

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

GERALD CARTER,

Claimant,

vs.

G.F. LACAEYSE TRANSPORT, INC.,

Employer,

and

RELIANCE NATIONAL INSURANCE,
In liquidation, ILLINOIS INSURANCE
GUARANTY FUND, and RISK
ENTERPRISE MANAGEMENT, LTD.,
Administrator,

Insurance Carrier,
Defendants.

File No. 5001819

A P P E A L

D E C I S I O N

Head Note Nos.: 1402.40; 1802; 1803

Pursuant to Iowa Code sections 86.24 and 17A.15 I affirm and adopt as final agency action those portions of the proposed decision in this matter that relate to issues properly raised on intra-agency appeal with the following additional analysis:

Continued maintenance care for ongoing symptoms does not necessarily extend the healing period. A new finding on a recent test and a recommendation for follow-up evaluation does not extend healing period benefits if additional treatment does not occur and improve the condition.

It has long been held that a healing period may be intermittent. Teel v. McCord, 394 N.W.2d 405 (Iowa 1986) Healing period may terminate and then begin again. Willis v. Lehigh Portland Cement Co., IV Iowa Ind. Comm'r Report 485 (1984); Clemens v. Iowa Veterans Home, I-1 Iowa Industrial Comm'r Decisions 35 (Rev-Reop. 1984); Riesselman v. Carroll Health Center, III Iowa Ind. Comm'r Report 209 (App. 1982); Junge v. Century Engineering Corp., II Iowa Industrial Comm'r Report 219 (App. 1981). See also, Lawyer & Higgs, Iowa Practice, Workers' Compensation, Section 13-3.

Contrary to the assertions of defendants on appeal, the deputy did not misread the July 23, 2001, report from Steven Delheimer, M.D. That report does not state that maximum medical improvement was achieved in December 2000. The doctor merely

stated that maximum improvement had already occurred since the last surgery in December 2000.

It is clear that the deputy did not accept all the evidence that came from the claimant nor did he accept all the evidence that was introduced by defendants. Nothing from my review convinces me that the deputy decision was wrong or that I would have decided the case differently if I had presided at the hearing. From my review of the evidence I agree with the findings of fact and conclusions of law made by the deputy.

That claimant and defendants shall share equally the costs of the appeal including transcription of the hearing. Defendants shall pay all other costs.

Signed and filed this 30th day of April, 2004.

MICHAEL G. TRIER
WORKERS' COMPENSATION
COMMISSIONER

Copies to:

Mr. Tom Drew
Attorney at Law
PO Box 12129
Des Moines, IA 50312-9403

Mr. Brendan Quann
Mr. Davin Curtiss
Attorneys at Law
PO Box 599
Dubuque, IA 52004-0599