

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

JAMES D. BRITTAIN,

Claimant,

vs.

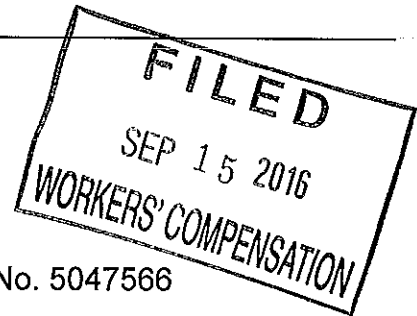
TRADESMEN INTERNATIONAL,

Employer,

and

NEW HAMPSHIRE INSURANCE CO.,

Insurance Carrier,
Defendants.



File No. 5047566

ALTERNATE MEDICAL CARE

CONSENT ORDER

Claimant filed a petition seeking alternate medical care. Specifically, claimant seeks continuing treatment for the work injury. Defendants agree to this consent order to provide that care.

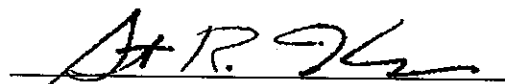
Therefore, upon agreement of the parties, defendants are ORDERED to provide the alternate care requested in the petition.

Also as noted at the hearing, this is a case where liability has been established and yet the claimant has had to file multiple petitions for alternate care to receive the care he is entitled to.

An employer/insurance carrier is not entitled to control a licensed health care provider's exercise of professional judgment. Assmann v. Blue Star Foods, Declaratory Ruling, File No. 866389 (May 18, 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 January 31, 1994). Defendants have the right to choose the medical care but only if that care is offered promptly, reasonably suited to treat the injury and offered without undue inconvenience to the injured worker. West Side Transport v. Cordell, 601 N.W.2d 691 (Iowa 1999). The consequence of failing to promptly provide care is the loss of the right to choose the care. West Side Transport v. Cordell, 601 N.W.2d 691

(Iowa 1999). I see no authority for the proposition that somehow defendants regain the right to choose the care at some later date. Defendants should consider these consequences should they continue failing to promptly, conveniently, and reasonably provide care.

This consent order is signed and filed this 15th day of September, 2016.



STAN MCELDERRY
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

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