

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

MARIA CAZAREZ,

Claimant,

vs.

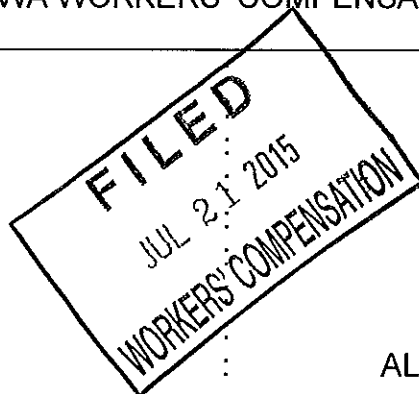
KEY RESOURCES, INC.,

Employer,

and

TRAVELERS INDEMNITY COMPANY,

Insurance Carrier,
Defendants.



File No. 5051014

ALTERNATE MEDICAL

CARE DECISION

HEAD NOTE NO: 2701

Claimant filed a petition seeking alternate medical care. A telephonic hearing on this petition was held on July 21, 2015. All parties were given proper notice and participated in the hearing. Both parties were aware that the undersigned has been delegated final agency decision authority in this proceeding. The hearing required use of an interpreter, Caden Tait, a certified interpreter.

This medical care dispute arose over care being given by defendants as a result of a work injury on or about February 18, 2014 and for care of both a physical and mental condition arising from that injury. Defendants denied liability of claimant's physical upper extremity complaints and have denied further care for such complaints. Defendants admit liability for the mental depression condition. The entire hearing was recorded by a digital voice recorder. A detailed decision containing findings of fact and conclusions of law was dictated into the record on the date of the hearing. This decision will not be reproduced in typewritten form unless there is an appeal from this decision at which time the procedures under the administrative code are to be followed. Any rights of appeal will run from the date the decision was dictated into the record, and this memorandum is solely for the purpose of the agency file.


In the decision, it was ordered that the portion of claimant's petition for alternate care for her current physical upper extremity complaints was dismissed without prejudice as required by our rule 876 IAC 4.48(7).

The portion of claimant's petition seeking alternate medical care for her mental depression was granted, and defendants were ordered to immediately provide to

claimant at their cost all mental health care and treatment modalities recommended by a physician or clinical psychologist selected by claimant. If deemed appropriate by this mental health provider, management of medications for her mental condition by her family doctor is authorized and that management and the medications shall be promptly paid for by defendants.

As a result of the employer's denial of liability and treatment for claimant's current upper extremity physical condition sought to be treated in this proceeding, defendants have lost the right to choose the medical care for this condition, and defendants are barred from asserting a lack of authorization defense in response to a subsequent claim for the expenses of alternate care for this condition. R.R. Donnelly & Sons v. Barnett, 670 N.W.2d 190 (Iowa 2003); Trade Professionals, Inc. v. Shriver, 661 N.W.2d 119 (Iowa 2003); West Side Transport v. Cordell, 601 N.W.2d 691 (Iowa 1999); Haack v. Von Hoffman Graphics, File No. 1268172 (App. July 31, 2002); Kindhart v. Fort Des Moines Hotel, Vol. I, No. 3, Industrial Commissioner Decisions, 611 (March 27, 1985); Barnhart v. MAQ Incorporated, I Iowa Industrial Comm'r Report 16 (App. March 9, 1981).

Signed and filed this 21st day of July, 2015.


LARRY WALSHIRE
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

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