

## BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

DAVID CHANDLER,

Claimant,

vs.

JOHN DEERE DAVENPORT WORKS,

Employer,

and

AIU INSURANCE COMPANY,

Insurance Carrier,  
Defendants.

File No. 23700865.01

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, David Chandler. Claimant appeared through attorney, MaKayla Augustine. Defendants did not appear or answer. Defendant employer was properly served. Claimant's counsel further represented by way of professional statement at hearing that a courtesy copy was delivered to employer's third-party administrator (TPA).

The alternate medical care claim came on for hearing on October 30, 2023. The proceedings were digitally recorded. That recording constitutes the official record of this proceeding. Pursuant to the Commissioner's 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 matter proceeded to hearing without the employer present. The record was held open until 11:00 a.m. The record consists of Claimant's Exhibits 1 and 2.

## ISSUE

The issue presented for resolution is whether the claimant is entitled to the treatment recommended by the authorized treating physician.

## FINDINGS OF FACT

The claimant sustained an injury which arose out of and in the course of his employment on or about June 14, 2023. He alleges this injury resulted in injury and disability to his head, neck and eyes. His medical treatment has been directed by the employer, including Rick Garrels, M.D. (See Claimant's Exhibit 2) On July 5, 2023, Dr. Garrels recommended a neuropsychological examination. On October 10, 2023, claimant's counsel wrote to defendants through the TPA requesting authorization for this treatment.

I find that this delay in authorization of care is unreasonable.

## 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. Iowa Code Section 85.27 (2013).

By challenging the employer's choice of treatment – and seeking alternate care – claimant assumes the burden of proving the authorized care is unreasonable. See 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).

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).

An employer's statutory right is to select the providers of care and the employer may consider cost and other pertinent factors when exercising its choice. Long, at 124. An employer (typically) is not a licensed health care provider and does not possess medical expertise. Accordingly, an employer does not have the right to control the methods the providers choose to evaluate, diagnose and treat the injured employee. An employer is not entitled to control a licensed health care provider's exercise of professional judgment. Assmann v. Blue Star Foods, File No. 866389 (Declaratory Ruling, 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).

Based upon the record before me, I find that the defendants have unreasonably delayed claimant's treatment by failing to authorize the recommendations of the authorized treating physician, Dr. Garrels.


Having found that the delay in claimant's care is unreasonable, I conclude that alternate care should be granted. Continued unreasonable delays in authorization of necessary treatment may result in a finding of abandonment of care which may entitle the claimant the right to direct his own treatment.

ORDER

THEREFORE IT IS ORDERED:

The claimant's application for alternate medical care is GRANTED. Defendants shall immediately authorize a neuropsychological evaluation.

Signed and filed this 30<sup>TH</sup> day of October 2023.

  
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JOSEPH L. WALSH  
DEPUTY WORKERS'  
COMPENSATION COMMISSIONER

The parties have been served, as follows:

MaKayla Augustine (via WCES)

John Deere Davenport Works (via regular and certified mail)  
1175 E 90<sup>th</sup> St  
Davenport, IA 52808-9371

AIU Insurance Co. (via regular and certified mail)  
1271 Ave of the Americas, Fl 35  
New York, NY 10020-1304