BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

KATHLEEN STASTNY, Claimant, vs. TARGET CORPORATION, Employer, Self-Insured, Defendant.	FILED JUN 28 2019 WORKERS COMPENSATION	File No. 5029198 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, Kathleen Stastny. Claimant appeared personally and through attorney, Thomas Wertz. Defendant, Target Corporation, did not appear. Target Corporation was served on June 14, 2019, pursuant to the rules. Target Corporation was mailed notice of the hearing on June 18, 2019, the same date the Petition was filed.

The alternate medical care claim came on for hearing on June 28, 2019. 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 record consists claimant's exhibit 1, pages 1 through 9, and the sworn testimony of the claimant.

ISSUE

The issue presented for resolution is whether the claimant is entitled to return to the authorized treating physician.

FINDINGS OF FACT

The claimant sustained an injury to her right shoulder, which arose out of and in the course of her employment, in 2005. Her claim was settled on an open case in 2010. She has been receiving regular medical care since then. In 2015, Stanley Mathew,

M.D., became claimant's authorized treating physician. Defendant has paid her medical expenses for regular visits to Dr. Mathew since then.

On or about June 4, 2019, the employer's third party administrator, Sedgwick, wrote to Dr. Mathew and indicated that his care was no longer authorized. "We are directing the employee to treat with another provider. Please consider this written notice to end providing any medical treatment to the employee. Any medical treatment after this written notice will not be paid." (Claimant's Exhibit 1, page 1)

Claimant testified that she has not been directed to see any other physician and has heard nothing further from Target regarding her care. She further testified that she sees Dr. Mathew approximately four times per year to follow up on her right shoulder symptoms. This is confirmed by the medical notes. (Cl. Ex. 1, pp. 2-9)

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 19, 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).

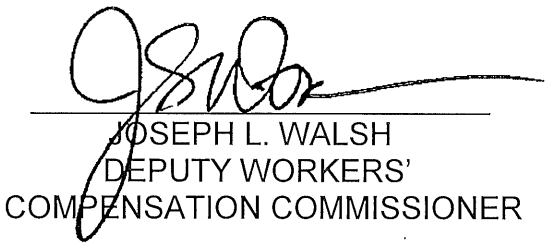
Based upon the record before me, the employer has improperly and unreasonably interfered with claimant's treatment with her authorized treating physician. It is impossible to tell on this record, what the employer had planned, however, it is clear the claimant has established a treatment relationship with Dr. Mathew. I find the claimant has proven that the defendant has failed to authorize reasonable care by de-authorizing the authorized treating physician.

ORDER

THEREFORE IT IS ORDERED:

The claimant's petition for alternate medical care is GRANTED. Stanley Mathew is confirmed as claimant's authorized treating physician. Any treatment recommended by Dr. Mathew shall be promptly authorized.

Signed and filed this 28th day of June, 2019.



JOSEPH L. WALSH
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

Copies to:

Thomas M. Wertz
Attorney at Law
PO Box 849
Cedar Rapids, IA 52406-0849
twertz@wertzlaw.com

Target Corporation
8300 Norman Center Dr., Ste. 1000
Minneapolis, MN 55437

Sedgwick Claims Management Svc.
David Hoffman
PO Box 14453
David.hoffman@sedgwick.com

JLW/kjw

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

FILED
JUN 27 2019
WORKERS COMPENSATION

KATHLEEN STASTNY, Claimant, vs. TARGET CORPORATION, Employer Self-Insured, Defendant.	)	FILE NO.: 5029198 DOI: 2/25/05 CLAIMANT'S EVIDENCE UNDER IOWA ADMINISTRATIVE CODE RULE 876 § 4.48

Claimant hereby attaches her evidence pursuant to Iowa Administrative Code § 876 – 4.48 to be presented at the time of the Telephone Hearing for Alternate Medical Care set for June 28, 2019, at 8:30 a.m.

