BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

ALEVIA GREEN, Claimant, vs. NORTH CENTRAL IOWA REGIONAL SOLID WASTE AGENCY, Employer, and IMWCA, Insurance Carrier, Defendants.	File No. 5042527 REMAND DECISION Head Note No: 2501

FILED
MAR 8 2018
WORKERS' COMPENSATION

STATEMENT OF THE CASE

This matter is before the Iowa Division of Workers' Compensation on remand from the Iowa District Court in and for Webster County.

This matter was initially heard in arbitration on October 6, 2014. The hearing report in this case indicated claimant's entitlement to medical benefits was an issue in dispute. The arbitration decision found claimant failed to carry her burden of proof she sustained permanent disability. The arbitration decision gave no analysis of claimant's claim for medical expenses and only noted, "The claimant did sustain an injury arising out of and in the course of employment, but the employer has reimbursed the claimant for all reasonable medical expenses incurred in the treatment of the injury." (Arbitration Decision, page 6)

Claimant appealed the arbitration decision. The appeal decision found any treatment not paid by defendants was not authorized or necessary to treat the work injury. (Appeal Decision, page 20) The decision also affirmed the finding in the arbitration decision that claimant failed to carry her burden of proof she sustained a permanent disability.

The decision was appealed in a Petition for Judicial Review to the District Court in and for Webster County. The District Court affirmed the agency's decision regarding the permanent disability determination. The District Court remanded the case back to

this agency for development of the record and proper application of the law regarding a medical benefits determination.

This decision constitutes the final agency decision on remand.

ISSUES

Is there a causal connection between claimant's injury and the claimed medical expenses?

FINDINGS OF FACT

As detailed in the appeal decision, claimant had a traumatic injury on April 30, 2012, when she was hit by the door of a roll-off recycling truck. (Exhibit 29)

On April 30, 2012, claimant was taken to the emergency room at Trinity Regional Medical Center. (Ex. 5) Claimant was later transferred to Iowa Methodist Medical Center for evaluation of a closed head injury. (Ex. 5, p. 7; Ex. 6, pp. 3-5)

Claimant received treatment in the emergency room at Iowa Methodist Hospital on April 30, 2012. (Ex. 6) Claimant was kept for further treatment at Iowa Methodist beginning on April 30, 2012. She was eventually discharged on May 2, 2012. (Ex. 6, p. 41)

On May 15, 2012, claimant was evaluated by Imad Francis, M.D. Dr. Francis was claimant's primary care physician. Claimant was evaluated for symptoms related to her April 30, 2012, accident. (Ex. 8, pp. 1-2)

On May 17, 2012, claimant was evaluated by Robert Rondinelli, M.D. Claimant was seen with a case manager for defendant-insurer. Claimant was referred to Dr. Thorson (no first name given), in the emergency room for follow-up treatment. (Ex. 6, pp. 68-69)

Claimant returned to Dr. Francis on May 24, 2012, and on August 15, 2012. (Ex. 8, pp. 3-5)

Claimant was evaluated by Charles Mooney, M.D., on May 31, 2012, at the request of defendants. Claimant was not returned to work. She was referred to James Andrikopoulos, Ph.D., and to Michael Kitchell, M.D. (Ex. 9, pp. 1-5)

On June 14, 2012 claimant was evaluated by Dr. Kitchell. Claimant was treated with medication and recommended to take the Minnesota Multiphasic Personality Inventory exam (MMPI). (Ex. 10, pp. 1-2)

Claimant returned to Dr. Mooney on August 8, 2012. Dr. Mooney found claimant had a normal exam and no objective findings to correlate with her complaints. Dr. Mooney found claimant to be at maximum medical improvement (MMI). He returned

claimant to work with no restrictions. Dr. Mooney did not anticipate any further follow-up care. (Ex. 9, pp. 9-10)

In an August 20, 2012, report Dr. Andrikopoulos gave his opinions of claimant's condition following an independent medical evaluation (IME). He opined claimant's subjective complaints were incompatible with a post-concussive syndrome. He opined any cognitive difficulty claimant had was not due to her April 30, 2012, accident. He opined claimant was over-reporting symptoms. (Ex. F, pp. 65-88) Dr. Andrikopoulos opined claimant could return to work to her previous job with no restrictions. (Ex. F, pp. 88-89)

Claimant returned for follow-up with Dr. Kitchell on August 31, 2012. Claimant had returned to work but had difficulties with heat at work. Dr. Kitchell recommended claimant only return to him on an as-needed basis. Claimant was discharged from care. (Ex. 10, pp. 3-4)

On February 15, 2013, claimant returned to Dr. Mooney. Claimant had complaints of headaches, neck pain and right shoulder pain. Dr. Mooney found claimant's complaints were out of proportion to her exam findings, which were significantly inconsistent. Dr. Mooney did not recommend initial imaging or intervention. His finding of MMI was unchanged. (Ex. 9, pp. 17-18)

