

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

TRAVIS CROW,

Claimant,

vs.

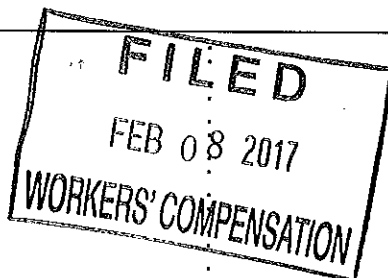
ABC SUPPLY COMPANY, INC.,

Employer,

and

INDEMNITY INSURANCE CO. OF NC,

Insurance Carrier,
Defendants.



File No. 5063124

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. Travis Crow, claimant, appeared with his attorney. Defendants appeared through their attorney.

The alternate medical care claim came on for hearing on February 8, 2017. 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.

Claimant submitted exhibits 1 and 2. Defendants submitted exhibits A through D. All exhibits were admitted as evidence in the case. Claimant testified at the hearing. Defendants filed a pre-trial brief on February 6, 2017.

FINDINGS OF FACT

Claimant sustained an injury to his right lower extremity on September 28, 2016. Defendants authorized treatment with Kary R. Schulte, M.D., an orthopedic surgeon at Des Moines Orthopedic Surgeons, P.C. Dr. Schulte studied the MRI test results. The results established:

MRI: Of the right knee dated October 17, 2016, was read as showing:

- '1. Nondisplaced fracture through the superior aspect of the fibular tip occurring medial to the insertion of the conjoined tendon.
2. Mild contusion to the adjacent portion of the lateral tibial plateau.'

Assessment: Nondisplaced right fibular head fracture.

(Exhibit 1, page 2)

Dr. Schulte discussed the following plan with claimant on October 31, 2016:

Plan: The physical findings, anatomy and radiographs were reviewed with the patient. This is a stable injury, which should heal uneventfully and his symptoms have been improving recently. I have recommended that he ice the affected area and use ibuprofen or Tylenol on an as needed basis. He was given a work release allowing him to resume his normal work duties. He will return to clinic on a p.r.n. basis.

(Ex. 1, p. 2)

Claimant returned to Dr. Schulte on December 15, 2016. Claimant reported continued pain over the medial and lateral aspect of the left knee. (Ex. 2, p. 1) The clinical notes for that date revealed:

Physical Exam

Knee range of motion was from zero to 140 degrees of flexion in the right knee. He had mild tenderness to palpation over the medial aspect of the knee, greater than the lateral aspect of the knee. There was no focal joint line tenderness and McMurray's test was negative. There was no effusion. Lachman, posterior drawer and varus/valgus stress were within normal limits bilaterally. He had 5/5 strength with flexion and extension of both knees. McMurray's test was negative. His hamstrings were tight bilaterally.

Assessment: Nondisplaced right fibular head fracture.

Plan: The physical findings, anatomy, previous radiographs and MRI were reviewed with the patient. There was no evidence of ligamentous or meniscus pathology on his exam or previous MRI. I have recommended he continue a home exercise program and ice the affected area and use ibuprofen or Tylenol on an as needed basis. He was given a work release

for full work duty without restriction. He will return to clinic on a p.r.n. basis.

As requested, an impairment rating was performed using the AMA Guides to the Evaluation of Permanent Impairment-5th Edition, 2000. As Mr. Crow has full range of motion of the right knee and normal motor strength, according to the Guides, he has no measurable impairment.

(Ex. 2, p. 1)

Claimant testified he has swelling and pain every day in his right knee cap and behind his right knee. He stated his right knee is no better than when he injured it. Claimant requested treatment with a different orthopedic surgeon.

RATIONALE 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).

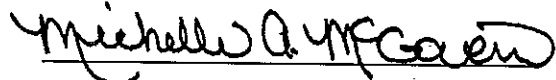
Defendants continue to authorize treatment with Dr. Schulte. After reviewing the record, it is the determination of the undersigned; defendants are providing reasonable, and necessary medical care with Kary Schulte, M.D. If claimant desires another appointment with Dr. Schulte, the attorneys of record shall make the necessary arrangements.

ORDER

THEREFORE, IT IS ORDERED:

Claimant's petition for alternate medical care is denied.

Signed and filed this 8th day of February, 2017.



MICHELLE A. MCGOVERN
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

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