CLAIMANT'S EXHIBIT LIST

Description	Page #
Letter to Dr. Stanley Mathew from David Hoffman, Claims Examiner, Sedgwick, dated June 4, 2019	1
Progress Notes of Dr. Stanley Mathew regarding Kathleen Stastny dated May 14, 2019	2-5
Progress Notes of Dr. Stanley Mathew regarding Kathleen Stastny dated February 19, 2019	6-9

Thomas M. Wertz LI0007462
WERTZ & DAKE
1500 Center Street NE
P.O. Box 849
Cedar Rapids, IA 52406-0849
(319) 861-3001
(319) 861-3007 (Facsimile)
Email: twertz@wertzlaw.com

ATTORNEY FOR CLAIMANT

Sedgwick Claims Management Services, Inc.
P O Box 14453
Lexington, KY 40512-4453

sedgwick

Phone: (800)553-8723
Fax: (866)470-5765

June 04, 2019

Dr. Stanley Mathews MD
Unity Point Health
1026 A Ave NE
Cedar Rapids IA 5240-5036

FILED
JUN 27 2019
WORKERS COMPENSATION

Re:	Claim number:	IA05042674-0001
	Loss date:	02/25/2005
	Loss location:	1030 BLAIRS FERRY ROAD NE CEDAR RAPIDS,IA 52402
	Employee:	Kathleen Stastny
	Date of birth:	07/06/1952
	Employer:	Target Stores Division
	Insurance Company:	TARGET CORPORATION

Dr. Stanley Mathews MD

We are handling this matter on behalf of the above referenced Insurance Company. We are directing the employee to treat with another provider. Please consider this written notice to end providing any medical treatment to the employee. Any medical treatment after this written notice will not be paid.

Sincerely,

David Hoffman
Claims Examiner
Direct: (800)553-8723
Fax: (866)470-5765
E-mail: David.Hoffman@sedgwick.com

Sedgwick manages claims on behalf of TARGET CORPORATION.

CC: Tom Wertz.

JUN 10 2019

6/4/2019 IA050426740001 562019060409590CC0002

Stastny, Kathleen A

Progress Notes Date of Service: 5/14/2019 9:45 AM

Stanley J Mathew, MD

Rehabilitation

St. Luke's Physical Medicine & Rehabilitation
Outpatient Clinic Progress Note/follow-up

Name: Kathleen A Stastny
DOB: 7/6/1952 (66 y.o. female)
Date: 5/14/19

Subjective
The patient is a 66-year-old right-handed female here for followup of chronic shoulder pain, right humeral fracture on tramadol 200 mg extended release.
Is also taking Celebrex 200 mg at like to increase that to twice a day she does feel the compounding cream is working very well, is having difficulty having Worker's Compensation a for medication her cream her anterior inflammatory's and her tramadol all are related to her work injury overall doing very well. does not want to change her medication as this combination works the best.
We continue to try to wean off of tramadol, will trial Lyrica, has already failed gabapentin and Cymbalta, we did discuss low-dose naltrexone.
Has not had a chance to start weaning off of her pain medications yet caring for a sick family member
Opioid Risk Tool (ORT) -0

I spent 15 minutes reviewing

Allergies

Allergen	Reaction
• Ceclor [Cefaclor]	Hives
• Phenothiazines	Hives

Medication List
Medications reviewed and updated. Refer to medication list at the end of this document.

Functional Status:
Independent ambulation all ADLs, has pain with range of motion of the right shoulder

Review of Systems
GENERAL: Patient has normal growth and development; denies: visual disturbance and diplopia; denies: tinnitus; decreased hearing; hoarseness dysphagia, denies: chest pain, murmur, cough, dyspnea, nausea, vomiting bowel and bladder incontinence.
MUSCULOSKELETAL: see above
NEUROLOGIC: Denies dizziness seizure or confusion
PSYCHIATRIC: Denies: anxiety, nervousness; has difficulty sleeping
ENDOCRINE: Unremarkable

HEMA/LYMPH: Unremarkable
ALLERGY/IMMUNOLOGY: Unremarkable

Physical Examination
GENERAL:

Vital Signs

BP	Pulse	Temp	Resp	Ht
142/80	74	36.6 °C (97.9 °F)	14	1.6 m (5' 3")

Wt	BMI
95.7 kg (211 lb)	37.38 kg/m²

The patient is pleasant, cooperative, well-developed and well-nourished. in moderate distress due to the above symptoms.
she is alert and oriented to person, time and place, understands and followed commands.
Extraocular structures normal bilaterally. Visual acuity is normal PERRLA & EOMI.
Cranial nerves 2--12 are grossly intact.
No skin disorders nor lesions noted.

