

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

REBECKA HONEYCUTT,

FILED

Claimant,

NOV 25 2015

vs.

WORKERS COMPENSATION

GENESIS DEVELOPMENT, D/B/A
QUALITY OF LIFE, INC.,

File No. 5033074

Employer,

ALTERNATE MEDICAL

and

CARE DECISION

UNITED HEARTLAND,

Insurance Carrier,
Defendants.

HEAD NOTE NO: 2701

STATEMENT OF THE CASE

This is a contested case proceeding under Iowa Code chapters 17A and 85. The expedited procedure of rule 876 IAC 4.48, the "alternate medical care" rule, is requested by claimant, Rebecka Honeycutt.

Claimant filed a petition on November 12, 2015. She alleged at paragraph 5 of her petition:

Reason for dissatisfaction and relief sought: An earlier AGFS, approved on 5/15/13, provided for "medical care for the injury to her low back, including care in the future." Claimant seeks care with ATP Dr. Biggerstaff, which has, in the past, been in the form of medications and injections.

The alternative medical care claim came on for hearing on November 24, 2015. The proceedings were recorded digitally, and constitute the official record of the hearing. By an order filed February 16, 2015 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.

At the time of telephonic hearing, defendants admitted liability for the work related injury of April 13, 2009. Defendants also admitted liability for medical treatment causally related to the April 13, 2009 injury; however, defendants dispute responsibility for medical treatment arising from sacroiliac or facet joint complaints.

The parties presented evidence for consideration. Claimant's exhibits 1 through 9 were offered and admitted as evidence. Defendants' exhibit A was also offered and admitted as evidence. Claimant provided oral testimony.

ISSUE

The issue presented for resolution is whether claimant is entitled to alternate medical care in the form of continued medical care with Matthew Biggerstaff, D.O.

FINDINGS OF FACT

The undersigned, having considered all of the testimony and evidence in the record, finds:

Claimant suffered a stipulated work related injury on April 13, 2009. This injury became the subject of an agreement for settlement (agreement) approved by this agency on May 15, 2013. By the agreement, the parties stipulated claimant sustained an injury to her low back, involving symptoms relative to the lumbar spine into the left leg. The parties also specifically agreed claimant was entitled to medical care for this low back injury, including care into the future.

Claimant received treatment of her April 13, 2009 injury from Dr. Biggerstaff. (See Exhibit 2, page 2; Ex. A, pp. 1-2) Claimant subsequently suffered a separate injury at work for defendant-employer on August 24, 2012, when a client kicked claimant and caused her to fall to the ground. (Ex. A, p. 3) Claimant subsequently received medical treatment of her complaints from Dr. Biggerstaff. Dr. Biggerstaff diagnosed sacroiliitis, treated with sacroiliac joint injections and continued anti-inflammatories. (Ex. A, p. 4) Claimant continued to receive care through Dr. Biggerstaff, but defendants subsequently denied further treatment related to the August 2012 claim on statute of limitations grounds.

The instant alternate care petition arose in large part due to the larger issue of causal connection between claimant's current complaints and the work related injury of April 13, 2009. Defendants do not dispute the April 13, 2009 injury, nor responsibility for medical treatment arising specifically from the April 13, 2009 work-related condition. Defendants do, however, dispute responsibility for ongoing treatment related to the August 24, 2012 injury and in particular, conditions of the facet and sacroiliac joints.

Due to the limited nature of alternate care proceedings, claimant was asked to specify what care was sought and defendants provided responses indicating if such care was authorized. By this process, defendants agreed Dr. Biggerstaff remained an

authorized provider and agreed to arrange a repeat evaluation to determine which treatments Dr. Biggerstaff recommended and to which condition each of the treatment modalities corresponded.

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).

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.

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 1975).

"Determining what care is reasonable under the statute is a question of fact." Long v. Roberts Dairy Co., 528 N.W.2d 122, 123 (Iowa 1995).

The basis of the instant alternate care petition is intertwined with significant issues of causation. Before any benefits can be ordered, including medical benefits, compensability of the claim must be established, either by admission of liability or by adjudication. The summary provisions of Iowa Code section 85.27, as more particularly described in rule 876 IAC 4.48, are not designed to adjudicate disputed compensability of a claim. Therefore, the undersigned would be acting beyond her jurisdiction to order defendants to provide care which defendants maintain is related to a distinct work injury. That being said, ongoing care may be required which is causally related to the April 13,

2009 injury; the undersigned would also be improper in denying claimant medical treatment causally related to this injury due to the injury becoming intertwined with a subsequent injury.

Therefore, it is determined claimant is entitled to repeat evaluation with authorized physician, Dr. Biggerstaff. At the time of evaluation, Dr. Biggerstaff will have the opportunity to issue treatment recommendations for claimant's conditions and specify what care is intended to treat which condition. If, following this evaluation, the parties remain unable to agree as to the appropriateness of the recommended medical treatment, claimant is free to file an application for alternate medical care regarding these new treatment recommendations.

ORDER

THEREFORE, IT IS ORDERED:

Claimant's application for alternate medical care is granted. Defendants shall arrange for a repeat evaluation of claimant by Dr. Biggerstaff.

Signed and filed this 25th day of November, 2015.


ERICA J. FITCH
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

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