

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

CONNIE YOUNG,	:	
	:	
Claimant,	:	
	:	
vs.	:	
	:	File No. 5060180.01
EAST PENN MANUFACTURING CO.,	:	
	:	
Employer,	:	ALTERNATE MEDICAL
	:	
and	:	CARE DECISION
	:	
SENTINEL INSURANCE CO.,	:	
	:	
Insurance Carrier,	:	Head Note No.: 2701
Defendants.	:	

STATEMENT OF THE CASE

Connie Young filed a petition in arbitration seeking workers' compensation benefits from employer East Penn Manufacturing and insurer Sentinel Insurance Company. The case went to hearing and the undersigned issued a decision concluding, in pertinent part to the current alternate care proceeding, that Young had sustained injuries to both knees arising out of and in the course of her employment with East Penn and that the defendants must provide reasonable care for her knee injuries. See Young v. East Penn Mfg., File No. 5060180 (Arb. Feb. 28, 2020). The Commissioner affirmed the determinations on appeal. See Young v. East Penn Mfg., File No. 5060180 (App. Nov. 16, 2020).

On January 13, 2021, Connie Young filed an application for alternate care under Iowa Code section 85.27 and 876 Iowa Administrative Code section 4.48 seeking authorization for care with Richard Goding, M.D., for her knees. Specifically, Young seeks a decision directing the defendants to authorize right-knee surgery as recommended by Dr. Goding. The defendants filed their answer on January 21, 2021.

The undersigned presided over an alternate care hearing that was held by telephone and recorded on January 26, 2021. That recording constitutes the official record of the proceeding under rule 876 IAC 4.48(12). Young participated through attorney Joseph Powell. The defendants participated through attorney Tiernan Siems. The record consists of:

- Claimant's Exhibits 1 through 4; and
- Defendants' Exhibits A through C.

ISSUE

The issue under consideration is whether Young is entitled to alternate care in the form of treatment with Dr. Goding.

FINDINGS OF FACT

Young sustained injuries arising out of and in the course of her employment with East Penn to both knees. On November 28, 2016, Nicole M. Ruble, PA-C, saw Young, who complained of ongoing bilateral knee pain. (Cl. Ex. 1) Ruble referred Young to Dr. Goding. (Cl. Ex. 1, pp. 2–3) Dr. Goding recommended right knee replacement surgery on January 19, 2017. (Cl. Ex. 2, p. 2) After that, defendants denied liability for Young's knee injuries.

The defendants' authorized provider referred Young to Dr. Goding for care on her knees. Thus, there is a referral chain between Dr. Goding and the defendants' chosen provider. The Commissioner affirmed on appeal the determination that Young's knee injuries arose out of and in the course of her employment with East Penn and the defendants do not dispute liability for the injuries in this alternate care case.

Young's attorney sent Dr. Goding a check-box letter dated December 21, 2020. (Cl. Ex. 2) On January 8, 2021, he sent a letter to defense counsel requesting authorization by the defendants for Young to undergo total right knee replacement surgery as recommended by Dr. Goding. (Def. Ex. A) The defendants attempted to contact Dr. Goding, but received notice that he moved his practice from the Joint Preservation Institute in Des Moines, Iowa, to Capital Orthopaedics & Sports Medicine at St. Anthony Regional Hospital in Carroll, Iowa, effective August of 2020. (Def. Ex. B) Due to the move, Dr. Goding stopped seeing patients in Des Moines. (Def. Ex. B) He now sees them only in Carroll and Denison, Iowa. (Def. Ex. B)

Dr. Goding responded to the check-box letter from Young's attorney. (Cl. Ex. 2) Dr. Goding indicated "Yes" in response to the question, "Was the 01/19/2017 total knee replacement surgery you had planned for Connie Young necessitated by her August 8, 2016 work injury?" (Cl. Ex. 2, p. 2) He also indicated "Yes" in response to the question, "Given that Ms. Young has not yet had the total right knee replacement, does she still require a total knee replacement as a result of her August 8, 2016 work injury?" (Cl. Ex. 2, p. 2) Dr. Goding signed the completed check-box letter and dated his signature January 21, 2021. (Cl. Ex. 2, p. 2)

After the defendants learned that Dr. Goding had left the Des Moines area to practice in Carroll and Denison, they made arrangements for Young to receive care at Iowa Ortho in Des Moines with Dr. Timothy Vinyard. (Def. Ex. C) Dr. Vinyard had not seen Young as of the time of hearing. Consequently, Dr. Vinyard has made no recommendation regarding care. Unlike with Dr. Goding, there exists no doctor-patient relationship between Young and Dr. Vinyard.