GAIT:

normal balance and coordination.
Toe/heel walking and tandem walk with difficulty because of pain
Extremities are without major joint deformity, no atrophy and fasciculation
Patient has tenderness right shoulder girdle

RANGE OF MOTION:
Passive range of motion (PROM) in range of motion of the right shoulder due to pain left upper extremity range of motion full

MANUAL MOTION TESTING: 4/ 5 except right shoulder 3/5

Straight leg rising (SLR)- negative bilaterally.
Babinski flexor bilaterally, Hoffmann negative bilaterally.
Sensation intact to light touch pin prick, vibration in all extremities
Skin:trophic changes

Impression:

1. Right humeral fracture.
2. Chronic neuropathic pain
3. Severely limited right shoulder ROM
4. Chronic right shoulder pain.
5. Left shoulder rotator cuff tendinitis due to overuse.

Recommendations/Plan:
- Compounding cream to the right shoulder.

- Celebrex 200 mg twice a day, tramadol extended release 200 mg daily, with goals to wean off
- Failed gabapentin/cymbalta ,
- Start Lyrica 50 mg twice a day with goals of weaning off of tramadol, patient has not tried this yet
- Consider low-dose naltrexone
- All medications are being used for her Worker's Compensation injury to her right shoulder.
- Give urine toxicology today
- Consider trigger point injection
- Educated on heat stretching range of motion
- Will follow up with myself or ARNP in 4-6 weeks
- Awaiting approval orthocore brace for her left shoulder

Awaiting

Thank you for allowing us to participate in your patient's care.

Sincerely,
Stanley J Mathew, MD
5/14/19

Patient Care Team:
Disa Awah, DO as PCP - General (Internal Medicine)
Stanley J Mathew, MD as Consulting Physician (Rehabilitation)
Douglas J Purdy, MD as Consulting Physician (Gastroenterology)

Discussed adjuvant medications such as muscle relaxants Neurontin and Lyrica Cymbalta and amitriptyline. Advised to continue current medications and to taper her narcotic medications if pain control is adequate.

Narcotic tolerance, dependence, addiction and abuse issues were discussed in detail. Narcotic policy discussed in brief, advised to take medications as prescribed. Discussed serious health consequences including death if narcotic medications are not taken as prescribed. Patient understands and agreed with current treatment plan

Discussed importance of physical therapy and home exercise program if tolerated by patient for improved functional status and reduction of pain. Patient will be followed up as necessary , Patient agrees to random urine screens and confirmation using chromatography, and compliance with treatment regimen.Drug interactions and fatal outcomes were discussed explained that marijuana and other illicit substances including cocaine, heroin etc. used together with opioids and adjuvant medications can lead to fatal side effects. Treatment may be discontinued at physician/practice feels continuing these medications will be unsafe to the patient. Advised to discussion treatment plan with 1 family member and offered free consultation with family for discussion of pain management and guidelines also explained. HIPPA guidelines also explained

PDMP reviewed

Objective treatment: Improved pain score, improve activities and functional capacity, improve psychosocial function, discussed alternative treatment, optimize treatment and prevent occurrence of side effects, discussed side effects including addiction with patient at least and at least one close relative, advised not to stay in bed, encouraged close follow-up with psychiatry and pain psychology as able.

Current Outpatient Prescriptions:

- aspirin 81 MG tablet, Take 81 mg by mouth., Disp: , Rfl:
- bisacodyl (DULCOLAX) 5 MG EC tablet, Use as directed, Disp: 2 tablet, Rfl: 0
- Calcium Carb-Cholecalciferol (CALCIUM 1000 + D) 1000-800 MG-UNIT TABS, Take 1 tablet by mouth., Disp: , Rfl:
- celecoxib (CELEBREX) 200 MG capsule, Take 1 capsule by mouth 2 (two) times daily., Disp: 60 capsule, Rfl: 3

