

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

JONATHAN NORWOOD,

Claimant,

vs.

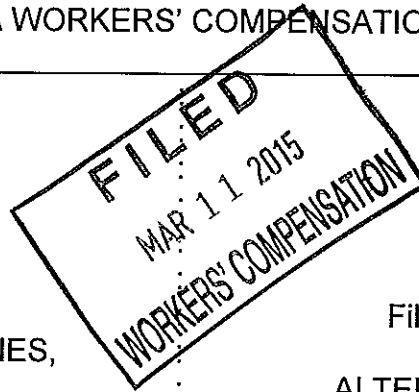
G & H MOTOR FREIGHT LINES,

Employer,

and

GREAT WEST CASUALTY COMPANY,

Insurance Carrier,
Defendants.



File No. 5052291

ALTERNATE MEDICAL

CARE DECISION

HEAD NOTE NO: 2701

This is a contested case proceeding under Iowa Code chapters 85 and 17A. The expedited procedures of rule 876 IAC 4.48, the "alternate medical care" rule, are invoked by claimant, Jonathan Norwood.

This alternate medical care claim came on for hearing on March 11, 2015. The proceedings were recorded digitally and constitute the official record of the hearing. By an order filed by the workers' compensation commissioner, this decision is designated final agency action. Any appeal would be a petition for judicial review under Iowa Code section 17A.19.

The record in this case consists of claimant's exhibits 1 through 2, defendants' exhibit A, and the testimony of claimant and Lori Reddish

ISSUE

The issue presented for resolution in this case is whether claimant is entitled to alternate medical care consisting of returning his physical therapy (PT) to Creston Nursing and Rehabilitation and having claimant returned for follow-up care with Joseph Chen, M.D.

FINDINGS OF FACT

Defendants accepted liability for claimant's work injury of June 28, 2014. Claimant testified he injured his neck, shoulders and back when the truck he was driving hit a cow.

Claimant testified he initially had PT with Rock Valley. Claimant said he did not have improvement with the PT offered by Rock Valley. He said his PT was transferred to Creston Nursing and Rehabilitation (Creston). He said he had PT for three months at Creston. He said the PT he received at Creston was more "hands on" than PT received at Rock Valley. He said the physical therapist he was working with at Creston, Jaime Jose, worked more closely with him than did the physical therapist at Rock Valley.

Claimant testified Dr. Chen is an authorized treating physician.

On February 11, 2015, claimant was evaluated by Dr. Chen at the University of Iowa Hospitals and Clinics (UIHC). Claimant reported neck and low back pain caused when he hit a cow while driving a cab of a semi-trailer. Claimant said he had been going to physical therapy locally, that he had ongoing pain, and he did not feel any therapies had been helpful. Physical therapy notes indicated claimant had increased pain with minimal activities. (Exhibit 2, page1)

Claimant was assessed as having cervical pain and low back pain. Notes indicate Dr. Chen spoke with case manager, Lori Reddish, and recommended Ms. Reddish obtain authorization for claimant to return for Spine Rehabilitation Evaluation. He also asked for claimant to see a local physical therapist for additional sessions to optimize his range of motion. (Ex. 2, p. 5)

Dr. Chen recommended claimant return in one month for Spine Rehabilitation Evaluation. An MRI was also discussed. Given claimant's symptoms and preexisting conditions, Dr. Chen did not believe an MRI or an EMG/NCS would be useful diagnostic tools. (Ex. 2, pp. 5-6)

In an "Additional Comments" section to the February 11, 2015 exam, dated February 12, 2015, Dr. Chen noted claimant was to return in one month to discuss progress with physical therapy and to proceed with a one-day Spine Rehabilitation Evaluation, and to see what claimant thought of the Spine Rehabilitation Team's recommendations. (Ex. A)

Claimant testified he understood, after his February 11, 2015 evaluation with Dr. Chen, he was continuing PT at Creston. He said he also understood Dr. Chen wanted him to get a follow-up appointment as soon as possible to have him evaluated to see if he was a candidate for the UIHC Spine Rehabilitation program.

Claimant said he has called Dr. Chen's office two times since his exam. He said the first time was one week after the February 11, 2015 appointment. He said he was told by Dr. Chen's office, he was not authorized to return to Dr. Chen.

Claimant testified he has had two PT sessions at Rock Valley since February 11, 2015.

Lori Reddish testified she is a nurse case manager who works for defendant insurer. She said she is the nurse case manager for claimant's case. Ms. Reddish said it is her understanding she is not to be in the room when claimant is being examined, and that she is not to speak with claimant directly. She said she does talk with physicians and other health care providers, after they meet with claimant.

Ms. Reddish testified she met with Dr., Chen after his February 11, 2015 exam of claimant. She said Dr. Chen told her claimant had a limited range of motion in his neck and claimant needed more aggressive PT. It was also her understanding that claimant was to return for follow-up with Dr. Chen 30 days after the February 11, 2015 exam. At that point claimant would have a one-day Spine Rehabilitation evaluation. After the evaluation, Dr. Chen would make recommendations to go through the Spine Rehabilitation program, or other recommendations.

She said that since claimant has contacted Dr. Chen's office there has been some confusion regarding what the next step for treatment is with Dr. Chen. She said she has been trying to contact Dr. Chen's office to resolve any confusion.

CONCLUSIONS 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 R. App. P. 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).

I agree with the parties that notes found in Dr. Chen's records in Exhibit 2 and A are a little confusing. Dr. Chen's records indicate claimant was having PT and claimant had, at the time of the February 11, 2015 visit, indicated PT was not very helpful. (Ex. 2, p.1) Notes also indicate Dr. Chen spoke with Ms. Reddish to have claimant undergo PT that would optimize his range of motion in the neck. (Ex. 2, p. 5)

Ms. Reddish testified Dr. Chen told her he wanted claimant to have more aggressive PT. Based on this, Ms. Reddish transferred claimant's PT from Creston to Rock Valley. Based on the limited information about PT in Dr. Chen's records, it appears Dr. Chen wanted claimant to have other, more aggressive PT. Based on this, claimant's request to have his PT returned, at this time, to Creston, is denied.

Notes from Dr. Chen also indicate, contrary to claimant's testimony, that claimant was to have PT for a month, and return 30 days after the February 11, 2015 visit. At that time, claimant was to undergo a one-day Spine Rehabilitation evaluation. Based on that evaluation, Dr. Chen and the Spine Rehabilitation team would make recommendations to claimant. (Ex. 2, p. 5; Ex A)

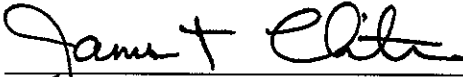
Claimant testified Dr. Chen's office told him he is not authorized to return for treatment. Defendants are ordered to have claimant return to Dr. Chen, as soon as practical, to discuss claimant's PT and to have claimant undergo a one-day Spine Rehabilitation evaluation.

ORDER

THEREFORE IT IS ORDERED

That claimant's petition is denied, in part, and granted, in part. Claimant shall return to PT at Rock Valley. Defendants shall authorize claimant to return, as soon as practical, for follow-up with Dr. Chen so claimant may undergo the one-day Spine Rehabilitation evaluation.

Signed and filed this 11th day of March, 2015.



JAMES F. CHRISTENSON
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

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