

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

ROXANN INMAN,

Claimant,

vs.

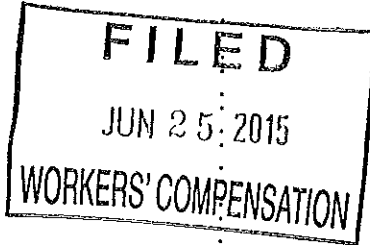
H & R BLOCK EASTERN
ENTERPRISES, INC.,

Employer,

and

INDEMNITY INS. CO. OF N. AMERICA,

Insurance Carrier,
Defendants.



File No. 5052648

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, Roxann Inman. Claimant appeared personally and through attorney, William Nicholson. Defendants appeared through their attorney, Theresa Davis.

The alternate medical care claim came on for hearing on June 24, 2015. 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.

ISSUE

The issue presented for resolution is whether the claimant is entitled to alternate medical care.

FINDINGS OF FACT

The undersigned having considered all the evidence in the record finds:

The defendants have admitted the claimant was injured in an accident on March 27, 2015, and this accident has caused the need for treatment on the claimant's neck. The defendants have authorized the neck treatment sought by the claimant. The defendants have also provided treatment for the claimant's knee; however, the defendants refuse to admit liability for the knee condition. In other words, the defendants, at this time, contest whether the treatment sought for the knee injury is causally related to the auto accident. The defendants stated that the investigation into causal connection is ongoing.

REASONING AND CONCLUSIONS OF LAW

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 claim.

The Iowa Supreme Court has held:

We emphasize that the commissioner's ability to decide the merits of a section 85.27(4) alternate medical care claim is limited to situations where the compensability of an injury is conceded, but the reasonableness of a particular course of treatment for the compensable injury is disputed.

....

Thus, the commissioner cannot decide the reasonableness of the alternate care claim without also necessarily deciding the ultimate disputed issue in the case: whether or not the medical condition Barnett was suffering at the time of the request was a work-related injury.

....

Once an employer takes the position in response to a claim for alternate medical care that the care sought is for a noncompensatory injury, the employer cannot assert an authorization defense in response to a subsequent claim by the employee for the expenses of the alternate medical care.

R. R. Donnelly & Sons v. Barnett, 670 N.W.2d 190, 197-198 (Iowa 2003).

In this case, the defendants have refused to admit that the treatment sought for the claimant's knee condition is causally connected to her work injury. This amounts to a denial of liability. The claimant's petition seeking medical treatment must be dismissed because the defendants are denying liability for the treatment sought.

The defendants thereby lose their right to control the medical care claimant seeks in this proceeding and the claimant is free to choose that care on his own. Bell Bros., Heating v. Gwinn, 779 N.W.2d 193 (Iowa 2010). As a result of the denial of liability for the condition sought to be treated in this proceeding, claimant may obtain reasonable medical care from any provider for this treatment but at claimant's expense and seek reimbursement for such care using regular claim proceedings before this agency.

The claimant has the right to be notified as to the reason(s) for the denial. "When liability on a claim is denied, a letter shall be sent to claimant stating reasons for the denial." 876 IAC 3.1(2). The defendants have complied with this provision by listing the specific reasons for the denial in their answer.

ORDER


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 the care for which defendants deny liability, defendants are barred from asserting lack of authorization as a defense for those charges.

FURTHER, if defendants have not already done so, defendants are ordered to file a Subsequent Report of Injury "denial of liability" through the EDI system, and send a letter to the claimant which states the reason(s) for the denial pursuant to 876 IAC 3.1(2). The defendants shall do this within ten (10) days from the date of this order.

Pursuant to a standing order of delegation of authority by the workers' compensation commissioner pursuant to Iowa Code section 86.3, the undersigned enters this decision for the workers' compensation commissioner. There is no right of appeal of this decision to the workers' compensation commissioner. Appeal of this decision, if any, would be by judicial review pursuant to Iowa Code section 17A.19.

Signed and filed this 25th day of June, 2015.


JOSEPH L. WALSH
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

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