- cetirizine (RTEC) 10 MG tablet, Take 10 mg by mouth daily as needed for Allergies., Disp: , Rfl:
- L RICA 50 MG capsule, Take 1 capsule by mouth 2 (two) times daily., Disp: 60 capsule, Rfl: 0
- Multiple Vitamins-Minerals (MULTIVITAMIN ADULT PO), Take 1 tablet by mouth., Disp: , Rfl:
- Omeprazole Magnesium (CVS OMEPRA OLE) 20.6 (20 BASE) MG CPDR, Take 1 tablet by mouth daily. , Disp: , Rfl:
- tramadol (ULTRAM-ER) 200 MG 24 hr tablet, Take 1 tablet by mouth daily., Disp: 30 tablet, Rfl: 2
- Unclassified (UNABLE TO FIND), Med Name: mega B 12 with folic, Disp: , Rfl:

Electronically signed by [illegible] Mathew, MD on [illegible]

PMR on 5/14/2019 Note shared with [illegible]

Stastny, Kathleen A

MRN: 8249912

Progress Notes Date of Service: 2/19/2019 8:00 AM

Stanley J Mathew, MD

Rehabilitation

Expand All Collapse All

St. Luke's Physical Medicine & Rehabilitation
Outpatient Clinic Progress Note

Name: Kathleen A Stastny
DOB: 7/6/1952 (66 y.o. female)
Date: 2/19/19

Subjective
The patient is a 66-year-old right-handed female here for followup of chronic shoulder pain, right humeral fracture on tramadol 200 mg extended release.
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We continue to try to wean off of tramadol, will trial Lyrica, has already failed gabapentin and Cymbalta, we did discuss low-dose naltrexone,

Opioid Risk Tool (ORT) -0

I spent 15 minutes reviewing

Family History

Problem	Relation	Age of Onset
• No Known Problems	Mother	
• Cancer	Father	
• Other	Other	

No pertinent family history - Mother: Noted on 2014/12/27

Allergies

Allergen	Reactions
• Ceclor [Cefaclor]	Hives
• Phenothiazines	Hives

Medication List
Medications reviewed and updated. Refer to medication list at the end of this document

Functional Status:

Independent ambulation all ADLs. has pain with range of motion of the right shoulder

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NEUROLOGIC: Denies dizziness seizure or confusion
PSYCHIATRIC: Denies: anxiety, nervousness: has difficulty sleeping
ENDOCRINE: Unremarkable
HEMA/LYMPH: Unremarkable
ALLERGY/IMMUNOLOGY: Unremarkable

Physical Examination
GENERAL:

Vital Signs

BP	Pulse	Temp	Resp	Ht
150/78	72	36.9 °C (98.4 °F)	18	1.6 m (5' 3")

Wt	BMI
100.2 kg (221 lb)	39.15 kg/m²

The patient is pleasant, cooperative, well-developed and well-nourished, in moderate distress due to the above symptoms.
she is alert and oriented to person, time and place, understands and followed commands.
Extraocular structures normal bilaterally. Visual acuity is normal.PERRLA & EOMI.
Cranial nerves 2–12 are grossly intact.
No skin disorders nor lesions noted.

GAIT:

normal balance and coordination.
Toe/heel walking and tandem walk with difficulty because of pain.
Extremities are without major joint deformity, no atrophy and fasciculation.
Patient has tenderness right shoulder girdle

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Babinski flexor bilaterally, Hoffmann negative bilaterally
Sensation intact to light touch pin prick, vibration in all extremities
Skin:trophic changes

Impression:

1. Right humeral fracture.
2. Chronic neuropathic pain
3. Severely limited right shoulder ROM
4. Chronic right shoulder pain.
5. Left shoulder rotator cuff tendinitis due to overuse.

Recommendations/Plan:

- Compounding cream to the right shoulder
- Celebrex 200 mg twice a day, tramadol extended release 200 mg daily, with goals to wean off
- Failed gabapentin/cymbalta .
- Start Lyrica 50 mg twice a day with goals of weaning off of tramadol
- Consider low-dose naltrexone
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- Give urine toxicology today
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- Educated on heat stretching range of motion
- Will follow up with myself or ARNP in 4-6 weeks
- Awaiting approval orthocore brace for her left shoulder

Awaiting

Thank you for allowing us to participate in your patient's care.

