

## BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

JANET KETELSEN,

Claimant,

vs.

TRINITY HEALTH CARE CENTER  
d/b/a ALVERNO HEALTH CARE  
FACILITY,Employer,  
Self-Insured,  
Defendant.

File No. 19700542.06

ALTERNATE MEDICAL

CARE DECISION

Head Note No.: 2701

## STATEMENT OF THE CASE

On April 23, 2021, claimant filed a petition for alternate medical care pursuant to Iowa Code 85.27 and 876 Iowa Administrative Code 4.48. The defendant filed an answer admitting liability for the claim relating to right epicondylitis and left epicondylitis. During the hearing, the undersigned confirmed that the defendant does not dispute liability for the injury of June 20, 2019, for which the claimant is seeking treatment.

The matter was scheduled for hearing on May 5, 2021, at 8:30 a.m. The undersigned presided over the hearing held via telephone and recorded digitally on May 5, 2021. That recording constitutes the official record of the proceeding under rule 876 IAC 4.48(12). Claimant participated through her attorney, Nathan Staudt. The defendant participated via their attorney, Lee Hook. The record consists of:

- Claimant's Exhibits, numbered 1 through 4, comprised of five pages of documents attached to the petition for alternate medical care.
- Defendants' Exhibits, labeled A through C, comprised of six pages.

On February 16, 2015, the Iowa Workers' Compensation Commissioner issued an order delegating authority to deputy workers' compensation commissioners, such as the undersigned, to issue final agency decisions on applications for alternate care. Consequently, this decision constitutes final agency action, and there is no appeal to the commissioner. Judicial review in a District Court pursuant to Iowa Code 17A is the avenue for an appeal.

## ISSUE

The issue under consideration is whether claimant is entitled to payment of outstanding medical billing related to authorized, causally-related medical treatment.

## FINDINGS OF FACT

Claimant, Janet Ketelsen, sustained an injury to her left upper extremity and left shoulder on June 20, 2019, which arose out of and in the course of her employment with Trinity Health Care Center d/b/a Alverno Health Care Facility. Defendant has accepted liability for the injury in their answer, and at the hearing conducted on May 5, 2021. The dispute in this case is whether or not the claimant is entitled to payment of outstanding medical billing related to authorized, causally-related medical treatment.

The claimant provided exhibits consisting of medical billing from MercyONE, medical records from ORA Orthopedics, and MercyONE. The defendant provided an e-mail from the claimant to the defendant requesting payment, a letter to the claimant's counsel indicating that the billing was sent to the wrong insurance carrier for processing, and a previous decision of the undersigned.

During the hearing, the claimant requested that the undersigned issue an order directing the defendant to pay the allegedly owed outstanding amounts. The claimant argued that under Iowa Code section 85.27, the claimant is owed these amounts and that authorization of medical care and satisfaction of the resulting billing go "hand in hand." The claimant further argued that not paying the outstanding billing jeopardized Ms. Ketelsen's ability to continue treatment.

The defendant argued that an alternate care hearing pursuant to Iowa Code section 85.27(4) is not the correct avenue for this remedy. The defendant indicated that the medical billing is being sent to the proper insurer.

## CONCLUSIONS OF LAW

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

For purposes of this section, the employer is obligated 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.

Iowa Code 85.27(4). See Pirelli-Armstrong Tire Co. v. Reynolds, 562 N.W.2d 433 (Iowa 1997). An application for alternate care shall concern only the issue of alternate care. 876 IAC 4.48(5).

The plain language of Iowa Code 85.27(4) indicates that an application for alternate care and the resulting proceedings pertain to the employer's obligation to furnish reasonable services and supplies to treat an injured employee. The statute continues to use language indicating that 85.27(4) and alternate care proceedings pertain to medical care or supplies for an injured employee, including "...treatment must be offered promptly and be reasonably suited to treat the injury without undue inconvenience to the employee." Id. The commissioner is allowed, upon application and proof, to allow for "other care." Id. While 85.27(4) indicates that the employer shall hold the employee harmless for the cost of authorized care, that is not the purpose of the alternate care proceeding.


Additionally, the Iowa Administrative Code makes it clear that applications for alternate care concern only the issue of alternate care. 876 IAC 4.48(5). Payment for outstanding medical billing does not fall under alternate care proceedings pursuant to Iowa Code 85.27(4).

ORDER

IT IS THEREFORE ORDERED:

1. Claimant's petition for alternate medical care is denied.

Signed and filed this 5<sup>TH</sup> day of May, 2021.



ANDREW M. PHILLIPS  
DEPUTY WORKERS'  
COMPENSATION COMMISSIONER

The parties have been served, as follows:

Nathaniel Staudt (via WCES)

Lee Hook (via WCES)