

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

EDITA GARCIA DE CEA,

Claimant,

vs.

CONAGRA FOODS, INC.,

Employer,

and

OLD REPUBLIC INSURANCE
COMPANY,

Insurance Carrier,
Defendants.

FILED

MAR 14 2019

WORKERS' COMPENSATION

File No. 5063613

A P P E A L

D E C I S I O N

Head Note Nos: 1402.30; 2402; 2701;
2907; 4000; 5-9998

Defendants ConAgra Foods, Inc., employer, and its insurer, Old Republic Insurance Company, appeal from an arbitration decision filed on June 8, 2018. Claimant Edita Garcia De Cea responds to the appeal. The case was heard on April 11, 2018, and it was considered fully submitted in front of the deputy workers' compensation commissioner on May 3, 2018.

The deputy commissioner found claimant carried her burden of proof that she sustained an injury which arose out of and in the course of her employment with defendant-employer on June 15, 2015. The deputy commissioner found claimant's claim in this matter is not time-barred by Iowa Code section 85.26. The deputy commissioner found claimant is entitled to receive alternate medical care in the form of treatment recommended by Gavin O'Mahony, M.D. The deputy commissioner found claimant is not entitled to receive penalty benefits. 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 carried her burden of proof that she sustained a work-related injury on June 15, 2015. Defendants assert the deputy commissioner erred in finding claimant's claim in this matter is not time-barred by Iowa Code section 85.26. Defendants assert the deputy commissioner erred in finding claimant is entitled to receive alternate medical care.

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.

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 June 8, 2018, 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 claimant carried her burden of proof that she sustained a work-related injury on June 15, 2015. I affirm the deputy commissioner's finding that claimant's claim in this matter is not time-barred by Iowa Code section 85.26. I affirm the deputy commissioner's finding that claimant is entitled to receive alternate medical care in the form of treatment recommended by Dr. O'Mahony. I affirm the deputy commissioner's finding that claimant is not entitled to receive penalty benefits. 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 those issues.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on June 8, 2018, is affirmed in its entirety.

Claimant's left carpal tunnel syndrome is found to have arisen out of and in the course of claimant's employment with defendant-employer.

Defendants shall authorize medical care as recommended by Dr. O'Mahony.

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration proceeding, and defendants shall pay 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 as required by this agency.

Signed and filed on this 14th day of March, 2019.

Joseph S. Cortese II

JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

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