Sincerely,
Stanley J Mathew, MD
2/19/19

Patient Care Team:
None Per Patient Provider as PCP - General
Discussed adjuvant medications such as muscle relaxants Neurontin and Lyrica Cymbalta and amitriptyline. Advised to continue current medications and to taper her narcotic medications if pain control is adequate.
Narcotic tolerance, dependence, addiction and abuse issues were discussed in detail. Narcotic policy discussed in brief, advised to take medications as prescribed. Discussed serious health consequences including death if narcotic medications are not taken as prescribed. Patient understands and agreed with current treatment plan
Discussed importance of physical therapy and home exercise program if tolerated by patient for improved functional status and reduction of pain. Patient will be followed up as necessary , Patient agrees to random urine screens and confirmation using chromatography, and compliance with treatment regimen.Drug interactions and fatal outcomes were discussed explained that marijuana and other illicit substances including cocaine, heroin etc. used together with opioids and adjuvant medications can lead to fatal side effects. Treatment may be discontinued at physician/practice feels continuing these medications will be unsafe to the patient. Advised to discussion treatment plan with 1 family member and offered free consultation with family for discussion of pain management and guidelines also explained. HIPPA guidelines also explained
PDMP reviewed
Objective treatment: Improved pain score, improve activities and functional capacity, improve psychosocial function, discussed alternative treatment, optimize treatment and prevent occurrence of side effects, discussed side effects including addiction with patient at least and at least one close relative, advised not to stay in bed, encouraged close follow-up with psychiatry and pain psychology as able.

Current Outpatient Prescriptions:

- amoxicillin (AMO IL) 500 MG capsule, Take 1 capsule by mouth 2 (two) times daily for 10 days., Disp: 20 capsule, Rfl: 0
- aspirin 81 MG tablet, Take 81 mg by mouth., Disp: , Rfl:
- Calcium Carb-Cholecalciferol (CALCIUM 1000 D) 1000-800 MG-UNIT TABS, Take 1 tablet by mouth., Disp: , Rfl:
- celecoxib (CELEBRE) 200 MG capsule, Take 1 capsule by mouth 2 (two) times daily., Disp: 60 capsule, Rfl: 3
- cetirizine (RTEC) 10 MG tablet, Take 10 mg by mouth daily as needed for Allergies., Disp: , Rfl:
- lidocaine viscous (LOCAINE) 2 solution, Take 5 mLs by mouth as needed for Pain., Disp: 100 mL, Rfl: 0
- Multiple Vitamins-Minerals (MULTIVITAMIN ADULT PO), Take 1 tablet by mouth., Disp: , Rfl:
- Omeprazole Magnesium (CVS OMEPRA OLE) 20.6 (20 BASE) MG CPDR, Take by mouth., Disp: , Rfl:
- tramadol (ULTRAM-ER) 200 MG 24 hr tablet, Take 1 tablet by mouth daily., Disp: 30 tablet, Rfl: 2
- Unclassified (UNABLE TO FIND), Med Name: mega B 12 with folic, Disp: , Rfl:
- L RICA 50 MG capsule, Take 1 capsule by mouth 2 (two) times daily., Disp: 60 capsule, Rfl: 0

Electronically signed by Stanley [illegible] Mathew, MD at [illegible]

PMR on 2/19/2019 [illegible] note shared with patient

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

Claimant:	KATHLEEN STASTNY	File No. 5029198
vs.		NOTICE OF
Employer:	TARGET CORPORATION	TELEPHONE HEARING
and		ALTERNATE MEDICAL CARE
Insurance Carrier:	SELF-INSURED	(876 IAC 4.48)

You are notified that a telephone hearing on claimant's application for Alternate Medical Care under rule 876 IAC 4.48 is scheduled before a deputy workers' compensation commissioner as follows:

SCHEDULING INFORMATION

DATE: JUNE 28, 2019

IOWA TIME: 08:30AM

You will be called for the hearing at the telephone number that you placed on your application or answer. If your application or answer indicates that you have an attorney, the call will be placed to the telephone number for your attorney. We will call one additional number for you when the hearing begins if you or your attorney request that we do so.

If you or your attorney need to be called at a number different from the number shown on the application or answer or if you need us to call more than one additional number, you must notify us no later than 4:30 p.m. on the last business day before the date of the hearing. You may notify us by telephone at (515) 725-4120, or by fax at (515) 281-6501, or you may deliver a written notice to the Division of Workers' Compensation, 1000 East Grand Avenue, Des Moines, IA 50319. WE WILL ONLY CALL THE NUMBER SHOWN ON YOUR APPLICATION OR ANSWER UNLESS YOU GIVE US A DIFFERENT OR ADDITIONAL NUMBER.

