

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

KRISTIE LANGHURST,

Claimant,

vs.

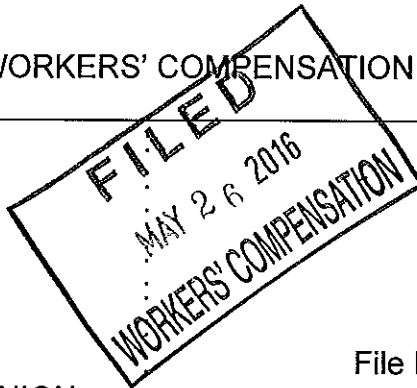
IOWA HEARTLAND CREDIT UNION,

Employer,

and

CONTINENTAL WESTERN INSURANCE,

Insurance Carrier,
Defendants.



File No. 5056608

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, Kristie Langhurst.

The alternate medical care claim came on for hearing on May 25, 2016. The proceedings were digitally recorded, which constitutes the official record of this proceeding. By order filed February 16, 2015, this ruling is designated final agency action.

The record consists of claimant's exhibits 1-9; defendants' exhibits A-B.

ISSUE

Claimant is seeking to have defendants authorize a prescription for Prazosin and a prescription for Trazadone; these prescriptions were written by an authorized treating provider. Claimant is seeking an order that defendants not delay or deny any prescriptions in the future.

FINDINGS OF FACT

Claimant, Kristie Langhurst sustained an injury arising out of and in the course of her employment with Iowa Heartland Credit Union in Mason City, Iowa on July 28, 2015. Claimant was working at the credit union as a Teller and she also worked in Member Service on July 28, 2015, when the credit union was robbed by a man with an AK-47

and 4 bombs. As a result of that injury claimant has been diagnosed with anxiety and Post-traumatic Stress Disorder (PTSD). (Testimony)

Ms. Langhurst has been receiving treatment for her anxiety and PTSD at Pamela Little, Inc. in Mason City, Iowa. She has also been receiving authorized treatment from Dr. Darko Zdilar. Dr. Zdilar wrote prescriptions for Prazosin and Trazodone. Since the time that this alternate care petition was filed on May 16, 2016, the defendants have authorized both prescriptions. In fact, claimant has filled both prescriptions. (Testimony) Therefore, the issues regarding these prescriptions are moot.

Claimant is also seeking an order from this agency that defendants not delay or deny any prescriptions in the future. A petition for alternate medical care is an expedited procedure designed to help an injured worker receive alternate care if they are dissatisfied with the treatment they are being offered by defendants. An alternate care proceeding is not a vehicle for a party to try and obtain an order that defendants pay for treatment that may or may not be ordered in the future. Claimant's request is not appropriate and therefore, is denied.

REASONING AND CONCLUSIONS OF LAW

Under Iowa law, the employer is required to provide care to an injured employee and is permitted to choose the care. Pirelli-Armstrong Tire Co. v. Reynolds, 562 N.W.2d 433 (Iowa 1997).

[T]he 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.

By challenging the employer's choice of treatment – and seeking alternate care – claimant assumes the burden of proving the authorized care is unreasonable. See Iowa R. App. P. 14(f)(5); 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). In Pirelli-Armstrong Tire Co., 562 N.W.2d at 433, the court approvingly quoted Bowles v. Los Lunas Schools, 109 N.M. 100, 781 P.2d 1178 (App. 1989):

[T]he words "reasonable" and "adequate" appear to describe the same standard.

[The New Mexico rule] requires the employer to provide a certain standard of care and excuses the employer from any obligation to provide other services only if that standard is met. We construe the terms "reasonable" and "adequate" as describing care that is both appropriate to the injury and sufficient to bring the worker to maximum recovery.

The commissioner is justified in ordering alternate care when employer-authorized care has not been effective and evidence shows that such care is "inferior or less extensive" care than other available care requested by the employee. Long; 528 N.W.2d at 124; Pirelli-Armstrong Tire Co.; 562 N.W.2d at 437.

In the present case, claimant does not contend that she is dissatisfied with the treatment provided by the defendants. In fact, claimant testified that she has filled the prescriptions that have now been authorized by defendants. Therefore, the issue of the past prescriptions is moot.


With regard to claimant's request that defendants be ordered to not delay or deny any future prescriptions I conclude that this is not an available remedy in an alternate care procedure. The alternate care proceeding is designed to provide a claimant who is dissatisfied with her care to seek an order granting the injured worker alternate care. In the present case, the claimant is not dissatisfied with her care, nor is she seeking an alternate type of care. Rather, claimant is seeking to have the treatment bills paid in a more timely fashion. A petition for alternate medical care is not the appropriate vehicle for issues regarding payment of bills. For these reasons, claimant's petition for alternate medical care is denied.

ORDER

THEREFORE IT IS ORDERED:

Claimant's petition for alternate medical care is deemed moot in part and is, in part, denied.

Signed and filed this 26th day of May, 2016.



ERIN Q. PALS
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

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