

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

MARIA ALVAREZ,  
 Claimant,

vs.

DAYBREAK FOODS, INC.,  
 Employer,

and

ACCIDENT FUND NATIONAL  
 INSURANCE COMPANY,  
 Insurance Carrier,  
 Defendants.

File No. 19700501.02  
 MEMORANDUM OF  
 ALTERNATE MEDICAL CARE


Prior to the hearing, the parties came to an agreement that the defendants would provide a referral and appointment for the left upper extremity, left shoulder and accepted hip work injury. However, defendants denied liability for the back and neck.

Defendants cannot deny liability and simultaneously direct the course of treatment. Barnhart v. MAQ Incorporated, I Iowa Industrial Comm'r Report 16 (App. March 9, 1981).

THEREFORE, IT IS ORDERED, that the alternate medical care petition as it relates to the left upper extremity, shoulder and hip is dismissed for mootness. The alternate medical care petition as it relates to the back and neck is dismissed due to defendants' denial of liability. Claimant is permitted to seek out care for the back and neck on her own.

IT IS FURTHER ORDERED that if claimant seeks to recover the charges incurred in obtaining care for a condition for which defendants denied liability, defendants are barred from asserting lack of authorization as a defense to those charges.

Signed and filed this 7<sup>TH</sup> day of November, 2019.



JENNIFER S. GERRISH-LAMPE  
 DEPUTY WORKERS'  
 COMPENSATION COMMISSIONER

The parties have been served, as follows:

Nick Platt (via WCES)

Laura Ostrander (via WCES)