

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

WALLACE MELTON,

Claimant,

vs.

PROFESSIONAL TRANSPORTATION,  
INC.,

Employer,

and

AMERICAN ZURICH INSURANCE  
COMPANY,

Insurance Carrier,  
Defendants.

**FILED**

**DEC 14 2017**

**WORKERS' COMPENSATION**

File No. 5052387

**A P P E A L**

**D E C I S I O N**

: Head Note Nos: 1108.10; 1801; 1803; 5-9998

Defendants Professional Transportation, Inc., employer, and its insurer, American Zurich Insurance Company, appeal from an arbitration decision filed on April 25, 2016. Claimant Wallace Melton responds to the appeal. The case was heard on March 9, 2016, and it was considered fully submitted in front of the deputy workers' compensation commissioner on March 18, 2016.

The deputy commissioner found claimant suffered a stroke and a low back injury on August 6, 2013, and the deputy commissioner found both of those conditions arose out of and in the course of claimant's employment with defendant-employer. The deputy commissioner found claimant is entitled to healing period benefits from August 6, 2013, though September 15, 2013, from May 1, 2014, through August 15, 2014, and from November 12, 2014, through June 3, 2015. The deputy commissioner found claimant is not entitled to a running award of healing period benefits. The deputy commissioner found claimant reached maximum medical improvement (MMI) for the stroke on September 16, 2013. The deputy commissioner found claimant reached MMI for the low back injury on June 3, 2015. The deputy commissioner found claimant has no permanent disability from the stroke. The deputy commissioner found claimant sustained 25 percent industrial disability as a result of the low back injury, which entitles claimant to 125 weeks of permanent partial disability (PPD) benefits commencing on June 4, 2015. The deputy commissioner found claimant is entitled to payment by defendants of requested past medical expenses for treatment of claimant's injuries itemized in Exhibit 11. The deputy commissioner found claimant is entitled to payment

by defendants for continued pain management treatment at Iowa Specialty Hospital-Clarion Specialty Clinic until such time as the providers at that clinic believe such treatment is no longer necessary. The deputy commissioner also ordered defendants to pay claimant's costs of the arbitration proceeding in the amount of \$2,868.88.

Defendants assert on appeal that the deputy commissioner erred in finding claimant's stroke and low back injury which occurred on August 6, 2013, arose out of and in the course of claimant's employment with defendant-employer. Defendants assert the deputy commissioner erred in awarding claimant healing period benefits and in awarding claimant industrial disability benefits. Defendants assert the deputy commissioner erred in finding claimant is entitled to payment by defendants of requested past medical expenses for treatment of claimant's injuries. Defendants assert the deputy commissioner erred in finding claimant is entitled to payment by defendants for continued pain management treatment at Iowa Specialty Hospital-Clarion Specialty Clinic. Defendants also assert the deputy commissioner erred in ordering defendants to pay claimant's costs 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.

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 April 25, 2016, which relate to the issues properly raised on intra-agency appeal.

I find the deputy commissioner provided sufficient 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 finding that claimant's stroke and low back injury which occurred on August 6, 2013, arose out of and in the course of claimant's employment with defendant-employer. I affirm the deputy commissioner's finding that claimant is entitled to healing period benefits from August 6, 2013, through September 15, 2013, from May 1, 2014, through August 15, 2014, and from November 12, 2014, through June 3, 2015. I affirm the deputy commissioner's finding that claimant is not entitled to a running award of healing period benefits. I affirm the deputy commissioner's finding that claimant reached MMI for the stroke on September 16, 2013. I affirm the deputy commissioner's finding that claimant reached MMI for the low back injury on June 3, 2015. I affirm the deputy commissioner's finding that claimant has no permanent disability from the stroke. I affirm the deputy commissioner's finding that claimant sustained 25 percent industrial disability as a result of the low back injury, which entitles claimant to 125 weeks of PPD

benefits commencing on June 4, 2015. I affirm the deputy commissioner's finding that claimant is entitled to payment by defendants of requested past medical expenses for treatment of claimant's injuries itemized in Exhibit 11. I affirm the deputy commissioner's finding that claimant is entitled to payment by defendants for continued pain management treatment at Iowa Specialty Hospital-Clarion Specialty Clinic until such time as the providers at that clinic believe such treatment is no longer necessary. I affirm the deputy commissioner's order that defendants pay claimant's costs of the arbitration proceeding in the amount of \$2,868.88. 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 to be 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 credibility.

#### ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on April 25, 2016, is affirmed in its entirety.

Defendants shall pay claimant temporary total disability/healing period benefits from August 6, 2013, through September 15, 2013, from May 1, 2014, through August 15, 2014, and, from November 12, 2014, through June 3, 2015, at the stipulated weekly rate of three hundred eighty-one and 96/100 dollars (\$381.96).

Defendants shall pay claimant one hundred twenty-five (125) weeks of permanent partial disability benefits at the stipulated weekly rate of three hundred eighty-one and 96/100 dollars (\$381.96) commencing June 4, 2015.

Defendants shall receive credit for all benefits previously paid.

Defendants shall pay accrued weekly benefits in a lump sum together with interest pursuant to Iowa Code section 85.30.

Defendants shall pay the medical expenses itemized in Exhibit 11. Defendants shall reimburse claimant for his out-of-pocket medical expenses and defendants shall hold claimant harmless for the remainder of those expenses.

Defendants shall authorize continued pain management treatment for claimant at Iowa Specialty Hospital-Clarion Specialty Clinic until such time as the providers at that clinic believe such treatment is no longer necessary.

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration proceeding in the amount of two thousand eight hundred sixty-eight and 88/100 dollars (\$2,868.88), 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 this 14<sup>th</sup> day of December, 2017.



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JOSEPH S. CORTESE II  
WORKERS' COMPENSATION  
COMMISSIONER

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