

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

ANN JOHNS,  
Claimant,

**FILED**

JUL 06 2017

vs.

**WORKERS COMPENSATION**

KNOWLEDGE UNIVERSE  
EDUCATION, LLC,

File No. 5065796

Employer,

ALTERNATE MEDICAL

and

CARE DECISION

ARCH INSURANCE,

Insurance Carrier,  
Defendants.

HEAD NOTE NO: 2701

**STATEMENT OF THE CASE**

This is a contested case proceeding under Iowa Code chapters 17A and 85. Claimant Ann Johns sustained an injury to her right arm, shoulder, wrist, and hand while working for the defendant, Knowledge Universe Education, LLC ("Knowledge"). Johns reported the injury to her employer, and she has received medical care provided by Knowledge and its insurer, the defendant, Arch Insurance Company ("Arch"). On June 23, 2017, Johns filed a petition for alternate medical care.

On June 27, 2017, the Division of Workers' Compensation filed a notice of telephone hearing, scheduling a hearing for July 6, 2017, at 10:30 a.m. A copy of the notice was mailed to the parties.

A telephone hearing was held on July 6, 2017. Attorney William Bribriesco appeared on behalf of Johns. Attorney Lyndsey Canning appeared on behalf of Knowledge and Arch. Exhibits 1 through 4 were admitted into the record. The proceeding was recorded by digital recorder and the digital recording is the official record of the proceeding.

The undersigned has been delegated with the authority to issue final agency action in this matter. Appeal of this decision, if any, is to the district court pursuant to Iowa Code section 17A.19.

**FINDINGS OF FACT**

Johns sustained an injury to her right arm, shoulder, wrist, and hand while working for Knowledge. (Original Notice and Petition) Knowledge and Arch filed an answer admitting Johns had sustained a work-related injury. (Answer) Knowledge and

Arch authorized medical treatment with Lindsey Caldwell, M.D., at the University of Iowa ("UIHC").

On January 18, 2017, Johns attended an appointment with Dr. Caldwell. (Exhibit 1) Under assessment and plan, Dr. Caldwell noted:

53-year-old female with a two-year history of a brachial plexus injury to the lower trunk. She has been treated with conservative management at this point in noted improvement specifically triceps and wrist extension. She feels that she has plateaued with finger extension at the MP and PIP joints as well as hand intrinsic function. We discussed that tendon transfers result in loss of a grade of strength and would not likely improve the MP extension or EPL function that she already has. Additionally, based on her EMG, she does not appear to have non-involved musculotendinous units available for transfer. Her biggest problem at this point seems to be hand intrinsic function, which does show some evidence of recovery on EMG. We discussed that there are fewer options for restoration of intrinsic function, but that we may consider a Zancolli lasso type procedure to prevent hyperextension at the MCPs. This may help her improve her grip of objects. We discussed that she may continue to see improvement in her intrinsic function over time, but that the end point of this is difficult to predict. She will think about her options and will decide if she wishes to proceed with the lasso procedure. All questions invited and answered to her satisfaction.

(Ex. 1)

Johns' attorney sent a letter to the defendants' attorney on March 8, 2017, requesting the defendants authorize an appointment at the Mayo Clinic for a second opinion. (Ex. 1) Johns' attorney sent a letter the next day stating his client was requesting a second opinion from the Mayo Clinic. (Ex. 2) Knowledge and Arch have not authorized the request for a second opinion at the Mayo Clinic.

On March 22, 2017, Johns' attorney sent a third letter to the defendants' attorney stating the surgery had not been authorized at the UIHC with Dr. Caldwell, and that Johns would be filing an application for alternate care if the defendants did not authorize the surgery. (Ex. 3) Knowledge and Arch have not authorized the requested surgery.

At the start of the hearing on June 6, 2017, Johns' attorney made a professional statement that Johns was not seeking a second opinion at the Mayo Clinic, and she wants to proceed with the Zancolli lasso procedure at the UIHC. Knowledge and Arch contend Dr. Caldwell has not ordered the surgical procedure and documented "we may consider a Zancolli lasso type procedure" in the future, with other possible treatment options. (Ex. 1) Both attorneys made professional statements that Johns is continuing to treat with Dr. Caldwell.

### REASONING AND CONCLUSIONS OF LAW

An employer is required to 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. Iowa Code § 85.27(1) (2015). The employer has the right to choose the provider of care, except when the employer has denied liability for the injury. Id.

"The treatment must be offered promptly and be reasonably suited to treat the injury without undue inconvenience to the employee." Id. § 85.27(4). If the employee is dissatisfied with the care, the employee should communicate the basis for the dissatisfaction to the employer. Id. If the employer and employee cannot agree on alternate care, the commissioner "may, upon application and reasonable proofs of necessity therefore, allow and order other care." Id.


The employee bears the burden of proving the care authorized by the employer is unreasonable. R.R. Donnelly & Sons v. Barnett, 670 N.W.2d 190, 196 (Iowa 2003). "The employer's obligation under the statute turns on the question of reasonable necessity, not desirability." Long v. Roberts Dairy Co., 528 N.W.2d 122, 124 (Iowa 1995). The care authorized by the employer is unreasonable if it is ineffective, inferior, or less extensive than the care requested by the employee. Pirelli-Armstrong Tire Co. v. Reynolds, 562 N.W.2d 433, 437 (Iowa 1997). The determination of whether care is reasonable is a question of fact. Long, 528 N.W.2d at 123.

Johns has not established the care provided by Knowledge and Arch is unreasonable, ineffective, or inferior. Johns presented no evidence a physician has recommended that she be seen at the Mayo Clinic. Dr. Caldwell, the treating physician, has not opined the Zancolli lasso procedure should be authorized at this time. Dr. Caldwell continues to treat Johns. Dr. Caldwell noted that the procedure is one of several treatment options that could be pursued. Johns' petition for alternate care should be denied.

### ORDER

Claimant's petition for alternate care is DENIED.

Signed and filed this 6<sup>th</sup> day of July, 2017.

  
HEATHER L. PALMER  
DEPUTY WORKERS'  
COMPENSATION COMMISSIONER

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