

December 6, 2011

Michael F. Marlow  
Johnson, Miner, Marlow,  
Woodward & Huff, Prof. LLC  
PO Box 667  
Yankton, SD 57078

LETTER ORDER

Eric C. Blomfelt  
Blomfelt Associates  
1499 Blake St. #4H  
Denver, CO 80202

RE: HF No. 59, 2010/11 – Annette Rowcliffe v. Truck Insurance Exchange

Dear Mr. Marlow and Mr. Blomfelt:

I have received Insurer's Motion for Reconsideration and Petition for Hearing as well as Claimant's Resistance to Insurer's Motion for Reconsideration and Petition for Hearing.

Insurer moves the Department for a reconsideration of its Letter Order dated November 7, 2011, in part and for its Order restraining Claimant from having spinal cord stimulator implant until a hearing to determine whether a permanent spinal cord stimulator is reasonable and necessary medical treatment.

A review of the November 7, 2011 Letter Order shows that no ruling was made as to whether the treatment sought by the Claimant was reasonable and necessary medical treatment pursuant to SDCL 62-4-1.1. The letter simply stated the Department's position that, the **employer has no authority to approve or disapprove the treatment rendered**. It is in the doctor's province to determine what is necessary, or suitable and proper. When a disagreement arises as to the treatment rendered, or recommended by the physician, it is for the employer to show that the treatment was not necessary or suitable and proper.

The Claimant is entitled to seek care and treatment as determined by the treating physician. If Employer/Insurer dispute that the surgery was excessive or not medically necessary they must make a showing to that effect after the medical bill is properly submitted. See SDCL §62-4-1.1.

Claimant takes the risk that after the bill for treatment is submitted, Employer/Insurer may dispute whether it was reasonable and necessary.

Insurer's Motion for Reconsideration and Petition for Hearing is denied. This letter shall serve as the Department's Order

Sincerely,

*/s/ Taya M. Runyan*

Taya M. Runyan  
Administrative Law Judge