

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

MATTHEW ALEXANDER,

Claimant,

vs.

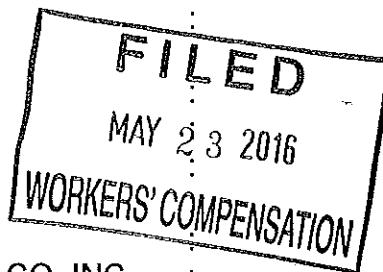
IOWA MOLD and TOOLING CO. INC.,

Employer,

and

TRAVELERS INDEMNITY CO. OF CT,

Insurance Carrier,
Defendants.



File No. 5055952

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, Matthew Alexander. Claimant appeared through his attorney. Defendants appeared through their attorney.

The alternate medical care claim came on for hearing on May 20, 2016. The proceedings were digitally recorded. That recording constitutes the official record of this proceeding. Pursuant to the Iowa Workers' Compensation Commissioner's February 16, 2015 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.

The record consists of claimant's exhibits 1 through 4, and defendants' exhibit A. All exhibits were offered and received into evidence.

FINDINGS OF FACT

Claimant sustained a work-related injury on January 4, 2016. The injury resulted in a crush injury to the right wrist and a crush injury to the left small finger. (Exhibit 2, page 1)

Rene F. Recinos, M.D., the authorized treating, plastic and reconstructive surgeon, performed:

- 1) a diagnostic right arthroscopy with synovectomy;
- 2) an endoscopic debridement of the central triangular fibrocartilage complex (TFC) tear;
- 3) an endoscopic debridement of scapholunate ligament tear; and
- 4) an open reduction with internal fixation of right distal fracture.

(Ex. 3, p. 1)

Dr. Recinos prescribed a topical anti-inflammatory ointment provided by a compounding pharmacy. The purpose of the topical ointment is to reduce wrist nerve pain to a bearable point. (Ex. 3, p. 1)

According to Dr. Recinos in his report of May 12, 2016, the prescription is:

The compound is a concoction of chemicals that are very good at treating neuropathic pain. I have experience using compounds including anti-inflammatory and pain relieving compounds in treatment of "squashed" nerves that cannot be repaired with surgery; they are generally very sensitive for months. The compound is very successful in reducing nerve sensitivity of healing nerves. The compound is a very important piece of my treatment tool box. Since the compound is topical, it does not have the side effects of pills such as diarrhea, constipation, drowsiness, the inability to drive or operate machinery, etc.

(Ex. 3, p. 1)

Dr. Recinos opined the basis for ordering the prescription is:

Matthew experiences burning and aching nerve pain in his right hand. It is important to start Matthew on the topical anti-inflammatory ointment compound to treat his neuropathic injury and pain in order to get his symptoms to subside and resume work on the graduated scale I outlined in my medical record.

(Ex. 3, p. 2)

Defendants denied filling the prescription. In lieu of prescribing the topical ointment, defendants retained the services of Bret J. Bolte, M.D., to perform an independent review of Dr. Recinas' order for the compound ointment.

Dr. Bolte and Dr. Recinos spoke by telephone on the morning of April 25, 2016.

In his report of May 12, 2016, Dr. Recinos described the telephone conversation he and Dr. Bolte held. Dr. Recinos wrote:

I recently received a phone call from a Dr. Brett Bolte who identified himself as medical director for the insurance company. My impression was that he had the ability to approve or disapprove treatment. Dr. Bolte and I discussed the purpose of the compound in relation to my treatment of Matthew Alexander. Dr. Bolte told me that my proposed use of the compound seemed reasonable to him and that he was supportive of it. Dr. Bolte gave the impression that some other committee had to give final approval, however. Dr. Bolte stated he was not sure if the committee would approve the compound. This seemed odd to me as Dr. Bolte originally identified himself as the medical director and in my experience medical directors typically have this type of authority. Dr. Bolte's written report to Travelers is not consistent with his conversation with me.

(Ex. 3, pp. 1-2)

Dr. Bolte issued a report on April 25, 2016. The report stated in relevant portion:

Requested service: compound medication.

