

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

MARIA TELLEZ,

Claimant,

vs.

AMITY FELLOWSERVE-IOWA, INC.,

Employer,

and

ARGENT/WEST BEND MUTUAL
INSURANCE COMPANY,Insurance Carrier,
Defendants.File Nos. 1661847.01
19001291.01

RULING ON DEFENDANTS'

APPLICATION FOR

RECONSIDERATION/REHEARING

On August 9, 2022, defendant employer and insurer brought a motion for rehearing. The basis of the rehearing motion is alleged erroneous findings that claimant was credible, claimant was entitled to sixty weeks of permanent disability benefits, and the wording of the order pertaining to medical expenses. Claimant has resisted.

Iowa Administrative Code rule 876–4.24 states, in relevant part,

An application for rehearing shall be deemed denied unless the deputy commissioner or workers' compensation commissioner rendering the decision grants the application within 20 days after its filing. For purposes of this rule, motions or requests for reconsideration or new trial or retrial or any reexamination of any decision, ruling, or order shall be treated the same as an application for rehearing.

Defendants have not presented any new evidence or argument. Instead, they reiterate that the existing objective evidence supports a finding that claimant did not prove by a preponderance of the evidence that claimant sustained a work-related injury. The proposed arbitration decision discussed the credibility at length and determined that while the claimant's pain complaints did not match the objective tests and surveillance precisely, the pain complaints were largely consistent. However, the prior medical complaints and the lack of objective evidence was considered when awarding the amount of benefits. The undersigned declines to revisit the issue of credibility.

Defendants also argue that the award of sixty weeks of benefits should not be awarded because claimant was not credible and therefore she was not entitled to benefits. Because the issue of credibility will not be revisited, the award of indemnity benefits is also maintained.

The last issue is the specific wording as it relates to the award of medical bills. The body of the Proposed Arbitration Decision states, "Therefore, it is found that claimant is entitled to recover the expenses in Exhibit 5 and Exhibit 6" and the order states "Defendants shall pay all causally related medical expenses in Exhibit 5 as well the mileage expenses claimed in Exhibit 6".

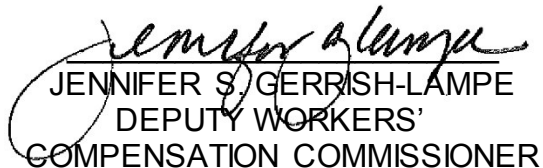
Defendants request a specific finding and Order be issued that defendants need to only reimburse any payer actual payments made after deductions allowed by the providers. As claimant pointed out, the intent of the order is for claimant to not bear the responsibility of medical expenses associated with a work-related injury. Defendants shall reimburse claimant her out-of-pocket expenses for causally related medical care and defendants shall reimburse claimant's health care and/or insurance providers for medical treatment causally related to the low back and left lower extremity.

THEREFORE IT IS ORDERED, defendants' motion is denied in part and granted in part. In regard to the medical bills, the order of the Proposed Arbitration Decision shall read as follows:

Defendants shall reimburse claimant her out-of-pocket expenses for causally related medical care and defendants shall reimburse claimant's health care and/or insurance providers for medical treatment causally related to the low back and left lower extremity.

The remainder of the motion for rehearing is denied.

Signed and filed this 25th day of August, 2022.


JENNIFER S. GERRISH-LAMPE
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

The parties have been served, as follows:

Benjamin Roth (via WCES)

Nathan McConkey (via WCES)