

FINDINGS OF FACT

On December 23, 2015, claimant was involved in a work-related accident when he was electrocuted.

An arbitration decision was filed in this case on January 18, 2019. That decision found, in part, that defendants were to provide reasonable and prompt future medical care for all conditions found to be related to claimant's December 23, 2015, work injury, including claimant's headaches, neck, left arm, PTSD, anxiety, sleep disorder (nightmares), and depression. That decision was affirmed on appeal. (Appeal Decision, March 20, 2020, page 5)

The arbitration decision indicates claimant received treatment from Jessica Thomas, ARNP, for mental health issues. The arbitration decision found the opinions expressed by nurse practitioner Thomas to be both credible and convincing. (Arbitration Decision pp. 6-7, 13) The arbitration decision indicates claimant also received counseling for mental health issues from Kim Steffensmeier, LISW. The arbitration decision found the opinions expressed by Ms. Steffensmeier to be both credible and convincing. (Arbitration Decision pp. 7, 9-11)

In a June 1, 2020, email, claimant's counsel requested claimant be authorized to continue treatment with nurse practitioner Thomas, social worker Steffensmeier, and Jill Miller, ARNP. (Exhibit 1, page 1) On July 8, 2020, defendants' attorney indicated he would get with his client regarding authorized providers. (Ex. 1, p. 1)

On July 15, 2020, and August 4, 2020, defendants' attorney asked for information regarding specific providers so defendants could schedule an appointment. (Ex. A, pp. 1-2)

On September 1, 2020, claimant's counsel again asked for authorization for claimant to treat with nurse practitioners Thomas and Miller and social worker Steffensmeier. (Ex. 1, pp. 3-4)

On September 22, 2020, defendants' counsel again asked for a specific request for the medical care claimant sought. In a September 23, 2020, email, claimant's counsel again requested claimant be authorized to continue treatment with nurse practitioners Miller and Thomas and social worker Steffensmeier. (Ex. 1, p. 4)

On October 22, 2020, claimant's counsel again asked claimant be authorized to continue treatment with nurse practitioners Miller and Thomas and social worker Steffensmeier, or provide alternate providers. (Ex. 1, p. 8)

In an October 27, 2020, letter, defendants' counsel indicated he requested his client provide claimant with authorized treatment at St. Luke's and PCI. (Ex. A, p. 3)

In emails dated December 16, 2020, and January 13, 2020, claimant's attorney again asked which health care providers were authorized to treat claimant. (Ex. 1, p. 9)

In a professional statement, claimant's counsel indicated claimant was requesting nurse practitioner Thomas for physical work-related conditions. Claimant sought nurse practitioner Thomas and social worker Steffensmeier for work-related mental health conditions.

CONCLUSION OF LAW

The party who would suffer loss if an issue were not established has the burden of proving that issue by a preponderance of the evidence. Iowa Rule of Appellate Procedure 6.14(6).

Iowa Code section 85.27(4) provides, in relevant part:

For purposes of this section, the employer is obliged to furnish reasonable services and supplies to treat an injured employee, and has the right to choose the care The treatment must be offered promptly and be reasonably suited to treat the injury without undue inconvenience to the employee. If the employee has reason to be dissatisfied with the care offered, the employee should communicate the basis of such dissatisfaction to the employer, in writing if requested, following which the employer and the employee may agree to alternate care reasonably suited to treat the injury. If the employer and employee cannot agree on such alternate care, the commissioner may, upon application and reasonable proofs of the necessity therefor, allow and order other care.

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).

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 Rule of Appellate Procedure 14(f)(5); 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. 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). In Pirelli-Armstrong Tire Co. v. Reynolds, 562 N.W.2d 433 (Iowa 1997), the court approvingly quoted Bowles v. Los Lunas Schools, 109 N.M. 100, 781 P.2d 1178 (App. 1989):

[T]he words "reasonable" and "adequate" appear to describe the same standard.

[The New Mexico rule] requires the employer to provide a certain standard of care and excuses the employer from any obligation to provide other services only if that standard is met. We construe the terms "reasonable" and "adequate" as describing care that is both appropriate to the injury and sufficient to bring the worker to maximum recovery.

Claimant seeks defendants to authorize treatment for claimant with nurse practitioners Miller and Thomas and social worker Steffensmeier. Defendants contend they require more specificity regarding the nature of claimant's request.

As detailed above, both the arbitration and appeal decisions in this case required defendants provide reasonable and prompt future medical care for all conditions found to be related to claimant's December 23, 2015, work injury, including claimant's headaches, neck, left arm, PTSD, anxiety, sleep disorder (nightmares), and depression.

As noted in the arbitration decision, both nurse practitioner Thomas and social worker Steffensmeier provided care to claimant for a work-related mental health condition. Both provider's opinions were found to be convincing and credible. Since at least June of 2020, claimant's counsel has requested, on numerous occasions, defendants authorize nurse practitioners Miller and Thomas and social worker Steffensmeier. On several occasions defendants have asked for specific information regarding that request. In October of 2020, defendant's counsel indicated he requested his client authorize treatment with St. Luke's and PCI. Despite follow-up requests for authorization, there is no record indicating defendants have followed up with the authorization detailed in the October 2020 letter.

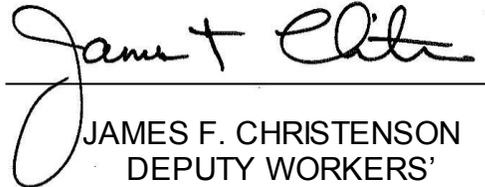
It may be claimant's counsel could have been more specific in the request for care and, for example, indicated claimant sought Ms. Steffensmeier for mental health counseling. However, it is disingenuous for defendants to argue claimant's request for authorized care have not been specific given the arbitration and appeal decision, and given the numerous requests for specific providers.

Since at least June of 2020, claimant has requested authorization for specific providers for authorized care. At least two of the three providers are named in the arbitration decision as providing mental health care for a work-related injury. Defendants have failed to provide authorized care with those providers, and have failed to authorize care for claimant as required by the arbitration and appeal decisions. Given this record, defendants' repeated delay in authorizing care is found to be unreasonable. Defendants are ordered to authorize claimant to treat with nurse practitioner Miller for his physical work-related injury. Defendants are also ordered to authorize claimant to treat with nurse practitioner Thomas and social worker Steffensmeier for his work-related mental health injury.

ORDER

Therefore, it is ordered that claimant's petition for alternate medical care is granted. Defendants shall authorize and pay for care with nurse practitioners Thomas and Miller and social worker Steffensmeier, as detailed above.

Signed and filed this 12th day of March, 2021.



JAMES F. CHRISTENSON
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

The parties have been served as follows:

Sara Riley (via WCES)

Matthew Novak (via WCES)

Timothy Wegman (via WCES)

Alison Stewart (via WCES)