



Sunjay Sundar, M.D. for pain. Claimant indicated her pain was worse after the injections. Claimant was taking steroids and Gabapentin for pain. Claimant still had low back pain. Claimant was assessed as having low back and buttock pain with a myofascial strain. Dr. Hussain recommended claimant be evaluated by a spine specialist. He returned claimant to work for six hours a day with a seven pound lifting restriction. (Ex. A)

On January 3, 2019, claimant was evaluated by Michael Berry, M.D., an orthopedic surgeon specializing in spine conditions. Claimant indicated procedures provided by Dr. Sundar did not help. Claimant had complaints of intractable back pain. Dr. Berry did not see anything on claimant's MRI that warranted surgery. Dr. Berry recommended against surgery. He recommended claimant return to an occupational medicine specialist and complete physical therapy. (Ex. B)

On April 25, 2019, claimant was evaluated by Dr. Sundar. Dr. Sundar is a pain specialist with ORA Orthopedics. Claimant had received SI injections, and trigger point injections without relief of symptoms. Dr. Sundar recommended claimant seek a second opinion with another pain specialist as he had exhausted all treatment options. Dr. Sundar recommended claimant undergo an independent medical evaluation (IME).

On April 25, 2019, claimant saw Michael Dolphin, M.D., for an IME. Dr. Dolphin found claimant at maximum medical improvement (MMI). Records indicate claimant had many visits with Dr. Sundar. Claimant had an ablation. Claimant had many injections prior to the ablation. Injections provide only several hours of short-term relief of symptoms. (Ex.2)

Claimant was found to have a five percent permanent impairment to the body as a whole. A functional capacity evaluation (FCE) was recommended. (Ex. C)

On May 7, 2019, claimant underwent an FCE. It found claimant gave maximal effort. Claimant was found to be able to work in the medium demand work level. The FCE found claimant could return to work at full duty. (Exs. 3 and D)

In a June 11, 2019 response to a letter from defendants' counsel, Dr. Dolphin indicated he did not believe further treatment was indicated for claimant. (Ex. E)

Claimant testified her pain is in the same locations as it was after the accident occurred. She testified she has had MRIs and CT scans of her low back and pelvis. Claimant testified she had several trigger point injections. She said she had a SI joint injection. She testified she had a brachial plexus nerve block. She said she had a nerve ablation. Claimant testified injections helped with a "lower spot" of pain, but she still has an "upper spot" of back pain.

#### CONCLUSION 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. 6.14(6).

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).

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 R. App. P 14(f)(5); 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 she 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 has had CT scans and an MRI of the low back and pelvis. She has had trigger point injections. She has had an SI joint injection. She has had a brachial plexus nerve block. She has had an ablation.

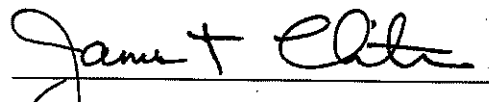
However, an authorized treating physician, Dr. Sundar, recommended claimant "...seek a second opinion with another pain management physician..."(Ex. 1) Because an authorized treating physician recommended a second opinion, and only because of Dr. Sundar's recommendation, claimant has carried her burden of proof she is entitled to the requested alternate medical care.

ORDER

THEREFORE IT IS ORDERED:

That claimant's petition for alternate medical care is granted. Defendants are ordered to provide claimant with a second opinion visit with another pain specialist as recommended by Dr. Sundar.

Signed and filed this 17<sup>th</sup> day of June, 2019.

  
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