

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

SANDRA ROZGA,	:	
	:	
Claimant,	:	
	:	
vs.	:	
	:	File Nos. 5060495, 5060496
KRAFT HEINZ COMPANY,	:	
	:	
Employer,	:	A P P E A L
	:	
and	:	D E C I S I O N
	:	
INDEMNITY INSURANCE	:	
COMPANY OF N.A.,	:	
	:	
Insurance Carrier,	:	Head Notes: 1402.30; 1402.50; 1403.30;
Defendants.	:	5-9998

Claimant Sandra Rozga appeals from an arbitration decision filed on September 19, 2019. Defendants Kraft Heinz Company, employer, and its insurer, Indemnity Insurance Company of N.A., respond to the appeal. The case was heard on June 3, 2019, and it was considered fully submitted in front of the deputy workers' compensation commissioner on June 26, 2019.

In the arbitration decision, in File No. 5060495, the deputy commissioner found claimant failed to carry her burden of proof to establish she sustained an injury as alleged on August 17, 2014, which arose out of and in the course of her employment with defendant-employer. The deputy commissioner found that because claimant failed to prove causation and compensability in File No. 5060495, all other issues raised in that claim are moot.

In File No. 5060496, the deputy commissioner did find claimant carried her burden of proof to establish she sustained injuries to her bilateral shoulders as alleged on June 11, 2017, which arose out of and in the course of her employment with defendant-employer. However, the deputy commissioner found claimant is barred from any recovery in File No. 5060496 because the deputy commissioner found defendants carried their burden of proof to establish claimant failed to timely report her injuries within 90 days after they occurred as required by Iowa Code section 85.23. The deputy

commissioner found that because claimant's claim is barred by section 85.23 in File No. 5060496, all other issues raised in that claim are moot.

In both files, the deputy commissioner found that pursuant to Iowa Code section 85.39, claimant is not entitled to reimbursement from defendants for cost of the independent medical evaluation (IME) of claimant performed by Richard Kreiter, M.D., on August 31, 2018. In both files, the deputy commissioner ordered the parties to pay their own costs of the arbitration proceeding.

Claimant asserts on appeal in File No. 5060495, that the deputy commissioner erred in finding claimant failed to prove she sustained a work-related injury on August 17, 2014. Claimant asserts the deputy commissioner erred in finding all other issues raised in File No. 5060495 are moot.

Claimant asserts on appeal in File No. 5060496 that the deputy commissioner erred in finding defendants carried their burden of proof to establish their 90-day notice defense and in finding claimant's claim is therefore barred. Claimant asserts the deputy commissioner erred in finding all other issues raised in File No. 5060495, other than causation, are moot.

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 September 19, 2019, 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.

In File No. 5060495, I affirm the deputy commissioner's finding that claimant failed to prove she sustained a work-related injury on August 17, 2014. I affirm the deputy commissioner's finding that all other issues raised in File No. 5060495 are moot.

In File No. 5060496, I affirm the deputy commissioner's finding that claimant did prove she sustained work-related injuries to her bilateral shoulders on June 11, 2017. I affirm the deputy commissioner's finding that defendants carried their burden of proof to establish their 90-day notice defense, and I affirm the finding that claimant's claim is

therefore barred. I affirm the deputy commissioner's finding all other issues raised in File No. 5060495, other than causation, are moot.

I affirm the deputy commissioner's finding in both files that claimant is not entitled to reimbursement from defendants for the cost of Dr. Kreiter's IME. I affirm the deputy commissioner's order in both files that the parties shall pay their own costs of the arbitration proceeding.

I affirm the deputy commissioner's findings, conclusions and analysis regarding all of the issues raised in both files.

ORDER


IT IS THEREFORE ORDERED that the arbitration decision filed on September 19, 2019, is affirmed in its entirety.

Claimant shall take nothing from these proceedings.

Pursuant to rule 876 IAC 4.33, the parties shall pay their own 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.

Signed and filed on this 29th day of April, 2020.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

Robert Rosenstiel (via WCES)

Peter Thill (via WCES)