

## BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

JOSHUA HANAWALT,

Claimant,

vs.

AMERICAN BOTTLING COMPANY,

Employer,

and

NEW HAMPSHIRE INSURANCE CO.,

Insurance Carrier,  
Defendants.

File No. 20008990.04

ALTERNATE MEDICAL CARE  
DECISION

Head Note: 2701

This is a contested case proceeding under Iowa Code chapters 85 and 17A. The expedited procedures of rule 876 IAC 4.48, the "alternate medical care" rule, are invoked by claimant, Joshua Hanawalt.

This alternate medical care claim came on for hearing on December 18, 2023. The proceedings were recorded digitally and constitute the official record of the hearing. By an order filed by the Workers' Compensation Commissioner, this decision is designated final agency action. Any appeal would be by petition for judicial review under Iowa Code section 17A.19.

The record in this case consists of Claimant's Exhibits 1-2, Defendants' Exhibit A, and the testimony of claimant. Defendants' exhibit was unmarked but will be referred to as "Exhibit A" for clarity of the record.

## ISSUE

The issue presented for resolution in this case is whether claimant is entitled to alternate medical care consisting of authorization for mental health treatment and a gym membership.

## FINDINGS OF FACT

Defendants accept liability for a work-related injury to claimant's low back on June 25, 2020.

Claimant was evaluated by Shawn Spooner, M.D., on June 6, 2023. Dr. Spooner is an authorized treating physician. Dr. Spooner recommended claimant have psychotherapy. (Ex. 3)

On November 9, 2023, Dr. Spooner recommended massage therapy and a gym membership for claimant to help with treatment for his chronic lumbosacral pain. (Ex. 1)

Between November 15, 2023, and December 14, 2023, claimant's counsel communicated with defense counsel regarding the recommendations made by Dr. Spooner and requested authorization for the prescribed care.

A record from UnityPoint Health dated December 1, 2023, indicates claimant was a "No Show" for an appointment with Edmund Piasecki, DNP. (Ex. A) The record also reflects the insurer for the evaluation was Amerigroup IA Medicaid. Id. The insurer defendant in this case is New Hampshire Insurance.

An email from claimant's counsel indicates the provider with UnityPoint would not see claimant as the provider did not have proper insurance information. (Ex. 2, pp. 5 and 9)

Claimant testified he physically went to his first psychotherapy appointment, only to be told the provider did not have information for the proper insurer. He testified he has called on three different occasions prior to appointments only to be again told the provider's office did not have the name of the proper insurer for his treatment.

Claimant testified he would like to have a gym membership, as prescribed by Dr. Spooner, during the winter months as it helps his back condition if he is more active. He said that during the winter months he is not as active, and this negatively impacts his low back.

## CONCLUSIONS OF LAW

The party who would suffer loss if an issue were not established has the burden of proving that issue by a preponderance of the evidence. Iowa R. App. P. 6.904(3)(e).

Iowa Code section 85.27(4) provides, in relevant part:

For purposes of this section, the employer is obliged to furnish reasonable services and supplies to treat an injured employee and has the right to choose the care. . . The treatment must be offered promptly and be reasonably suited to treat the injury without undue inconvenience to the employee. If the employee has reason to be dissatisfied with the care offered, the employee should communicate the basis of such dissatisfaction to the employer, in writing if requested, following which the employer and the employee may agree to alternate care reasonably suited

to treat the injury. If the employer and employee cannot agree on such alternate care, the commissioner may, upon application and reasonable proofs of the necessity therefor, allow and order other care.

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).

Claimant was prescribed psychotherapy by the authorized treating physician six months ago. Claimant credibly testified that each time he has gone to the provider's office, or called the provider, he has been told UnityPoint Health has the incorrect insurer on file. Exhibit A indicates the insurer identified is Amerigroup IA Medicaid. The insurer defendant in this case is New Hampshire Insurance. The record suggests this error in identifying the correct insurer has gone on for six months. Defendants were aware of this error. This is an error defendants, in this case, could have easily remedied, but did not. This inattention caused claimant's treatment to be delayed for six months. Given this record, claimant has carried his burden of proof defendants' failure to provide the care recommended by Dr. Spooner is not reasonable. Defendants shall contact UnityPoint Health, identify the proper insurer for claimant's psychotherapy, and shall authorize and pay for the psychotherapy prescribed by Dr. Spooner.

On November 9, 2023, Dr. Spooner recommended claimant be provided a gym membership for treatment of his chronic lumbosacral pain. (Ex. 1, p. 3) Claimant credibly testified he believes a gym membership will help him stay active during the winter months which will help with his back condition. Defendants have not provided that membership. There is no evidence in the record defendants have communicated to claimant why that membership has not been provided. At hearing, for the first time, defendants indicate they are not providing the membership as the term "Gym Membership" lacks specificity.

Defendants have authorized Dr. Spooner to treat claimant. Dr. Spooner has prescribed a gym membership. Defendants could have contacted Dr. Spooner for details regarding that prescription. Defendants could have asked Dr. Spooner for specific exercises for claimant. Defendants could have done several things if they wanted details regarding the November 9, 2023, prescription. They did nothing. Defendants' offer of no care, when Dr. Spooner prescribed a gym membership to claimant, is not reasonable care. Claimant has carried his burden of proof the care, regarding this matter, is unreasonable. Defendants shall authorize and pay for a gym membership for claimant.

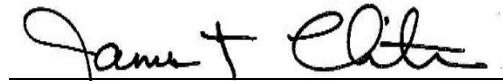
ORDER

THEREFORE, IT IS ORDERED:

That claimant's petition for alternate medical care is granted. Defendants are ordered to immediately authorize and pay for a gym membership for claimant.

Defendants shall also contact UnityPoint Health, give them information regarding the proper insurer for psychotherapy, and authorize and pay for psychotherapy.

Signed and filed this 19<sup>TH</sup> day of December, 2023.

  
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JAMES F. CHRISTENSON  
DEPUTY WORKERS'  
COMPENSATION COMMISSIONER

The parties have been served, as follows:

Nick Platt (via WCES)

Michael Rowberry (via WCES)