

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

ELVA MARQUEZ,

Claimant,

vs.

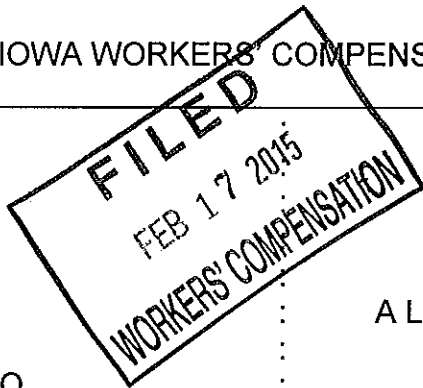
JOHN MORRELL & CO.,

Employer,  
Self-insured,  
Defendant.

File No. 5032658

ALTERNATE MEDICAL  
CARE DECISION

HEAD NOTE: 2701



Claimant sought alternate medical care with respect to an injury on April 24, 2007. Specifically, claimant sought authorization for continued care at the Mayo Clinic as recommended by Jack McCarthy, M.D. Dr. McCarthy was designated as the authorized and treating physician in an arbitration decision issued March 22, 2012.

A telephone hearing was scheduled and held on February 17, 2015 concerning this application. The claimant participated through interpreter, Rocio Solis and was represented by attorney Dennis McElwain. Claimant's exhibits 1-5 were admitted. Defendant participated through their attorney, Brian Yung.

Defendant agreed that claimant is entitled to care with the Mayo Clinic and that they must pay for such care including the past due bills in the amount of \$19,881.19. Claimant requested that an order for such care and payment be issued as well as the cost of the interpreter for the alternate care hearing. Defendant only resists the order for the interpreter on the basis that claimant had been assured by defense counsel that the care would be provided and the bills paid so no alternate care proceeding was necessary.

The order in the arbitration decision was specific as to the authorized physician and the requirement for payment of all care recommended by that physician. The record shows that defendant did not comply to the extent that care was denied and delayed. Rule 476 IAC 4.36 provides:

If any party to a contested case or an attorney representing such party shall fail to comply with these rules or any order of a deputy commissioner or the workers' compensation commissioner, the deputy commissioner or workers' compensation commissioner may impose sanctions which may include dismissing the action without prejudice, excluding or limiting evidence, assessing costs or expenses, and closing the record in whole or in part to further activity by the party.

Pursuant to this rule the defendant is sanctioned with the cost of the interpreter for this alternate care proceeding.

The request for alternate care is granted. Defendant shall provide and pay for care at the Mayo Clinic as recommended by Dr. McCarthy. Defendant shall pay for the cost of the interpreter, Rocio Solis, for this alternate care proceeding.

Signed and filed this 17<sup>th</sup> day of February, 2015.



RON POHLMAN  
DEPUTY WORKERS'  
COMPENSATION COMMISSIONER

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RRP/sam