

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

FILED

JUL 9 2018

WORKERS' COMPENSATION

RENEE A. OLHAUSEN,

Claimant,

vs.

1ST STEP CHIROPRACTIC,

Employer,

and

TRAVELERS INDEMNITY/CT,

Insurance Carrier,
Defendants.

File Nos. 5045054, 5045055

A P P E A L

D E C I S I O N

Head Note Nos: 1104; 1108; 2500; 5-9998

Claimant Renee A. Olhausen appeals from an arbitration decision filed on October 31, 2016. Defendants 1st Step Chiropractic, employer, and its insurer, Travelers Indemnity/CT, respond to the appeal. The case was heard on April 15, 2016, and it was considered fully submitted in front of the deputy workers' compensation commissioner on June 1, 2016.

In File No. 5045054, injury date of October 30, 2012, the deputy commissioner found claimant failed to carry her burden of proof that she sustained permanent disability as a result of the stipulated injury which arose out of and in the course of claimant's employment with defendant-employer. Because the deputy commissioner found claimant failed to carry her burden of proof on the issues of causation and compensability regarding claimant's alleged disability, the deputy commissioner found claimant failed to prove entitlement to permanent disability benefits for the October 30, 2012, work injury. The deputy commissioner found claimant is entitled to payment by defendants for requested past medical expenses, along with related mileage and meal expenses, from St. Luke's Occupational Health, from Steven Shook, M.D., from Amanda Thomason, D.C., from Mind and Body Connection, from Parkview Psychological Services, and from Patrick Bowman, M.D. The deputy commissioner found claimant is entitled to receive reimbursement from defendants in the amount of \$4,159.50 for that portion of the independent medical evaluation (IME) performed by Marc Hines, M.D., on October 31, 2014, which is attributable to the October 30, 2012, work injury. The deputy commissioner found claimant is entitled to receive reimbursement from defendants for mileage expense in the amount of \$242.48 and for meal expense in the amount of \$67.70 for Dr. Hines' IME. The deputy commissioner found claimant is not entitled to payment by defendants for requested past medical and related expenses from CNOS and from the Mayo Clinic because the deputy commissioner found the treatment received by claimant from those providers was not authorized by defendants. The deputy commissioner ordered defendants to pay claimant's costs of the arbitration proceeding in File No. 5045054.

In File No. 5045055, the deputy commissioner found claimant failed to carry her burden of proof that the motor vehicle accident which occurred on November 9, 2012, arose out of and in the course of claimant's employment with defendant-employer as alleged. Because the deputy commissioner found claimant failed to carry her burden of proof that she sustained a work-related injury on November 9, 2012, the deputy commissioner found claimant failed to prove entitlement to permanent disability benefits for that injury. The deputy commissioner found claimant is not entitled to payment by defendants for any unauthorized medical expenses related to the November 9, 2012, injury. The deputy commissioner found claimant is not entitled to receive reimbursement from defendants in the amount of \$650.00 for that portion of Dr. Hines' IME which is attributable to the November 9, 2012, injury. The deputy commissioner ordered claimant to pay defendants' costs of the arbitration proceeding in File No. 5045055.

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 October 31, 2016, 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.

In File No. 5045054, I affirm the deputy commissioner's finding that claimant failed to carry her burden of proof that she sustained permanent disability as a result of the stipulated October 30, 2012, work injury. I affirm the deputy commissioner's finding that claimant failed to prove entitlement to permanent disability benefits for the October 30, 2012, work injury. I affirm the deputy commissioner's finding that claimant is entitled to payment by defendants for requested past medical expenses, along with related mileage and meal expenses, from St. Luke's Occupational Health, from Steven Shook, M.D., from Amanda Thomason, D.C., from Mind and Body Connection, from Parkview Psychological Services, and from Patrick Bowman, M.D. I affirm the deputy commissioner's finding that claimant is entitled to receive reimbursement from defendants in the amount of \$4,159.50 for that portion of Dr. Hines' IME attributable to the October 30, 2012, work injury. I affirm the deputy commissioner's finding that claimant is entitled to receive reimbursement from defendants for mileage expense in the amount of \$242.48 and for meal expense in the amount of \$67.70 for Dr. Hines' IME. I affirm the deputy commissioner's finding that claimant is not entitled to payment

by defendants for requested past medical and related expenses from CNOS and from the Mayo Clinic because I affirm the deputy commissioner finding that the treatment received by claimant from those providers was not authorized by defendants. I affirm the deputy commissioner's order that defendants pay claimant's costs of the arbitration proceeding in File No. 5045054.

In File No. 5045055, I affirm the deputy commissioner's finding that claimant failed to carry her burden of proof that the motor vehicle accident which occurred on November 9, 2012, arose out of and in the course of claimant's employment with defendant-employer as alleged. Because I affirm the deputy commissioner's finding that claimant failed to carry her burden of proof that she sustained a work-related injury on November 9, 2012, I affirm the deputy commissioner's finding that claimant failed to prove entitlement to permanent disability benefits for that injury. I affirm the deputy commissioner's finding that claimant is not entitled to payment by defendants for any unauthorized medical expenses related to the November 9, 2012, injury. I affirm the deputy commissioner's finding that claimant is not entitled to receive reimbursement from defendants in the amount of \$650.00 for that portion of Dr. Hines' IME which is attributable to the November 9, 2012, injury. I affirm the deputy commissioner's order that claimant pay defendants' costs of the arbitration proceeding in File No. 5045055.

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. Claimant asserts the deputy commissioner erred in finding 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.

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

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on October 31, 2016, is affirmed in its entirety.

Regarding File No. 5045054, injury date of October 30, 2012:

Claimant shall take nothing from these proceedings in the way of indemnity benefits.

Defendants shall pay claimant's prior medical expenses, along with related mileage and meal expenses, from St. Luke's Occupational Health, from Steven Shook, M.D., from Amanda Thomason, D.C., from Mind and Body Connection, from Parkview Psychological Services, and from Patrick Bowman, M.D.

Defendants shall reimburse claimant in the amount of four thousand one hundred fifty-nine and 50/100 dollars (\$4,159.50), for that portion of Dr. Hines' IME attributable to the October 30, 2012, work injury. Defendants shall also reimburse claimant in the amount of two hundred forty-two and 48 /100 dollars (\$242.48) for mileage expense and sixty-seven and 70 /100 dollars (\$67.70) for meal expense for Dr. Hines' IME.

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration proceeding, 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.

Regarding File No. 5045055, alleged injury date of November 9, 2012:

Claimant shall take nothing from these proceedings.

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

Signed and filed on this 9th day of July, 2018.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

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