

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

RONALD BENSON,

File No. 20014076.01

Claimant,

A P P E A L

vs.

D E C I S I O N

JOHN DEERE DUBUQUE WORKS,

Employer,
Self-Insured,
Defendant.: Head Notes: 1402.20; 1402.40; 1402.60;
: 1403.10; 1700; 1802; 1803;
: 2501; 2502; 2905; 4000.2
: 5-9998

Defendant John Deere Dubuque Works, self-insured employer, appeals from an arbitration decision filed on December 30, 2021. Claimant Ronald Benson responds to the appeal. The case was heard on October 4, 2021, and it was considered fully submitted in front of the deputy workers' compensation commissioner on November 5, 2021.

In the arbitration decision, the deputy commissioner found claimant carried his burden of proof to establish he sustained work-related bilateral carpal tunnel syndrome with an injury date of September 4, 2018. Based on this finding, the deputy commissioner found claimant is entitled to receive healing period benefits for the stipulated periods of March 19, 2019, through April 21, 2019, and from July 16, 2019, through August 4, 2019, at the stipulated weekly benefit rate of \$602.73. The deputy commissioner found claimant proved he sustained permanent impairment caused by the injury and awarded claimant 20 weeks of permanent partial disability (PPD) benefits, commencing on August 5, 2019. The deputy commissioner found defendant is responsible for the requested past medical expenses itemized in Exhibit 1, with the exception of the charges for November 29, 2018, January 2, 2019, and July 10, 2019. The deputy commissioner found claimant is entitled to reimbursement for the medical mileage itemized in Exhibit 3, with the exception of the mileage itemized for November 29, 2018, January 2, 2019, and July 10, 2019. The deputy commissioner found claimant is not entitled to receive penalty benefits from defendant. The deputy commissioner found that pursuant to Iowa Code section 85.39, claimant is entitled to reimbursement from defendant in the amount of \$3,465.00 for the cost of the independent medical examination (IME) of claimant performed by Robin Sassman, M.D. The deputy commissioner ordered defendant to pay claimant's costs of the arbitration proceeding in the amount of \$100.00.

Defendant asserts on appeal that the deputy commissioner erred in finding claimant proved he sustained work-related bilateral carpal tunnel syndrome. Defendant asserts the deputy commissioner erred in finding claimant is entitled to receive healing

period benefits and PPD benefits. Defendant asserts the deputy commissioner erred in finding defendant is liable for requested past medical expenses and for medical mileage. Defendant asserts the deputy commissioner erred in finding claimant is entitled to receive reimbursement from defendant for the cost of Dr Sassman's IME.

Claimant asserts on appeal that the arbitration decision should be affirmed in its entirety.

Those portions of the proposed arbitration decision pertaining to issues not raised on appeal are adopted as 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 December 30, 2021, 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 proved he sustained work-related bilateral carpal tunnel syndrome. I affirm the deputy commissioner's finding that claimant is entitled to receive healing period benefits from March 19, 2019, through April 21, 2019, and from July 16, 2019, through August 4, 2019. I affirm the deputy commissioner's finding that claimant proved he sustained permanent impairment caused by the injury, and I affirm the award of 20 weeks of PPD benefits. I affirm the deputy commissioner's finding that defendant is responsible for the requested past medical expenses itemized in Exhibit 1, with the exception of the charges for November 29, 2018, January 2, 2019, and July 10, 2019. I affirm the deputy commissioner's finding that claimant is entitled to reimbursement for the medical mileage itemized in Exhibit 3, with the exception of the mileage itemized for November 29, 2018, January 2, 2019, and July 10, 2019. I affirm the deputy commissioner's finding that claimant is not entitled to receive penalty benefits. I affirm the deputy commissioner's finding that claimant is entitled to receive reimbursement from defendant for the cost of Dr. Sassman's IME. I affirm the deputy commissioner's order that defendant pay claimant's costs of the arbitration proceeding in the amount of \$100.00.

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 a credible witness. I find the deputy commissioner correctly assessed claimant's credibility. While I performed a de novo review on appeal, 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.

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

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on December 30, 2021, is affirmed in its entirety.

Defendant shall pay claimant healing period benefits from March 19, 2019, through April 21, 2019, and from July 16, 2019, through August 4, 2019, at the weekly rate of six hundred two and 73/100 dollars (\$602.73).

Defendant shall pay claimant twenty (20) weeks of permanent partial disability benefits, at the weekly rate of six hundred two and 73/100 dollars (\$602.73), commencing on August 5, 2019.

Defendant shall receive credit in the amount of three thousand four hundred eighty-six and 58/100 dollars (\$3,486.58), as stipulated by the parties.

Defendant shall pay accrued weekly benefits in a lump sum together with interest 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.

Defendant are responsible for all causally connected requested past medical expenses itemized in Exhibit 1, and all causally connected medical mileage itemized in Exhibit 3.

Defendant shall reimburse claimant in the amount of three thousand four hundred sixty-five and 00/100 dollars (\$3,465.00) for the cost of Dr. Sassman's IME.

Pursuant to rule 876 IAC 4.33, defendant shall pay claimant's costs of the arbitration proceeding in the amount of one hundred and 00/100 dollars (\$100.00), 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 on this 6th day of May, 2022.

Joseph S. Cortese II

JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

Zeke McCartney (via WCES)

Dirk Hamel (via WCES)