

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

JEFFREY ARNOLD,

Claimant,

vs.

SECOND INJURY FUND OF IOWA,

Employer,
Defendant.

File No. 5047123

A P P E A L

D E C I S I O N

Head Note Nos: 3202; 5-9998

FILED

AUG - 7 2017

WORKERS' COMPENSATION

Defendant Second Injury Fund of Iowa (the Fund) appeals from an arbitration decision filed on December 30, 2015. Claimant Jeffrey Arnold responds to the appeal. The case was heard on August 25, 2015, and it was considered fully submitted in front of the deputy workers' compensation commissioner on September 28, 2015.

In the arbitration decision, the deputy commissioner found claimant is entitled to receive benefits from the Fund because the deputy commissioner found claimant sustained a first qualifying injury to his bilateral eyes with an injury date of June 6, 1988, and because the deputy commissioner found claimant sustained a second qualifying work-related injury to his bilateral knees which occurred on September 24, 2012, which is the subject of this proceeding. The deputy commissioner found the combined effects of the two injuries result in 45 percent industrial disability, which entitles claimant to 225 weeks of permanent partial disability (PPD) benefits, less appropriate credits to the Fund. The deputy commissioner found the Fund is entitled to a total credit of 80 weeks of PPD benefits pursuant to a settlement of the September 24, 2012, work injury between claimant and the employer. The deputy commissioner ordered the Fund to pay claimant's prior medical expenses submitted by claimant at the hearing. The deputy commissioner ordered the Fund to pay claimant's future medical expenses necessitated by the work injury. The deputy commissioner also ordered the Fund to pay the costs of the arbitration proceeding.

The Fund asserts on appeal that the deputy commissioner erred in finding claimant sustained a first qualifying injury and in finding claimant sustained a second qualifying injury. The Fund asserts the deputy commissioner erred in finding that the combined effects of the two injuries result in any industrial disability. The Fund asserts even if claimant is entitled to benefits from the Fund, that entitlement is significantly less than 45 percent industrial disability for the combined effects of the two injuries. The Fund asserts at most claimant has sustained minimal industrial disability due to the

combined effects of the two injuries. The Fund asserts that past and future medical expenses were not requested by claimant at hearing and it appears the deputy commissioner's orders regarding past and future medical expenses were mistakenly made. The Fund asserts that the costs of the arbitration proceeding should be paid by claimant.

Claimant asserts on appeal that the arbitration decision should be affirmed in its entirety.

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

Having performed a de novo review of the evidentiary record and the detailed arguments of the parties, 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 December 30, 2015, which relate to the issues properly raised on intra-agency appeal.

I find the deputy commissioner provided sufficient analysis of the following 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 claimant is entitled to receive benefits from the Fund because I affirm the deputy commissioner's finding that claimant sustained a first qualifying injury on June 6, 1988, and because I affirm the deputy commissioner's finding that claimant sustained a second qualifying injury on September 24, 2012. I affirm the deputy commissioner's finding that the combined effects of the two injuries result in 45 percent industrial disability, which entitles claimant to 225 weeks of permanent partial disability (PPD) benefits, less appropriate credits to the Fund. I affirm the deputy commissioner's finding that the Fund is entitled to a total credit of 80 weeks of PPD benefits for the settlement of the September 24, 2012, work injury between claimant and the employer. I affirm the deputy commissioner's findings, conclusions and analysis regarding those issues.

I find that the deputy commissioner's orders that the Fund pay claimant's past medical expenses and that defendants pay claimant's future medical expenses were scrivener's errors and I reverse those two orders

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on December 30, 2015, is MODIFIED as follows:

The Fund shall pay claimant two hundred twenty-five (225) weeks of permanent partial disability benefits at the rate of eight hundred fifty-two and 11/100 dollars (\$852.11) per week.

The Fund shall receive a credit of 80 weeks of permanent partial disability benefits for the settlement of the September 24, 2012, work injury between claimant and the employer.

The Fund shall pay accrued weekly benefits in a lump sum.

Pursuant to Iowa Code section 85.30, interest accrues on unpaid Second Injury Fund benefits from the date of the decision. Second Injury Fund of Iowa v. Braden, 459 N.W.2d 467 (Iowa 1990).

Pursuant to rule 876 IAC 4.33, the Fund shall pay the costs of the arbitration proceeding, and the Second Injury Fund shall pay the costs of the appeal, including the cost of the hearing transcript.

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

Signed and filed this 7th day of August, 2017.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

Copies To:

Kevin P. Spellman
Mark E. Spellman
Attorneys at Law
PO Box 550
Perry, IA 50220
spellmankevin@gmail.com
mark@spellmanlawfirm.com

Amanda Rutherford
Assistant Attorney General
Special Litigation
Hoover State Office Bldg.
Des Moines, IA 50319-0106
amanda.rutherford@iowa.gov