

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

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ROXANNA WALKER (f/k/a FIRLICK),	:	
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Claimant,	:	
	:	
vs.	:	
	:	File No. 5044625
QUAKER OATS COMPANY,	:	
	:	A P P E A L
Employer,	:	
	:	D E C I S I O N
and	:	
	:	
INDEMNITY INSURANCE COMPANY	:	
OF NORTH AMERICA,	:	
	:	
Insurance Carrier,	:	Head Notes: 3303.20; 5-9999
Defendants.	:	

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Defendants Quaker Oats Company, employer, and its insurer, Indemnity Insurance Company of North America, appeal from a partial commutation decision filed on April 15, 2019. Claimant Roxanna Walker (f/k/a Firlick) responds to the appeal. The case was heard on March 18, 2019, and it was deemed fully submitted in front of the deputy workers' compensation commissioner on April 5, 2019.

The deputy commissioner found it is in claimant's best interest to approve the partial commutation proposed by claimant. The deputy commissioner found the benefits of the proposed partial commutation outweigh any potential detriments. The deputy commissioner granted claimant's petition for partial commutation.

On appeal, defendants assert the deputy erred in finding the proposed partial commutation is in claimant's best interests. In the alternative, if the deputy commissioner's decision is affirmed on appeal, defendants seek clarification regarding the calculation of the partial commutation.

Those portions of the proposed agency decision pertaining to issues not raised on appeal are adopted as a part of this appeal decision.

I performed a de novo review of the evidentiary record and the detailed arguments of the parties. Pursuant to Iowa Code sections 86.24 and 17A.15, the partial

commutation decision filed on April 15, 2019, is affirmed in its entirety with some additional analysis as set forth below.

Defendants in their appeal take specific issue with claimant's testimony regarding her "plans" to spend up to \$100,000.00 on a home for her son and to provide a gift of equivalent value to her daughter. I acknowledge claimant testified this has "always" been her plan and that claimant's financial expert did not account for this potential gift in his report. However, claimant also testified she has not yet spoken to any builders or received any estimates for the potential home. (Hearing Transcript, p. 35) Thus, any such "plans" are premature, at best. Furthermore, claimant testified she will follow her financial advisor's advice and she will follow whatever investments he suggests are safe. (Tr., pp. 22) Thus, should claimant's financial advisor deem these potential gifts to be inappropriate or unwise in future discussions, there is no evidence to suggest claimant would reject his advice.

Thus, while I agree with the deputy commissioner that claimant's testimony about spending \$100,000.00 on a home for her son is "somewhat troubling," I likewise agree that the benefits of the proposed partial commutation still outweigh any potential detriments.

While I performed a de novo review, I give considerable deference to findings of fact that are impacted by the credibility findings, expressly or impliedly made, by the deputy commissioner who presided at the partial commutation hearing. The deputy commissioner found claimant to be credible. I find the deputy commissioner correctly assessed the credibility of claimant. I find nothing in the record in this matter which would cause me to reverse the deputy commissioner's credibility findings.

With this additional analysis, I affirm the deputy commissioner's decision to grant claimant's petition for partial commutation. I affirm the deputy commissioner's findings, conclusions, and analysis pertaining to this issue.

Because I affirm the deputy commissioner's decision to grant the partial commutation, defendants seek clarification regarding how the partial commutation should be calculated. Pursuant to the Iowa Court of Appeals' decision in Pilgrim's Pride Corp. v. Eakins, "the proper date to use to determine the applicable interest rate for the commutation calculation is the date of the commissioner's decision." 828 N.W.2d 632 (Iowa Ct. App. 2013) (table). Similarly, the partial commutation should "reflect the value of the commuted weeks" at the time of the filing of this decision. Id.

#### ORDER

IT IS THEREFORE ORDERED that the partial commutation decision filed on April 15, 2019, is affirmed in its entirety with the above-stated additional analysis.

Claimant's petition for partial commutation is granted.

Defendants shall pay claimant a lump sum payment of future weekly benefits, except for the final week of permanent total disability benefits awarded in the January 10, 2017, review-reopening decision, as set forth in the claimant's amended petition for commutation, discounted to the present value based on the number of weeks to be commuted and the interest rate for determining the discount as of the date of this decision.

Defendants shall receive a credit for all benefits paid from the date of the filing of the petition for partial commutation until the date the partial commutation is paid.

Claimant's right to medical benefits under Iowa Code section 85.27 shall remain unaffected by this decision.

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the partial commutation proceeding in the amount of one thousand five hundred six and 56/100 dollars (\$1,506.56), and defendants shall pay the costs of this 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 21<sup>st</sup> day of May, 2020.

  
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JOSEPH S. CORTESE II  
WORKERS' COMPENSATION  
COMMISSIONER

The parties have been served as follows:

Robert R. Rush      Via WCES

Jordan A. Kaplan    Via WCES