

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

LAURA L. HAYWARD,

FILED

Claimant,

MAR 19 2019

vs.

WORKERS COMPENSATION

FAMILY DOLLAR DISTRIBUTION
CENTER,

File No. 5067505

Employer,

ALTERNATE MEDICAL

and

CARE DECISION DISMISSAL

ARCH INSURANCE COMPANY,

Insurance Carrier,
Defendants.

HEAD NOTE NO: 2701

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. The undersigned has been delegated final agency action in this decision. Iowa Code section 17A.15(1); Order of Delegation, February 15, 2015. Any appeal of the decision will be to the Iowa District Court.

Claimant appeared through her attorney, Richard Schmidt. Defendants appeared through their attorney, Lindsey Canning.

The alternate medical care claim came on for hearing on March 19, 2019 at 10:30 a.m. The proceedings were digitally recorded. The recording constitutes the official record of this proceeding.

At the commencement of the proceedings, defendants offered the following exhibits:

Exhibit 2, pages 2 and 3;

Exhibit 3, pages 1 and 2;

Exhibit 4, pages 1 and 2;

Exhibit 5, pages 1, 2, and 3.

At the commencement of the proceedings, the undersigned deputy questioned defense counsel whether she admitted liability for the neck injury claimant was alleging.

Ms. Canning said her clients had not completed their investigation of the claim. Therefore, defendants could not admit or deny compensability for the neck claim. This deputy informed defense counsel when defendants cannot admit to compensability it is considered a denial and the alternate medical care proceedings could not continue.


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, this action must be dismissed.

Defendants cannot deny liability and simultaneously direct the course of treatment. Barnhart v. MAQ Incorporated, 1 Iowa Industrial Comm'r Report 16 (App. March 9, 1981).

IT IS, THEREFORE, ORDERED that this case should be and is hereby dismissed without prejudice.

IT IS FURTHER ORDERED that if claimant seeks to recover the charges incurred 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.

Signed and filed this 19th day of March, 2019.



MICHELLE A. MCGOVERN
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

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