Criteria or Guideline

Source: ODG Pain (updated 03/09/16), Topical analgesics

Summary of Guideline:

Recommended as an option as indicated below. Largely experimental in use with few randomized controlled trials to determine efficacy or safety. Primarily recommended for neuropathic pain when trials of antidepressants and anticonvulsants have failed. (Namaka, 2004) These agents are applied locally to painful areas with advantages that include lack of systemic side effects, absence of drug interactions, and no need to titrate. (Colombo, 2006) Many agents are compounded as monotherapy or in combination for pain control (including NSAIDs, opioids, capsaicin, local anesthetics, antidepressants, glutamate receptor antagonists, α -adrenergic receptor agonist, adenosine, cannabinoids, cholinergic receptor agonists, ? [sic] agonists, prostanoids, bradykinin, adenosine triphosphate, biogenic amines, and nerve growth factor). (Argoff, 2006) There is little to no research to support the use of many these agents. Any compounded product that contains at least one drug (or drug class) that is not recommended is not recommended. The use of these compounded agents requires knowledge of the specific analgesic effect of each agent and how it will be useful for the specific therapeutic goal required. Custom compounding and dispensing of combinations of

medicines that have never been studied is not recommended, as there is no evidence to support their use and there is potential for harm. [Note: Topical analgesics work locally underneath the skin where they are applied. These do not include transdermal analgesics that are systemic agents entering the body through a transdermal means. For example, see Duragesic® (fentanyl transdermal system).]

See Topical analgesics, where it is explained that any compounded product that contains at least one drug (or drug class) that is not recommended is not recommended. The use of compounded agents requires knowledge of the specific analgesic effect of each agent and how it will be useful for the specific therapeutic goal required.

Analysis and Clinical Basis for Conclusion

Regarding the request for compound medications, the documentation available for review does not specify the ingredients of the request. There is no assessment to indicate a need for the medications. Due to a lack of information, medical necessity is not established. Discussed with the physician. Encourage him to send a list of ingredients in the pain cream prior to the due date for the request. Update information received. List of ingredients includes Ketamine 10%, Bupivacaine, Diclofenac, Doxepin, Gabapentin, Orphenadrine, Pentoxifylline. As stated unequivocally in the guides, any compounded product that contains at least one drug (or drug class) that is not recommended is not recommended. Recommend non-certification.

(Ex. A, pp. 1-2)

Counsel for claimant made a professional statement on the record. Mr. Fitzsimmons stated since defendants have denied authorization for the topical compound ointment, claimant has been purchasing the ointment from a local compounding pharmacy at the cost of \$99.00 per tube.

Claimant's counsel noted dissatisfaction with the medical care offered in a letter dated May 10, 2016. (Ex. 1)

REASONING AND CONCLUSIONS OF LAW

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 16, 1975).

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).

The employee bears the burden to establish what care is reasonable and it is a question of fact. Long v. Roberts Dairy Co., 528 N.W.2d 122, 123 (Iowa 1995). The determination will be based on what is reasonably necessary. Long, at 124.

An employer's right to select the provider of medical treatment to an injured worker does not include the right to determine how an injured worker should be diagnosed, evaluated, treated, or other matters of professional medical judgment. Assmann v. Blue Star Foods, File No. 866389 (Declaratory Ruling, May 19, 1988).

In the present case, Dr. Recinos, was the authorized treating plastic and reconstructive surgeon. He was selected by defendants. He is recommending a special topical compound ointment for claimant's nerve damage. The treatment is reasonable, given all of the other attempted but failed treatment modalities.

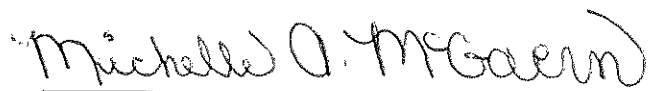
Under Assmann v. Blue Star Foods, File No. 866389 (Declaratory Ruling, May 19, 1988), defendants may not interfere with the professional judgment of Dr. Recinos, the authorized treating surgeon. Dr. Recinos recommends a topical compound ointment. The ointment is hereby ordered.

ORDER

THEREFORE, IT IS ORDERED:

Defendants shall pay for the topical compound ointment prescribed by Dr. Recinos.

Signed and filed this 23rd day of May, 2016.



MICHELLE A. MCGOVERN
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

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