On March 21, 2013, claimant was evaluated at Community Health Center in Fort Dodge. Claimant was evaluated by Debra Anderson, FNP. Claimant complained of shoulder and neck pain with headaches. Claimant was recommended to have an MRI. A cervical MRI performed on March 25, 2013, was unremarkable. (Ex. 12, pp. 1-8)

Claimant returned to Community Health on April 8, 2013, with complaints of pain in the right shoulder going into the neck and headaches. Claimant was recommended to see Janet Secor, D.O. (Ex. 12, pp. 9-13)

In an April 23, 2013, report, Robin Sassman, M.D. gave her opinions of claimant's condition following an IME. Dr. Sassman was retained by claimant. Dr. Sassman found claimant had permanent impairment. (Ex. 18, pp. 1-6) She found claimant was at MMI as of April 20, 2013. Dr. Sassman did not recommend additional medical care. (Ex. 18, p. 7)

Claimant returned to Community Health on May 15, 2013. She was evaluated by Dr. Secor for right shoulder pain. Claimant was given osteopathic manipulations. (Ex. 12, pp. 14-16)

Claimant continued to treat at Community Health from May 20, 2013, through October 24, 2013. Osteopathic manipulations and treatment for headaches were administrated as care. (Ex. 12, pp. 19-46)

From January 23, 2014, to July 24, 2014, claimant received mental health treatment at the Berryhill Center in Ft. Dodge. (Ex. 14)

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).

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. Section 85.27. Holbert v. Townsend Engineering Co., Thirty-second Biennial Report of the Industrial Commissioner 78 (Review-Reopening October 1975).

In Bell Bros Heating v Gwinn, 779 N.W.2d 193, 203-204 (Iowa 2010), the court addressed the issue of unauthorized medical care. The court wrote, in part:

> The protections for employees provided under this statute basically modify the employer's right to choose medical care in three ways. First, an employee is permitted to choose his or her own medical care at the employer's expense "[i]n an emergency" when the employer "cannot be reached immediately." Iowa Code § 85.27(4). Second, the employee and employer may consent to alternative medical care paid by the employer. Id. Finally, the workers' compensation commissioner may order alternative care paid by the employer following a prompt, informal hearing when the employee is dissatisfied with the care furnished by the employer and establishes the care furnished by the employer was unreasonable.

In addition, a claimant can seek payment of unauthorized medical care by a preponderance of the evidence that the care was reasonable and beneficial. Gwinn, 779 N.W.2d 193, 206 (Iowa 2010). To be beneficial, the medical care must provide a more favorable medical outcome than would likely have been achieved by the care authorized by the employer. Id. at 206. The claimant has a significant burden to prove the care was reasonable and beneficial. Id. at 206.

Claimant seeks reimbursement for billings found in Exhibit 25A and 33. Claimant also seeks reimbursement for charges detailed in Exhibit 25, and for treatment at the Berryhill Center. (Ex. 14)

EXHIBIT 25A

Regarding Exhibit 25A, claimant seeks payment of medical expenses associated with The Iowa Clinic, UnityPoint Clinic, and Iowa Methodist Medical Center for dates of service from April 30, 2012, through May 2, 2012. As noted in the findings of fact, claimant was transported from Trinity Regional Medical Center to Iowa Methodist Medical Center for emergency treatment of a closed head injury. (Ex. 6, pp. 2, 7, 10, 13,

15, 41) Records indicate treatment at The Iowa Clinic, P.C., Iowa Methodist Medical Center, and UnityPoint Clinic for dates of service from April 30, 2012, through May 2, 2012 was for emergency care of claimant's closed head injury. Defendants are liable for those charges under Iowa Code section 85.27(4).

Regarding the UnityPoint Clinic billing for a date of service of May 17, 2012, this evaluation was follow-up care with Dr. Rondinelli. Dr. Rondinelli was one of the physicians who treated claimant while she was seeking emergency treatment at Iowa Methodist. Records from this visit indicate an agent of defendants was present at the evaluation. Given this record, it is found the billings for UnityPoint, for the date of service of May 17, 2017, should be paid by the defendants, as this care was authorized treatment. (Ex. 6, pp. 68-69)

Claimant also seeks treatment with a Terry Moehnke for a date of service of May 10, 2012, totaling $141.00. There are no medical records or billing records related to this date of service of May 10, 2012. Given this lack of evidence in the record, claimant has failed to carry her burden of proof she is due reimbursement for that charge.

Claimant seeks reimbursement for an "Rx" charge with a date of service of August 7, 2012, for $36.59. There are no medical records or billing records related to this date of service. Given this lack of information, claimant has failed to carry her burden of proof she is due reimbursement for this charge.

EXHIBIT 33

Claimant seeks reimbursement of $15,123.71 for charges from April 30, 2012, through May 2, 2012, with Iowa Methodist Medical Center. These charges have already been detailed under Exhibit 25A, and defendants are liable for these charges.