While it is possible that, under different circumstances, asking a claimant to change the location of care from Des Moines to Carroll or Denison could be unreasonable, that is not the case here. Young does not object to traveling to Carroll to receive care from Dr. Goding, her treating physician. Consequently, travel is not at issue.

Based on the above, failure to authorize Dr. Goding's recommended care for Young's right knee injury is unreasonable. Ongoing care for Young's right knee with Dr. Goding is reasonable.

CONCLUSIONS OF LAW

"Iowa Code section 85.27(4) affords an employer who does not contest the compensability of a workplace injury a qualified statutory right to control the medical care provided to an injured employee." Ramirez-Trujillo v. Quality Egg, L.L.C., 878 N.W.2d 759, 769 (Iowa 2016) (citing R.R. Donnelly & Sons v. Barnett, 670 N.W.2d 190, 195, 197 (Iowa 2003)). Under the law, the employer must "furnish reasonable medical services and supplies *and* reasonable and necessary appliances to treat an injured employee." Stone Container Corp. v. Castle, 657 N.W.2d 485, 490 (Iowa 2003) (emphasis in original). Such employer-provided care "must be offered promptly and be reasonably suited to treat the injury without undue inconvenience to the employee." Iowa Code § 85.27(4).

An injured employee dissatisfied with the employer-furnished care (or lack thereof) may share the employee's discontent with the employer and if the parties can't reach an agreement on alternate care, "the commissioner may, upon application and reasonable proofs of the necessity therefor, allow and order other care." Id. "Determining what care is reasonable under the statute is a question of fact." Long v. Roberts Dairy Co., 528 N.W.2d 122, 123 (Iowa 1995); Pirelli-Armstrong Tire Co. v. Reynolds, 562 N.W.2d 433, 436 (Iowa 1997). As the party seeking relief in the form of alternate care, the employee bears the burden of proving that the authorized care is unreasonable. Id. at 124; Bell Bros. Heating & Air Cond. v. Gwinn, 779 N.W.2d at 209; Reynolds, 562 N.W.2d at 436; Long, 528 N.W.2d at 124. Because "the employer's obligation under the statute turns on the question of reasonable necessity, not desirability," an injured employee's dissatisfaction with employer-provided care, standing alone, is not enough to find such care unreasonable. Id.

Here, the defendants had not arranged care with Dr. Goding for Young's right-knee injury after the Commissioner issued the appeal decision concerning the arbitration proceeding and the defendants did not seek judicial review under Iowa Code chapter 17A. Consequently, Young's attorney contacted defense counsel and requested the defendants make such arrangements. The defendants attempted to contact Dr. Goding, only to discover he had moved his practice from Des Moines to Carroll and Denison. The defendants then made arrangements for care with Dr. Vinyard in Des Moines. But Young prefers to continue care with Dr. Goding, who has affirmed his belief she needs surgery on her knee, even if that means traveling to Carroll. Consequently, it is unreasonable under Iowa law to deny Young's request for authorization of care with Dr. Goding for the work injury she sustained to her right knee.

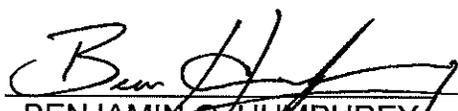
ORDER

Under the above findings of facts and conclusions of law, it is hereby ordered:

- 1) Young's petition concerning application for alternate care is GRANTED.
- 2) The defendants shall arrange care with Dr. Goding for the work injury Young sustained to her right knee.

On February 16, 2015, the Iowa workers' compensation commissioner issued an order delegating authority to deputy workers' compensation commissioners, such as the undersigned, to issue final agency decisions on applications for alternate care. Consequently, there is no appeal of this decision to the commissioner, only judicial review in a district court under the Iowa Administrative Procedure Act, Iowa Code chapter 17A.

Signed and filed this 27th day of January, 2021.


BENJAMIN G. HUMPHREY
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

The parties have been served, as follows:

Joseph Powell (via WCES)

Tiernan Siems (via WCES)