

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

CLAYTON PORTWOOD,

Claimant,

vs.

ARMORED KNIGHTS, INC.,

Employer,

and

PRAETORIAN INS. CO.,

Insurance Carrier,
Defendants.

FILED
JUN 17 2019
WORKERS COMPENSATION

File No. 5068597

ALTERNATE MEDICAL

CARE DECISION

Head Note No.: 2701

Claimant Clayton Portwood filed an arbitration petition and a petition for alternate medical care on June 5, 2019, against the defendants, Armored Knights, Inc. ("Armored Knights"), and Praetorian Insurance Company ("Praetorian"). In the arbitration petition Portwood alleges he sustained an injury to his low back and left arm while working for Armored Knights on December 20, 2018 while lifting and moving large bags of coins. In the petition for alternate medical care Portwood avers:

[e]mployer originally sent Claimant to Doctors Now in Altoona. However, he is presently not authorized to see anybody because the employer has not agreed to continue to authorize his medical care and treatment with Doctors Now in Altoona. Claimant needs to see a back or pain physician to address the low back pain that he has had since December 20, 2018.

On June 6, 2019, the Division of Workers' Compensation sent a notice of telephone hearing to the parties, scheduling a hearing on the petition for alternate medical care for June 17, 2019. The copies served on Armored Knights and Praetorian were not returned to the Division of Workers' Compensation.

FINDINGS OF FACT

A hearing on the petition for alternate medical care was held on June 17, 2019. Portwood appeared with his counsel, Chris Spaulding, by telephone conference call. I took official notice of the petition for alternate medical care filed on June 5, 2019. At the start of the hearing Spaulding made a professional statement that Armored Knights was served by certified mail on June 11, 2019 at 9:48 a.m., and Praetorian was served on June 12, 2019, at 9:02 a.m. Armored Knights and Praetorian did not appear at the time of the hearing on the petition for alternate medical care or file any responsive pleading.

By failing to appear after receiving proper service and after receiving the notice of hearing, Armored Knights and Praetorian are in default.

Portwood testified he is employed by Armored Knights. (Portwood Testimony) Portwood reported on December 20, 2018, while he was working for Armored Knights he was lifting heavy bags of coins into and armored truck and he felt a pop in his lower back. (Portwood Testimony) Portwood reported he also experiences shooting pain in his left arm. (Portwood Testimony)

Portwood testified Armored Knights sent him for three visits with Doctors Now in Altoona, Iowa. (Portwood Testimony) Doctors Now recommended additional treatment and Armored Knights has not authorized the treatment. (Portwood Testimony) Portwood reported a representative from Armored Knights told him Armored Knights wanted to keep this matter "off the books." (Portwood Testimony)

Portwood requests Armored Knights and Praetorian be ordered to authorize any and all care recommended by Doctors Now in Altoona, Iowa.

CONCLUSIONS OF LAW

Under Iowa Code section 85.27 (2018), an employer is required to furnish reasonable surgical, medical, dental, osteopathic, chiropractic, podiatric, physical rehabilitation, nursing, ambulance, and hospital services and supplies for all conditions compensable under Iowa Code chapters 85 and 85A. The employer has the right to choose the provider of care, except when the employer has denied liability for the injury. Id.

"The treatment must be offered promptly and be reasonably suited to treat the injury without undue inconvenience to the employee." Id. § 85.27(4). If the employee is dissatisfied with the care, the employee should communicate the basis for the dissatisfaction to the employer. Id. If the employer and employee cannot agree on alternate care, the commissioner "may, upon application and reasonable proofs of necessity therefore, allow and order other care." Id.

The employee bears the burden of proving the care authorized by the employer is unreasonable. R.R. Donnelly & Sons v. Barnett, 670 N.W.2d 190, 196 (Iowa 2003). "The employer's obligation under the statute turns on the question of reasonable necessity, not desirability." Long v. Roberts Dairy Co., 528 N.W.2d 122, 124 (Iowa 1995). The care authorized by the employer is unreasonable if it is ineffective, inferior, or less extensive than the care requested by the employee. Pirelli-Armstrong Tire Co. v. Reynolds, 562 N.W.2d 433, 437 (Iowa 1997). The determination of whether care is reasonable is a question of fact. Long, 528 N.W.2d at 123.


Portwood is experiencing low back pain and pain in his left arm. Armored Knights initially authorized care with Doctors Now in Altoona, but it has refused to authorize additional care recommended by Doctors Now. Armored Knights and

Praetorian are acting unreasonably by refusing to authorize care for Portwood. Portwood is entitled to any and all care recommended by Doctors Now in Altoona, Iowa, for treatment of his work injury.

ORDER

Claimant's application for alternate care is GRANTED. Defendants shall authorize any and all care recommended by Doctors Now in Altoona, Iowa, for treatment of his work injury.

Signed and filed this 17th day of June, 2019.


HEATHER L. PALMER
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

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