Claimant seeks payment of charges with Trinity Regional Medical Center for dates of service of April 30, 2012, to March 25, 2013, for $9,443.49. As detailed in the findings of fact, claimant was taken by ambulance to Trinity Regional Medical Center on April 30, 2012, for emergency care. She was later transported to Iowa Methodist Medical Center on April 30, 2012. Defendants are liable for charges related to Trinity Regional Medical Center only for the date of service of April 30, 2012. (Ex. 5)

There are no other medical records or billings for any date of service after April 30, 2012, for Trinity Regional Medical Center. Given this lack of information, claimant has failed to carry her burden of proof that defendants are liable for any charges, other than charges related to the April 30, 2012 date of service.

Claimant seeks reimbursement for Walgreens Pharmacy charges from May 2, 2012, through April 8, 2013, for $563.65. There are no medical records, billing records or receipts from Walgreens Pharmacy in the record. Given this lack of evidence, claimant has failed to carry her burden of proof. Defendants are not liable for the Walgreens Pharmacy charges.

Claimant seeks reimbursement for charges with Daniel Pharmacy from July 17, 2013, through February 29, 2014, for $565.43. There are no medical records, billing records or receipts for Daniel Pharmacy for these dates of service. Given this lack of evidence, claimant has failed to carry her burden of proof defendants are liable for the Daniel Pharmacy charges.

Claimant seeks reimbursement for charges from Trimark Family Practice for dates of service of May 15, 2012, May 24, 2012, and August 15, 2012. (Ex. 8) The record indicates these charges were not authorized by defendants. Under Gwinn, in order for defendants to be liable for unauthorized charges, the charges must be proven to be reasonable and beneficial. There is little evidence in the record that the care claimant received from Trimark Family Practice was beneficial to claimant. Given this record, claimant has failed to carry her burden of proof that defendants are liable for the Trimark charges.

Claimant seeks payment for charges for the Community Health Center from March 21, 2013, to October 24, 2013. These charges total $1,549.00.

On August 8, 2012, Dr. Mooney found claimant at MMI. He returned claimant to work without restrictions. He did not anticipate further follow-up care. (Ex. 9, pp. 9-10)

On August 20, 2012, Dr. Andrikopoulos opined claimant could return to work with no restrictions. (Ex. F, pp. 88-89)

On August 31, 2012, claimant was evaluated by Dr. Kitchell. Claimant was released from care following that appointment. Claimant was told she could return in follow-up care as needed. Claimant did not return to Dr. Kitchell. (Ex. 10, pp. 3-4)

Claimant returned to Dr. Mooney on February 15, 2013. His finding of a date of MMI of August 8, 2012, was unchanged. (Ex. 9, pp. 17-18)

In an April 23, 2013, report, Dr. Sassman, an expert retained by claimant, gave her opinions of claimant's condition following an IME. Dr. Sassman found claimant was at MMI as of April 20, 2013. Dr. Sassman did not recommend further care. (Ex. 18, p. 7)

Dr. Mooney opined claimant had reached MMI as of August 8, 2012. He returned claimant to work without any restrictions on that date and he did not anticipate further care for claimant. Dr. Andrikopoulos returned claimant to work with no

restrictions on August 20, 2012. Claimant's own expert found claimant at MMI as of April 20, 2013 and did not recommend further care. Given this record, claimant has failed to carry her burden of proof that the charges incurred with Community Health Center were reasonable, under Gwinn.

EXHIBIT 25

Claimant also seeks reimbursement for charges found at Exhibit 25. Most of the charges detailed in Exhibit 25, for Community Health and Daniel Pharmacy, have been discussed above.

Exhibit 25 also details a charge with Leopoledo Delucca for a date of service of March 25, 2014, for $152.00. There are no medical records or billing records related to a date of service for March 25, 2014, for Mr. Delucca. Given this lack of evidence, claimant has failed to carry her burden of proof that defendants are liable for this charge.

BERRYHILL CENTER (EXHIBIT 14)

Claimant also seeks reimbursement for charges associated with care with the Berryhill Center. There are no billings in the record associated with claimant's treatment at Berryhill Center. Given this lack of evidence, it is impossible to determine if the charges from the Berryhill Center are reasonable. Given this lack of record of any billing, claimant has failed to carry her burden of proof that defendants are liable for the charges from the Berryhill Center.

CONCLUSION

In summary, defendants are liable for charges with Trinity Regional Medical Center only for the date of service of April 30, 2012. Defendants are also liable for charges with The Iowa Clinic, Iowa Methodist Medical Center, and UnityPoint Clinic for dates of service from April 30, 2012, through May 2, 2012. Defendants are also liable for a charge with UnityPoint Clinic for a date of service of May 17, 2012. Defendants are not liable for any other charges.

ORDER

Therefore, it is ordered on remand that after review of the record in this case, it is found defendants are liable for charges with Trinity Regional Medical Center only for the date of service of April 30, 2012; with The Iowa Clinic, UnityPoint Clinic, and Iowa Methodist Medical for dates of service from April 30, 2012, through May 2, 2012; and for

UnityPoint Clinic billings for the date of service of May 17, 2012. Defendants are not liable for any other charges.

Signed and filed this 8th day of March, 2018.

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WORKERS' COMPENSATION
COMMISSIONER

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