

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

DALACIA JOHNSON,

Claimant,

vs.

AERO SERVICE GROUP, INC.,

Employer,

and

NATIONWIDE,

Insurance Carrier,
Defendants.

File No. 21701055.01

ALTERNATE MEDICAL CARE

DISMISSAL AND CONSENT

ORDER

This is a contested case concerning alternate medical care, proceeding under Iowa Code chapters 85 and 17A. The expedited procedure of rule 876 IAC 4.48 is invoked by claimant, Dalacia Johnson. The alternate medical care claim was scheduled for telephone hearing on October 8, 2021, at 10:30 a.m. A brief hearing on the record was held at that time. The claimant appeared personally and through her attorney, Nate Staudt. The defendants appeared via claims representative Lance Grummert.

The claimant sought care via a referral to an occupational health provider and a mental health provider.

On the record, the defendants denied liability for the mental health portion of the claim. Before alternate medical care can be ordered, compensability of the medical condition to be treated must be established, either by admission of liability or by adjudication. The summary procedure of Iowa Code 85.27, as more particularly described in rule 876 Iowa Administrative Code 4.48(7), is not available to adjudicate liability or causal connection disputes. That portion of the petition was dismissed.

As a result of the denial of liability for the mental health condition sought to be treated in this proceeding, the claimant may obtain reasonable medical care from any provider for this treatment, at claimant's expense, and seek reimbursement for such care using regular claim proceedings before this agency. Haack v. Von Hoffman Graphics, File No. 1268172 (App. 31, 2002); Kindhart v. Fort Des Moines Hotel, Iowa Industrial Comm'r Decisions No. 3, 611 (App. March 27, 1985). "[T]he employer has no right to choose the medical care when compensability is contested." Bell Bros. Heating & Air Conditioning v. Gwinn, 779 N.W.2d 193, 204 (Iowa 2010). Therefore, defendants are precluded from asserting an authorization defense as to any future treatment during their period of denial. Brewer-Strong v. HNI Corp., 913 N.W.2d 235 (Iowa 2018).

Through an on the record discussion, the parties agreed that the defendants would authorize an appointment with an occupational medicine provider by 5:00 p.m. on Monday, October 11, 2021.


The parties proposed that the undersigned issue this consent order in lieu of a formal decision. All parties consented to the entry of a consent order on the record on October 8, 2021; thus no alternate medical care hearing was necessary.

ORDER

THEREFORE, IT IS ORDERED:

1. The claimant's application for alternate care for mental health care regarding the above named defendants is dismissed without prejudice.
2. If claimant seeks to recover the charges incurred in obtaining care for the condition for which defendants denied liability, defendants are barred from asserting lack of authorization as a defense to those charges during the period of their denial.
3. The defendants shall authorize an appointment with an occupational medicine provider before 5:00 p.m. on Monday, October 11, 2021.

Signed and filed this 8th day of October, 2021.


ANDREW M. PHILLIPS
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

The parties have been served, as follows:

Nathaniel Staudt (via WCES)

Aero Service Group (via regular and certified mail)
5800 Fleur Dr
Des Moines, IA 50321-2869

Lance Grummert (via regular and certified mail)
Nationwide Insurance
PO Box 182066
Columbus, OH 43218-2066