This hearing will be held under authority and jurisdiction of Iowa Code chapter 17A, section 85.27 and 876 IAC 4.48. The only issue to be considered is whether claimant is entitled to alternate medical care.

INSTRUCTIONS AND INFORMATION

You must be prepared to present your case at the time specified in this notice.

If you wish to participate in this telephone hearing you must have given the Division of Workers' Compensation (DWC) the number(s) to call by: (1) placing the number(s) on your application/answer; **OR** (2) by telephone (515) 725-4120; **OR** (3) by fax (515) 281-6501.

All written evidence to be used at the hearing must be: (1) limited to ten pages per party; (2) exchanged with all parties prior to hearing; (3) filed with DWC BEFORE the hearing. Clearly identify the evidence as "under rule 876 IAC 4.48."

All discovery must be completed prior to hearing. DWC will not rule on discovery disputes or motions.

All motions, except motions to change the type of hearing (telephone or in-person), will be considered at the hearing.

Hearing briefs, if any, must be filed with DWC before the date of hearing and are limited to three pages.

A party may be represented as provided in rule 876 IAC 4.48(13).

At hearing, the employer will be required to respond on the record to the allegations contained in claimant's petition if a written answer is not on file.

The provisions of rule 876 IAC 4.48 are properly invoked only where liability of the employer is not at issue. If employer places liability at issue, this case will be dismissed without prejudice. Disputed liability cases should be commenced under rule 876 IAC 4.1 (Contested Case Proceeding).

To Defendant(s): You have the right to request an in-person hearing in Des Moines. You may do so by filing an answer prior to hearing, on the same form containing claimant's original notice and petition.

DATE FILED: 6/18/2019

CC: THOMAS M WERTZ

TARGET CORPORATION

(TYPE OR PRINT)

14-0011 (11/06
FORM 100C

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

Claimant Kathleen Stastny

File Number 5029198

VS. Employer Target Corporation

Street 8300 Norman Center Drive, Suite 1000

City Minneapolis State MN Zip 55437

Insurance Carrier Self-Insured

Street

City State Zip

FILED
JUN 18 2019
WORKERS' COMPENSATION

ORIGINAL NOTICE, PETITION, AND ANSWER CONCERNING APPLICATION FOR ALTERNATE MEDICAL CARE (IOWA CODE SECTION 85.27) (Rule 876 IAC 4.48)

Injury Date 02/25/2005

Body Part(s) Injured Right Shoulder

ORIGINAL NOTICE

To the Above-Named Employer:

You are notified that an action has been commenced before the Iowa Workers' Compensation Commissioner seeking relief as set forth in the petition below. **DUE TO THE TIME CONSTRAINTS, IT IS NOT NECESSARY TO FILE AN ANSWER.** If no answer is filed, a response will be required at a hearing. If it is disputed that the employer is liable on this claim, this case will be dismissed without prejudice.

NOTE: You should promptly advise your workers' compensation insurance carrier and attorney that you have received this notice.

PETITION (To Be Completed By Claimant)

In support of this claim for alternate medical care, claimant states:

1. Claimant sustained injury arising out of and in the course of employment with the employer on (Date) 05/25/2005
2. The injury occurred at (City) Cedar Rapids, (County) Linn, and (State) Iowa.
3. The injury has caused need for medical treatment.
4. The treatment offered by employer is not reasonably suited to treat the injury without undue inconvenience to claimant.
5. Claimant is dissatisfied with the care provided and has communicated that dissatisfaction to employer.
   Reason for dissatisfaction and relief sought: Sedgwick has notified Dr. Stanley Mathew they will no longer pay for his treatment. Claimant has been authorized to treat with Dr. Mathew and has been regularly treating for years. Claimant seeks continued authorization of Dr. Mathew.
6. **A hearing is requested**
   ☑ by telephone conference call; or.
   ☐ in person
   to be held in Des Moines, Iowa (If neither party requests an in-person hearing, a telephone hearing will be scheduled.)
7. Employer does not dispute liability on this claim.
8. The provisions of Rule 876 IAC 4.48 are invoked.

