

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

JEANNA SAGER,

Claimant,

vs.

PHYSICIANS CLINIC OF IOWA
UROLOGY,

Employer,

and

VIRGINIA SURETY/SEDGWICK,

Insurance Carrier,
Defendants.

File No. 5041453.01

ALTERNATE MEDICAL

CARE DECISION

HEAD NOTE NO: 2701

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, Jeanna Sager. Claimant appeared through her attorney, Gary Nelson. Claimant's original notice and petition contains proof of service upon the employer and insurance carrier. It is found that the petition was properly served via certified mail upon the employer and insurance carrier on February 1, 2021. Notice of hearing was given by this agency to the employer and insurance carrier via U.S. Mail on February 2, 2021. Nevertheless, the defendants have not entered an appearance or responded in any way to the pending petition for alternate medical care.

The alternate medical care claim came on for hearing on February 11, 2021. The proceedings were digitally recorded. That recording constitutes the official record of this proceeding. Pursuant to the 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's counsel offered oral argument to support claimant's position. Given defendants' failure to appear for hearing or otherwise defend that alternate medical care hearing, they are found to be in default. All allegations of the claimant's petition for alternate medical care are accepted as accurate.

ISSUE

The issue presented for resolution is whether the claimant is entitled to alternate medical care consisting of authorization of a prescription for cyclobenzaprine 10 mg.

FINDINGS OF FACT

Claimant's attorney provided a brief summary of the case in his oral argument. Essentially, this case arises from an accepted work injury that took place on May 23, 2000. The parties settled the case, and defendants have continued to provide medical care. Recently the authorized treating physician, Christian Ledet, M.D., prescribed cyclobenzaprine 10 mg to treat claimant's condition.¹ Upon receipt of the prescription, defendants had a peer review performed, which concluded the medication was not medically necessary. As such, defendants denied the medication and sent a letter to Dr. Ledet on January 7, 2021, with the denial. Claimant, through her attorney, expressed her dissatisfaction with defendants' failure to authorize the prescription. Claimant's attorney has also sent defendants copies of the petition for alternate medical care. (See Proof of Service)

I find that defendants' denial of the prescription recommended by the authorized treating physician is unreasonable. There is no evidence in the record that the prescription for cyclobenzaprine 10 mg is not reasonable care. As such, the recommendations of Dr. Ledet and/or Dr. Szczepanek are considered to be reasonable and medically necessary care.

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 Iowa Supreme Court has held the employer has the right to choose the provider of care, except when the employer has denied liability for the injury or has abandoned care. Iowa Code § 85.27(4); Bell Bros. Heating & Air Conditioning v. Gwinn, 779 N.W.2d 193, 204 (Iowa 2010).

By challenging the employer's choice of treatment and seeking alternate care, claimant assumes the burden of proving the authorized care is unreasonable. See Iowa Rule of Appellate Procedure 14(f)(5); Bell Bros. Heating, 779 N.W.2d at 209; 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).

¹ Claimant's counsel indicated it may have been Andrzej Szczepanek, M.D., who initially recommended the prescription. Dr. Szczepanek is also an authorized treating physician at the same clinic as Dr. Ledet.

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).

Reasonable care includes care necessary to diagnose the condition and defendants are not entitled to interfere with the medical judgment of its own treating physician. Pote v. Mickow Corp., File No. 694639 (Review-Reopening June 17, 1986).

In Pirelli-Armstrong Tire Co. v. Reynolds, 562 N.W.2d 433, 437 (Iowa 1997), the supreme court held that "when evidence is presented to the commissioner that the employer-authorized medical care has not been effective and that such care is 'inferior or less extensive' than other available care requested by the employee, . . . the commissioner is justified by section 85.27 to order the alternate care.

I found the authorized treating physician's treatment recommendations to be reasonable and necessary. Furthermore, defendants are not entitled to interfere with the medical judgment of their own treating physician. Defendants did not participate in the hearing. For these reasons, I conclude claimant has established entitlement to an order directing defendants to authorize the prescription for cyclobenzaprine 10 mg.

ORDER

THEREFORE IT IS ORDERED:

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

Defendants shall immediately authorize and timely pay for claimant's prescription for cyclobenzaprine 10 mg.

Signed and filed this 12th day of February, 2021.



JESSICA L. CLEEREMAN
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

The parties have been served, as follows:

Gary Nelson (via WCES)

Virginia Surety/Sedgwick (via certified mail)
PO Box 14423
Lexington, KY 40512

Physicians Clinic of Iowa (via certified mail)
202 10th ST SE
Cedar Rapids, IA 52403