

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

DENNY PHIPPS,

Claimant,

vs.

MIDWEST AMBULANCE SERVICE
OF IOWA,

Employer,

and

WEST BEND MUTUAL INSURANCE
COMPANY,

Insurance Carrier,
Defendants.

File No. 5055117

FILED

A P P E A L

JUL 20 2018

D E C I S I O N

WORKERS' COMPENSATION

Head Note Nos: 1402.40; 1402.60;
1801; 2501; 5-9998

Claimant Denny Phipps appeals from an arbitration decision filed on February 10, 2017. Defendants Midwest Ambulance Service of Iowa, employer, and its insurer, West Bend Mutual Insurance Company, respond to the appeal. The case was heard on October 27, 2016, and it was considered fully submitted in front of the deputy workers' compensation commissioner on December 12, 2016.

The deputy commissioner found claimant failed to carry his burden of proof that he sustained permanent disability as a result of a stipulated injury which arose out of and in the course of claimant's employment with defendant-employer on July 9, 2015. The deputy commissioner found claimant failed to prove entitlement to receive permanent disability benefits. The deputy commissioner found claimant is not entitled to receive either temporary disability benefits, or healing period benefits, from September 18, 2015, through January 25, 2016. The deputy commissioner found claimant is not entitled to receive alternate medical care into the future for the work injury. The deputy commissioner found claimant is entitled to payment by defendants for medical and ambulance expenses for emergency room treatment received on September 21, 2015, but the deputy commissioner found claimant is not entitled to payment by defendants for any other requested past medical expenses. The deputy commissioner ordered defendants to pay claimant's costs of the arbitration proceeding in the amount of \$100.00.

Claimant asserts on appeal that the deputy commissioner erred in finding claimant did not sustain permanent disability as a result of the July 9, 2015, work injury. Claimant asserts the deputy commissioner erred in finding claimant failed to prove entitlement to receive permanent disability benefits. Claimant asserts the deputy commissioner erred in finding claimant is not entitled to receive either temporary disability benefits, or healing period benefits, from September 18, 2015, through January 25, 2016. Claimant asserts the deputy commissioner erred in finding claimant is not entitled to receive alternate medical care into the future for the work injury. Claimant asserts the deputy commissioner erred in finding claimant is not entitled to payment by defendants for all other requested past medical expenses in addition to those awarded for the emergency room treatment received on September 21, 2015.

Defendants assert 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 February 10, 2017, which relate to the issues properly raised on intra-agency appeal.

I find the deputy commissioner provided a well-reasoned analysis of all 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 failed to carry his burden of proof that he sustained permanent disability as a result of the July 9, 2015, work injury. I affirm the deputy commissioner's finding that claimant failed to prove entitlement to permanent disability benefits. I affirm the deputy commissioner's finding that claimant is not entitled to receive either temporary disability benefits, or healing period benefits, from September 18, 2015, through January 25, 2016. I affirm the deputy commissioner's finding that claimant is not entitled to receive alternate medical care into the future for the work injury. I affirm the deputy commissioner's finding that claimant is entitled to payment by defendants for all medical and ambulance expenses for emergency room treatment claimant received on September 21, 2015, and I affirm the deputy commissioner's finding that claimant is not entitled to payment by defendants for any other requested past medical expenses. I affirm the deputy commissioner's order that defendants pay claimant's costs of the arbitration proceeding in the amount of \$100.00. 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 was not credible. I find the deputy commissioner correctly assessed claimant's credibility. 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 lack of credibility.

ORDER

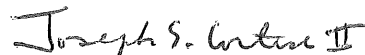
IT IS THEREFORE ORDERED that the arbitration decision filed on February 10, 2017, is affirmed in its entirety.

Defendants shall reimburse claimant, pay directly to medical providers if unpaid, or otherwise hold claimant harmless, for the medical expenses incurred for treatment at Iowa Methodist West Hospital's emergency room on September 21, 2015, including charges totaling up to seven thousand two hundred forty-five and 29/100 dollars (\$7,245.29), as itemized in Exhibit 11, pages 1-5.

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration proceeding in the amount of \$100.00, and claimant 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 20th day of July, 2018.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

Copies To:

Eric J. Loney
Attorney at Law
1311 – 50th St.
West Des Moines, IA 50266
eric@loneylaw.com

Clarissa A. Bierstedt
Attorney at Law
6800 Lake Dr., Ste. 125
West Des Moines, IA 50266-2504
clarissa@peddicord-law.com