(Claimant's Signature)

Phone No. ( )
(include area code)

Date signed:

(If Represented by Attorney)

Attorney Thomas M. Wertz

Street 1500 Center Street NE, PO Box 849

City Cedar Rapids **State** IA **Zip** 52406-0849

Phone (Include Area Code) (319)861-3001

Fax (Include Area Code (319)861-3007

Signature of Attorney.

twertz@wertzlaw.com
Email Address of Attorney

Date Signed:

THE INFORMATION PROVIDED WILL BE OPEN FOR PUBLIC INSPECTION UNDER IOWA CODE §22.11

Kathleen Stastny vs. Target Corporation File No. 5029198

Claimant Employer

PROOF OF SERVICE

On the 14th day of June, 2019, I mailed a copy of the foregoing original notice and petition by certified mail, return receipt requested, to the employer's last known address which is: 8300 Norman Center Drive, Suite 1000, Minneapolis, MN 55437-3844

I CERTIFY under penalty of perjury and pursuant to the laws of the State of Iowa that the preceding is true and correct.

Date June 14, 2019 Signature Rhonda R. Pirritz

ANSWER (Employer/Insurance Carrier must answer on this form)

1. ***A hearing is requested.***
   - ☐ by telephone conference call; or
   - ☐ in person

   to be held in Des Moines, Iowa, (If neither party requests an in-person hearing, a telephone hearing will be scheduled.)
2. ☐ (Check if applicable) Employer denies paragraph 7 of the Petition and disputes liability of this claim.

Employer_____

Street_____

City_____ State_____ Zip___

Phone (Include Area Code)_____

Insurer_____

Street_____

City_____ State_____ Zip___

Phone (Include Area Code)_____

Signature of Person Answering

Name:_____

Title:_____

Date signed: _____

(If Represented by Attorney)

Attorney_____

Street_____

City_____ State_____ Zip___

Phone (Include Area Code)_____

Date Signed: _____

INSTRUCTIONS - BOTH PARTIES MUST USE THIS FORM

To Claimant:

1. Alternate medical care is the only issue that can be considered under this procedure.
2. Complete lines 1, 2, 5, and 6 of the petition. Attach the claimant's confidential information sheet.
3. Deliver a completed copy of this form to the employer by certified mail, return receipt requested or by personal service as in civil actions (rule 876 IAC 4.7) and mail a copy to the employer's attorney of record for this file if known (rule 876 IAC 4.13).
4. Complete the proof of service portion on the original of this form and deliver this entire form with the physician's report to the Division of Workers' Compensation at 1000 East Grand Avenue, Des Moines, Iowa 50319-0209.

To Employer/Insurance Carrier:

1. If you file an answer, serve a copy to the claimant or claimant's attorney pursuant to rule 876 IAC 4.13.
2. Type or print the name and title of the person answering below the signature line.

Generally:

1. This procedure is not available if employer disputes liability on the claim generally. If liability is disputed, this case will be dismissed without prejudice. Disputed cases should be commenced under rule 876 IAC 4.1

IOWA WORKFORCE DEVELOPMENT

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

IN THE MATTER OF DELEGATION OF AUTHORITY	ORDER	FILED FEB 16 2015 WORKERS' COMPENSATION

The legislative intent of Iowa Code section 85.27 is that applications for alternate care be decided by the agency in a timely manner. Delegating authority to the presiding deputy workers' compensation commissioner to act as the workers' compensation commissioner in presiding at the contested case hearing and issuing final agency action is consistent with the legislative intent.

The deputy workers' compensation commissioner presiding at the contested case in an application for alternate medical care, pursuant to rule 876 IAC 4.48, is hereby delegated the authority to issue the final agency decision on the application, Iowa Code section 86.3. There is no right of intra-agency appeal on this decision. Continental Telephone Co. v. Colton, 348 N.W.2d 623 (Iowa 1984) and LeaseAmerica Corp. v. Iowa Dept. of Revenue, 333 N.W.2d 847 (Iowa 1983).

The presiding deputy workers' compensation commissioner's decision in an application for alternate care is the final agency decision. Iowa Code section 17A.15(1).

This authority shall continue until further ordered.

Signed and filed this 16th day of February, 2015.

Joseph S. Cortese II

JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER