

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

RICHIE WILLIAMS,

Claimant,

vs.

ARCHER DANIELS MIDLAND,

Employer,
Self-Insured,
Defendants.

FILED
APR 08 2019
WORKERS COMPENSATION

File No. 5067813

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, Richie Williams. Claimant appeared personally and through attorney, Andrew Giller. Defendant appeared through their attorney, Mark Woollums.

The alternate medical care claim came on for hearing on April 8, 2019. The proceedings were digitally recorded. That recording constitutes the official record of this proceeding. Pursuant to the Commissioner's 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.

The record consists of claimant's exhibit 1, which was received without objection. Many of the facts of this case were stipulated in the opening statements. The defendants do not dispute liability for claimant's November 19, 2018, work injury.

ISSUE

The issue presented for resolution is whether the claimant is entitled to alternate medical care.

FINDINGS OF FACT

The claimant sustained an injury which arose out of and in the course of his employment on November 19, 2018. The injury affected his right upper extremity and shoulder. His care was directed by the defendant and he saw a nurse practitioner at the Work Well Clinic through St. Luke's Hospital. On December 21, 2018, the authorized

medical provider directed claimant to see an orthopedist based upon the results of diagnostic testing. (Claimant's Exhibit 1) To date, the defendants have failed to authorize or otherwise properly respond to the referral.

REASONING 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. Iowa Code section 85.27 (2013).

By challenging the employer's choice of treatment – and seeking alternate care – claimant assumes the burden of proving the authorized care is unreasonable. See Long v. Roberts Dairy Co., 528 N.W.2d 122 (Iowa 1995). 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).

An application for alternate medical care is not automatically sustained because claimant is dissatisfied with the care he has been receiving. Mere dissatisfaction with the medical care is not ample grounds for granting an application for alternate medical care. Rather, the claimant must show that the care was not offered promptly, was not reasonably suited to treat the injury, or that the care was unduly inconvenient for the claimant. Long v. Roberts Dairy Co., 528 N.W.2d 122 (Iowa 1995).

An employer's statutory right is to select the providers of care and the employer may consider cost and other pertinent factors when exercising its choice. Long, at 124. An employer (typically) is not a licensed health care provider and does not possess medical expertise. Accordingly, an employer does not have the right to control the methods the providers choose to evaluate, diagnose and treat the injured employee. An employer is not entitled to control a licensed health care provider's exercise of professional judgment. Assmann v. Blue Star Foods, File No. 866389 (Declaratory Ruling, May 19, 1988). An employer's failure to follow recommendations of an authorized physician in matters of treatment is commonly a failure to provide reasonable treatment. Boggs v. Cargill, Inc., File No. 1050396 (Alt. Care January 31, 1994).


Claimant has been referred by the authorized medical provider to a specialist for evaluation and treatment of his right upper extremity and shoulder condition. The defendant's failure to authorize this referral is unreasonable and has caused undue delay in claimant's medical treatment.

ORDER

THEREFORE IT IS ORDERED:

The claimant's petition for alternate medical care is GRANTED. Defendants shall immediately authorize and pay for the referral recommended by its authorized medical provider.

Signed and filed this 8th day of April, 2019.



JOSEPH L. WALSH
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

Copies to:

Andrew M. Giller
Attorney at Law
PO Box 637
Cedar Rapids, Iowa 52406
andy@rushnicholson.com

Mark A. Woollums
Attorney at Law
1900 E. 54th St.
Davenport IA 52807-2708
maw@bettylawfirm.com

JLW/kjw