

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

WILLIAM LEGGETT,

Claimant,

vs.

UNIVERSITY OF IOWA HOSPITALS,  
AND CLINICS

STATE OF IOWA,

Self-Insured,  
Employer,  
Defendant.

File No. 5049231

A P P E A L  
D E C I S I O N

Head Note No: 1803

**FILED**

**JUL 13 2017**

**WORKERS' COMPENSATION**

Defendant University of Iowa Hospitals and Clinics, State of Iowa, appeals from an arbitration decision filed on November 18, 2015. Claimant William Leggett responds to the appeal. The case was heard on October 8, 2015, and it was considered fully submitted in front of the deputy workers' compensation commissioner on October 21, 2015.

Claimant sustained a stipulated right shoulder injury which arose out of and in the course of his employment with defendant on July 21, 2006. For that injury, defendant paid claimant six percent industrial disability, which was 30 weeks of permanent partial disability (PPD) benefits. The July 21, 2006, work injury is not the subject of this proceeding.

Claimant sustained a stipulated left shoulder injury which arose out of and in the course of his employment with defendant on August 20, 2013, and that injury is the subject of this proceeding.

The deputy commissioner found that pursuant to Iowa Code section 85.34(7)(b)(1), the successive disabilities provision of the Iowa Workers' Compensation Act, claimant sustained 50 percent industrial disability from the combined effects of the July 21, 2006, work injury and the August 20, 2013, work injury. The deputy commissioner found defendant is entitled to a credit against the 50 percent industrial disability for the six percent industrial disability, 30 weeks of PPD benefits, previously paid by defendant for the July 21, 2006, work injury. The deputy commissioner also found defendant is entitled to an additional credit against the 50 percent industrial

disability for 40 weeks of PPD benefits, which defendant voluntarily paid for the August 20, 2013, work injury. The deputy commissioner found claimant is not entitled to penalty benefits pursuant to Iowa Code section 86.13. The deputy commissioner also ordered defendant to pay claimant's costs of the arbitration proceeding.

Defendant asserts on appeal that the deputy commissioner erred in awarding claimant 50 percent industrial disability for the combined effects of the two injuries. Defendant asserts the arbitration decision should be modified "to reflect a reduced finding of combined industrial disability due to the left and right shoulder injuries." (Defendants' Appeal Brief, page 18)

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 86.24 and 17A.15, I affirm and adopt as the final agency decision those portions of the proposed arbitration decision filed in this matter on November 18, 2015, which relate to issues properly raised on intra-agency appeal.

I find the deputy commissioner provided sufficient analysis of the issues raised in the arbitration proceeding. I affirm the deputy commissioner's finding that pursuant to Iowa Code section 85.34(7)(b)(1), claimant sustained 50 percent industrial disability from the combined effects of the July 21, 2006, work injury and the August 20, 2013, work injury. I affirm the deputy commissioner's finding that defendant is entitled to a credit against the 50 percent industrial disability for the six percent industrial disability previously paid by defendants for the July 21, 2006, work injury. I affirm the deputy commissioner's finding that defendant is entitled to an additional credit against the 50 percent industrial disability for 40 weeks of PPD benefits, which defendants voluntarily paid for the August 20, 2013, work injury. I affirm the deputy commissioner's finding that claimant is not entitled to penalty benefits pursuant to Iowa Code section 86.13. I also affirm the deputy commissioner's order taxing defendants with claimant's costs of the arbitration proceeding. I affirm the deputy commissioner's findings, conclusions and analysis regarding those issues.

Some of the findings by the deputy commissioner in the arbitration decision were based on the deputy commissioner's findings regarding claimant's credibility. The deputy commissioner found claimant to be credible. While I performed a de novo review, I give considerable deference to findings of fact which are impacted by the

credibility findings, expressly or impliedly made, regarding claimant by the deputy commissioner who presided at the arbitration hearing. I find nothing in the record in this matter which would cause me to reverse the deputy commissioner's findings regarding claimant's credibility.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on November 18, 2015, is affirmed in its entirety.

Defendant shall pay claimant two hundred fifty (250) weeks of permanent partial disability benefits at the stipulated rate of four hundred eighty-six and 04/100 dollars (\$486.04) per week from the stipulated commencement date of August 26, 2014.

Defendant shall be given credit against the 250 weeks awarded herein for the 30 weeks of permanent partial disability benefits previously paid by defendant for the July 21, 2006, work injury.

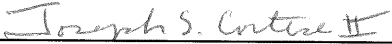
Defendant shall be given an additional credit against the 250 weeks awarded herein for the 40 weeks of permanent partial disability benefits voluntarily paid by defendant for the August 20, 2013, work injury.

Defendant shall pay accrued weekly benefits in a lump sum together with interest pursuant to Iowa Code section 85.30.

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

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

Signed and filed this 13<sup>th</sup> day of July, 2017.

  
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JOSEPH S. CORTESE II  
WORKERS' COMPENSATION  
COMMISSIONER

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