

## BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

BRYAN THURM,

Claimant,

vs.

HOLY FAMILY CATHOLIC SCHOOLS,

Employer,

and

DUBUQUE ARCHDIOCESAN  
PROTECTION PROGRAM,Insurance Carrier,  
Defendants.

File No. 5066807

A P P E A L

D E C I S I O N

Head Notes: 1402.20; 1402.40; 1803;  
1803.1; 2501; 2701; 2907;  
5-9998

Defendants Holy Family Catholic Schools, employer, and its insurer, Dubuque Archdiocesan Protection Program, appeal from an arbitration decision filed on October 26, 2020. Claimant Bryan Thurm cross-appeals. The case was heard on January 22, 2020, and it was considered fully submitted in front of the deputy workers' compensation commissioner on February 21, 2020.

In the arbitration decision, the deputy commissioner found claimant's stipulated work injury, which occurred on April 25, 2017, materially aggravated, accelerated or lit up claimant's underlying right knee and low back conditions. The deputy commissioner found claimant sustained 25 percent industrial disability as a result of the work injury, which entitles claimant to receive 125 weeks of permanent partial disability benefits commencing on May 3, 2018. The deputy commissioner found claimant's gross average weekly wage for the work injury was \$780.00 per week, and the deputy commissioner found claimant's weekly benefit rate for the injury is \$497.99. The deputy commissioner found claimant is entitled to alternate medical care for the work-related right knee and low back conditions in the form of treatment recommended by John D. Kuhnlein, D.O. The deputy commissioner ordered defendants to pay claimant's costs of the arbitration proceeding.

Defendants assert on appeal that the deputy commissioner erred in finding claimant sustained permanent injuries to his right knee and low back as a result of the work injury. Defendants assert the deputy commissioner erred in finding claimant is entitled to receive industrial disability benefits for the work injury. In the alternative, defendants assert it should be found claimant sustained a permanent scheduled member injury to his right knee only. Defendants assert the deputy commissioner erred in finding claimant is entitled to alternate medical care.

On cross-appeal, claimant asserts the award for industrial disability should be increased substantially.

Those portions of the proposed agency decision pertaining to issues not raised on appeal are adopted as a part of this appeal decision.

I have performed a de novo review of the evidentiary record and the detailed arguments of the parties, and I reach the same analysis, findings, and conclusions as those reached by the deputy commissioner.

Pursuant to Iowa Code sections 17A.5 and 86.24, I affirm and adopt as the final agency decision those portions of the proposed arbitration decision filed on October 26, 2020, which relate to the issues properly raised on intra-agency appeal.

I find the deputy commissioner provided a well-reasoned analysis of all of the issues raised in the arbitration proceeding. I affirm the deputy commissioner's findings of fact and conclusions of law pertaining to those issues.

I affirm the deputy commissioner's finding that the work injury materially aggravated, accelerated or lit up claimant's underlying right knee and low back conditions. I affirm the deputy commissioner's finding that claimant sustained 25 percent industrial disability as a result of the work injury. I affirm the deputy commissioner's finding that claimant's gross average weekly wage for the work injury was \$780.00 per week, and I affirm the deputy commissioner's finding that claimant's weekly benefit rate for the injury is \$497.99. I affirm the deputy commissioner's finding that claimant is entitled to alternate medical care in the form of treatment recommended by Dr. Kuhnlein. I affirm the deputy commissioner's order that defendants pay claimant's costs of the arbitration proceeding.

I affirm the deputy commissioner's findings, conclusions and analysis regarding the above-stated issues.

#### ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on October 26, 2020, is affirmed in its entirety.

Defendants shall pay claimant one hundred twenty-five (125) weeks of permanent partial disability benefits at the weekly rate of four hundred ninety-seven and 99/100 (\$497.99) commencing May 3, 2018.

Defendants shall receive credit for all benefits previously paid.

Defendants shall pay accrued weekly benefits in a lump sum together with interest at an annual rate equal to the one-year treasury constant maturity published by the federal reserve in the most recent H15 report settled as of the date of injury, plus two percent. See Gamble v. AG Leader Technology, File No. 5054686 (App. Apr. 24, 2018).

Defendants shall pay for all reasonably necessary future medical treatment for claimant's right knee and low back injuries. Defendants shall authorize treatment as recommended by Dr. Kuhnlein at Exhibit 1, page 9.

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration proceeding, and the parties shall split the costs of the appeal, including the cost of the hearing transcript.

Pursuant to rule 876 IAC 3.1(2), defendants shall file subsequent reports of injury (SROI) as required by this agency.

Signed and filed on this 16<sup>th</sup> day of March, 2021.

*Joseph S. Cortese II*

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JOSEPH S. CORTESE II  
WORKERS' COMPENSATION  
COMMISSIONER

The parties have been served as follows:

Joanie Grife (via WCES)

Christopher Fry (via WCES)