as the mass was present. Dr. Bengston opined the following:

> HISTORY OF PRESENT ILLNESS
> Mr. Alexander returns because of a flare of his CRPS. Please recall that he has to get a doctor's note whenever his flare is so bad that he is unable to go to work. He tried to get into Dr. Erin Peterson, but she was busy. He went to the urgent care center, and they were unable to help him and so he was able to get in to see me driving all the way from Mason City for this appointment. In the meantime, he has been worked up for a spinal cord stimulator and in the process found a mass at T9 in his spinal cord so that has to be followed for another three months and if that does not change, then he will still be a candidate for a spinal cord stimulator but, of course, they cannot put in the spinal cord stimulator if they have to follow a mass in his spinal cord and he has to get MRIs periodically.
>
> (Ex. A, p. 1; Ex. 4, p. 1)

Defendants deny the June 13, 2018 MRI is related to claimant's work injury. They have refused to authorize the testing.

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).

Determining what care is reasonable under the statute is a question of fact. Id. 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).

The employee bears the burden to establish what care is reasonable and it is a question of fact. Long v. Roberts Dairy Co., 528 N.W.2d 122, 123 (Iowa 1995). The determination will be based on what is reasonably necessary. Long, at 124.

An employer's right to select the provider of medical treatment to an injured worker does not include the right to determine how an injured worker should be diagnosed, evaluated, treated, or other matters of professional medical judgment. Assmann v. Blue Star Foods, File No. 866389 (Declaratory Ruling, May 19, 1988).

An employer's failure to follow recommendations of an authorized physician in matters of treatment is commonly a failure to provide reasonable treatment. Boggs v. Cargill, Inc., File No. 1050396 (Alt Care Dec. January 31, 1994).

In the present case, the June 13, 2018 MRI, is the means to determine whether a spinal cord stimulator is possible. If the mass has not grown, Dr. Bengston will perform the trial spinal cord stimulator. If the mass has grown, the procedure will simply not occur. Counsel for claimant is not requesting surgery to remove the T9-T10 mass. Only MRI testing, as recommended by the authorized treating physician is requested.

Defendants, under Assman v. Blue Star Foods, File No. 866389 (Declaratory Ruling, May 19, 1988), may not interfere with the professional judgment of Dr. Bengston, the authorized treating physician.

ORDER

THEREFORE, IT IS ORDERED:

Defendants shall pay for the June 13, 2018 MRI test as ordered by Dr. Bengston.

Signed and filed this 7th day of June, 2018.

Michelle A. McGovern

MICHELLE A. MCGOVERN
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

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