

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

DONALD TUTTLE,

Claimant,

vs.

ARCHER DANIELS MIDLAND,

Employer,
Self-Insured,
Defendant.

File No. 22005076.04

MEMORANDUM OF
ALTERNATE MEDICAL CARE

On October 17, 2023, claimant filed an application for alternate medical care under Iowa Code section 85.27 and rule 876 IAC 4.48. Defendant filed an answer on October 29, 2023. A hearing was held on October 30, 2023. All parties were given proper notice.

Claimant sustained an injury on April 14, 2022, which arose out of and in the course of employment. Claimant is dissatisfied with the medical treatment offered by the defendant.

During the course of testimony, the undersigned determined that a decision could not be rendered without making a preliminary determination as to whether Jill Flory, M.D., is an authorized treating physician. This deputy previously determined the issue regarding Dr. Flory in a prior alternate medical care decision dated July 21, 2023. That decision, issued in file number 22005076.02, is currently pending judicial review in the Iowa District Court for Polk County. As such, the undersigned has no jurisdiction to revisit or further determine that issue. With respect to the allegation defendant has abandoned care, this deputy found defendant has not abandoned care. Therefore, the undersigned deputy ordered that claimant's petition for alternate medical care be denied.

The hearing was recorded via digital voice recorder and the decision was dictated into the record on the day of the hearing. The decision will be further reproduced in typewritten form only if the decision is appealed, and the parties are advised to follow the procedures outlined under the administrative code. Any rights of appeal will run from October 30, 2023, the date the decision was dictated into the record.

Pursuant to the Commissioner's July 21, 2023 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.

ORDER

THEREFORE, IT IS ORDERED:

The claimant's petition for alternate medical care is denied.

Signed and filed this 30th day of October, 2023.

A handwritten signature in black ink, appearing to read 'Jessica L. Cleereman', is written over a horizontal line.

JESSICA L. CLEEREMAN
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

The parties have been served, as follows:

Dennis Currell (via WCES)

Peter Thill (via WCES)