

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

DANDEENA SCHADLE,	:	
	:	
Claimant,	:	
	:	
vs.	:	
	:	File No. 5057454
UNION COMMUNITY SCHOOL	:	
DISTRICT,	:	A P P E A L
	:	
Employer,	:	D E C I S I O N
	:	
and	:	
	:	
EMC INSURANCE,	:	
	:	Head Notes: 1402.30, 1402.40, 1802; 1803;
Insurance Carrier,	:	2204; 2206; 2501; 2907;
Defendants.	:	4000.2; 5-9998

Defendants Union Community School District, employer, and its insurer, EMC Insurance Company, appeal from an arbitration decision filed on July 9, 2019. Claimant Dandeeena Schadle responds to the appeal. The case was heard on May 22, 2019, and it was considered fully submitted in front of the deputy workers' compensation commissioner on June 12, 2019.

The deputy commissioner found claimant carried her burden of proof to establish she sustained permanent disability of her left knee, her right foot and ankle, her right hip and buttock, and her right shoulder as a result of the stipulated work injury, which occurred on May 4, 2015. The deputy commissioner found claimant carried her burden of proof to establish she sustained a temporary mental health condition as a result of the work injury, but the deputy commissioner found claimant failed to carry her burden of proof to establish a permanent mental health condition caused by the work injury. The deputy commissioner found claimant sustained 60 percent industrial disability as a result of the work injury, which entitles claimant to receive 300 weeks of permanent partial disability benefits commencing on February 15, 2016. The deputy commissioner found that the weekly benefits paid by defendants to claimant from December 20, 2017, through February 11, 2018, are properly classified as healing period benefits and not as permanent partial disability benefits. The deputy commissioner found claimant is not entitled to receive healing period benefits for May 5, 2015, and from May 7, 2015, through August 18, 2015. The deputy commissioner found claimant is entitled to receive penalty benefits in the total amount of \$1,500.00 for unreasonable delays by

defendants in paying weekly benefits from February 15, 2016, through March 13, 2016, from February 16, 2017, through March 12, 2017, and from December 20, 2017, through January 3, 2018. The deputy commissioner found claimant is entitled to payment by defendants for the past requested medical charges itemized in Exhibit 9 for claimant's work-related right foot and ankle condition only. The deputy commissioner ordered defendants to pay claimant's costs of the arbitration proceeding in the amount of \$457.90.

Defendants assert on appeal that the deputy commissioner erred in finding claimant carried her burden of proof to establish she sustained permanent disability of her right foot and ankle as a result of the work injury. Defendants assert the deputy commissioner erred in finding claimant sustained 60 percent industrial disability as a result of the work injury. Defendants assert the award for industrial disability should be reduced substantially. Defendants assert the deputy commissioner erred in finding the weekly benefits paid by defendants to claimant from December 20, 2017, through February 11, 2018, are properly classified as healing period benefits and not as permanent partial disability benefits. Defendants assert the deputy commissioner erred in finding claimant is entitled to receive penalty benefits. Defendants assert the deputy commissioner erred in finding claimant is entitled to payment by defendants for the past requested medical charges itemized in Exhibit 9 for claimant's right foot and ankle condition. Defendants assert the deputy commissioner erred in taxing defendants with the \$207.90 expense for claimant's deposition transcript as a cost of the arbitration proceeding.

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 July 9, 2019, 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 to establish she sustained permanent disability of her left knee, her right foot and ankle, her right hip and buttock, and her right shoulder as a result of the May 4, 2015,

work injury. I affirm the deputy commissioner's finding that claimant carried her burden of proof to establish she sustained a temporary mental health condition as a result of the work injury, and I affirm the deputy commissioner's finding that claimant failed to carry her burden of proof to establish she sustained a permanent mental health condition as a result of the work injury. I affirm the deputy commissioner's finding that claimant sustained 60 percent industrial disability as a result of the work injury. I affirm the deputy commissioner's finding that the weekly benefits paid by defendants to claimant from December 20, 2017, through February 11, 2018, are properly classified as healing period benefits and not as permanent partial disability benefits. I affirm the deputy commissioner's finding that claimant is not entitled to receive healing period benefits for May 5, 2015, and from May 7, 2015, through August 18, 2015. I affirm the deputy commissioner's finding that claimant is entitled to receive penalty benefits from defendants in the total amount of \$1,500.00 for unreasonable delays in paying weekly benefits from February 15, 2016, through March 13, 2016, from February 16, 2017, through March 12, 2017, and from December 20, 2017, through January 3, 2018. I affirm the deputy commissioner's finding that claimant is entitled to payment by defendants for the past requested medical charges itemized in Exhibit 9 for claimant's work-related right foot and ankle condition only. I affirm the deputy commissioner's order that defendants pay claimant's costs of the arbitration proceeding in the amount of \$457.90, including the \$207.90 expense for claimant's deposition transcript

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

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on July 9, 2019, is affirmed in its entirety.

Defendants shall pay claimant three hundred (300) weeks of permanent partial disability benefits at the stipulated weekly rate of eight hundred fifty-four and 27/100 dollars (\$854.27), commencing on the stipulated commencement date of February 15, 2016.

Defendants shall pay claimant healing period benefits from December 20, 2017, through February 11, 2018, at the stipulated weekly rate of eight hundred fifty-four and 27/100 dollars (\$854.27).

Defendants shall pay accrued weekly benefits in a lump sum together with interest at the rate of ten percent for all weekly benefits payable and not paid when due which accrued before July 1, 2017, and all interest on past due weekly compensation benefits accruing on or after July 1, 2017, shall be payable 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 receive a credit for all benefits paid to date.

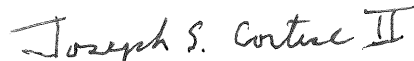
Defendants are responsible for the medical charges itemized in Exhibit 9 for claimant's work-related right foot and ankle condition only.

Defendants shall pay claimant one thousand five hundred and no/100 dollars (\$1,500.00) in penalty benefits for unreasonable delays in paying weekly benefits from February 15, 2016, through March 13, 2016, from February 16, 2017, through March 12, 2017, and from December 20, 2017, through January 3, 2018.

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration proceeding in the amount of four hundred fifty-seven and 90/100 dollars (\$457.90), 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 21st day of April, 2020.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

Benjamin R. Roth Via WCES

Matthew G. Novak Via WCES