

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

MATT MITCHELL,

Claimant,

vs.

BRIGGS MEDICAL SERVICE
COMPANY,

Employer,

and

ACCIDENT FUND GENERAL
INSURANCE COMPANY,

Insurance Carrier,
Defendants.

FILED

MAY 11 2018

WORKERS' COMPENSATION

File No. 5052735

A P P E A L

D E C I S I O N

Head Note Nos.: 1402.40, 1803

Defendants Briggs Medical Service Co. ("Briggs") and Accident Fund General Insurance Company ("Accident Fund") appeal from an arbitration decision filed on September 27, 2016. Claimant Matt Mitchell responds to the appeal.

On March 12, 2018, Iowa Workers' Compensation Commissioner Joseph S. Cortese II delegated authority to the undersigned to issue the final agency decision on the intra-agency appeal currently pending before this agency. The decision in this matter shall be the final agency action.

An arbitration hearing was held on June 23, 2016, at the Division of Workers' Compensation, in Des Moines, Iowa. The parties filed post-hearing briefs and the matter was deemed fully submitted on July 18, 2016. The deputy workers' compensation commissioner issued an arbitration decision on September 27, 2016, finding Mitchell had sustained forty percent industrial disability and awarding Mitchell 200 weeks of permanent partial disability benefits, at the rate of \$487.17 per week from June 27, 2013, with interest on unpaid weekly benefits, after issuing a credit for benefits previously paid, ordering Briggs and Accident Fund to pay Mitchell penalty benefits in the amount of fifty percent on all temporary benefits paid from May 16, 2013, through June 26, 2013, and ten percent on all late paid permanent benefits, and assessing costs to Briggs and Accident Fund.

On October 17, 2016, Briggs and Accident Fund filed a notice of appeal. On December 5, 2016, Briggs and Accident Fund filed an appeal brief, asserting the deputy commissioner erred: (1) in finding Mitchell had sustained a forty percent industrial disability; (2) by including bonus income in determining the rate; and (3) in awarding penalty benefits. Mitchell filed an appeal brief on December 23, 2016, arguing the arbitration decision should be affirmed.

Those portions of the proposed agency decision pertaining to issues not raised on appeal are adopted as 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 17A.5 and 86.24, I affirm and adopt as the final agency decision those portions of the proposed arbitration decision filed on September 27, 2016, which relate to the issues properly raised on intra-agency appeal. I find the deputy commissioner provided a well-reasoned analysis 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 award of 200 weeks of permanent partial disability benefits, at the rate of \$487.17 per week from June 27, 2013, with interest on unpaid weekly benefits, after issuing a credit for benefits previously paid, award of penalty benefits in the amount of fifty percent on all temporary benefits paid from May 16, 2013, through June 26, 2013, and ten percent on all late paid permanent benefits, and assessment costs to Briggs and Accident Fund.

ORDER

IT IS THEREFORE ORDERED, that the arbitration decision filed on September 27, 2016, is affirmed in its entirety.

Defendants shall pay the claimant two hundred (200) weeks of permanent partial disability benefits the rate of four hundred eighty-seven and 17/100 dollars (\$487.17) per week commencing on June 27, 2013.

Defendants shall receive a credit for benefits previously paid.

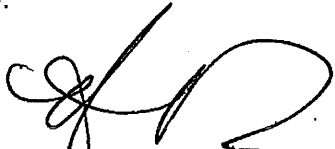
Defendants shall pay accrued weekly benefits in a lump sum together with interest at the rate of ten percent for all weekly benefits payable and not paid when due which accrued before July 1, 2017, and all interest on past due weekly compensation benefits accruing on or after July 1, 2017, shall be payable 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 the injury, plus two percent. Gamble v. AG Leader Tech., File No. 5054686 (App. Apr. 24, 2018).

Defendants shall pay penalty benefits in the amount of fifty (50) percent on all temporary benefits paid from May 16, 2013, through June 26, 2013, and ten (10) percent on all late paid permanent benefits.

Defendants shall file subsequent reports of injury as required by this agency pursuant to rules 876 IAC 3.1 (2) and 876 IAC 11.7.

Costs of the appeal are assessed to the defendants.

Signed and filed this 11th day of May, 2018.



HEATHER L. PALMER
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

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