

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

MELISSA A. HOUSLEY f/k/a MILLS,

Claimant,

vs.

EAST PENN MANUFACTURING
COMPANY, INC.,

Employer,

and

SENTINEL INSURANCE COMPANY,

Insurance Carrier,
Defendants.

File Nos. 5060197, 5060198

A P P E A L
D E C I S I O NHead Notes: 1402.40; 1802; 1803; 2501;
2907; 5-9999

Defendants East Penn Manufacturing Co., Inc., employer, and its insurer, Sentinel Insurance Company, appeal from an arbitration decision filed on February 28, 2020. Claimant Melissa Housley responds to the appeal. The case was heard on February 11, 2019, and it was considered fully submitted in front of the deputy workers' compensation commissioner on March 25, 2019.

In the arbitration decision, the deputy commissioner found claimant to be a credible witness. The deputy commissioner found claimant's weekly benefit rate to be \$699.12 in File No. 5060197, and \$585.79 in File No. 5060198. The deputy commissioner found claimant sustained a total of 65 percent industrial disability as a result of the two work-related injuries. The deputy commissioner attributed 20 percent industrial disability to claimant's work injury of July 9, 2014, in File No. 5060197, and the deputy commissioner attributed 45 percent industrial disability to claimant's work injury of September 10, 2015, in File No. 5060198. In File No. 5060197, the deputy commissioner awarded healing period benefits from February 10, 2015, to March 23, 2015. The deputy commissioner found defendants responsible for the requested past medical expenses itemized in Claimant's Exhibit 6. The deputy commissioner found claimant failed to prove her claim for penalty benefits.

On appeal, defendants assert the deputy commissioner erred in his industrial disability assessment. Defendants assert the deputy commissioner erred in awarding

healing period benefits in File No. 5060197. Defendants assert the deputy commissioner erred in awarding the requested past medical expenses. Defendants assert the deputy commissioner erred in assigning no weight to the opinions offered by defendants' expert, William Boulden, M.D.

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 arbitration decision filed on February 28, 2020, is affirmed with the following additional analysis.

I affirm the deputy commissioner's finding that claimant sustained a combined 65 percent industrial disability as a result of the two injuries. I affirm the deputy commissioner's finding that claimant sustained 20 percent industrial disability due to the July 9, 2014, work injury in File No. 5060197, and I affirm the deputy commissioner's finding that claimant sustained 45 percent industrial disability due to the September 10, 2015, work injury in File No. 5060198. In doing so, I affirm the deputy commissioner's decision to reject the opinions of Dr. Boulden and I affirm the deputy commissioner's finding regarding claimant's credibility.

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 arbitration hearing. The deputy commissioner found claimant to be credible. I find the deputy commissioner correctly assessed claimant's credibility. I find nothing in the record in this matter which would cause me to reverse the deputy commissioner's credibility findings.

I affirm the deputy commissioner's findings, conclusions and analysis regarding the above-stated issues in their entirety.

With respect to defendants' argument that the deputy commissioner erred by awarding healing period benefits from February 10, 2015, to March 23, 2015, in File No. 5060197, defendants are directed to the hearing report in which they stipulated as follows: "If defendant(s) are liable for the alleged injury, claimant is entitled to benefits for this period of time." (Hearing Report, p. 1) The period of time listed on the hearing report is February 10, 2015, through March 23, 2015. (Hrg. Rpt., p. 1) Given these stipulations, I affirm the deputy commissioner's finding that claimant is entitled to receive healing period benefits from February 10, 2015, to March 23, 2015.

The remaining issue on appeal is the deputy commissioner's finding that defendants are responsible for the past requested medical expenses itemized in Claimant's Exhibit 6. Defendants assert several of the expenses are not causally related to claimant's work injuries and that several of the expenses have no corresponding bills that were accepted into evidence. Again, however, defendants are directed to the hearing report, in which they stipulated that "the listed expenses are at least causally connected to the medical condition(s) upon which the claim of injury is based." (Hrg. Rpt., p. 2).

Turning first to the expenses incurred on July 12, 2018, I acknowledge the treatment was for claimant's left shoulder. (Joint Exhibit 12, p. 243) However, I am unwilling to displace the parties' stipulation that the expenses are causally related to the medical condition upon which claimant's claim of injury is based.

With respect to the remaining medical expenses at issue, the only physician in the record to question the causal connection between claimant's work injury and her treatment was Dr. Boulden. As discussed above, I affirmed the deputy commissioner's rejection of Dr. Boulden's opinions. Claimant's treating physician, Richard Gooding, M.D., opined that his treatment of claimant was causally related to her work injuries. (Claimant's Ex. 2, pp. 20-21)

Between Dr. Gooding's opinions and the parties' stipulations, I agree with claimant that the corresponding office notes need not be in the record for the related medical expenses to be reimbursable in this case. With this additional analysis, I affirm the deputy commissioner's finding that defendants are responsible for the past requested medical expenses itemized in Claimant's Exhibit 6.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on February 28, 2020, is affirmed with the above-stated additional analysis.

File No. 5060197 – Injury Date of July 9, 2014:

Defendants shall pay all benefits at the weekly rate of four hundred forty-one and 72/100 dollars (\$441.72).

Defendants shall pay claimant healing period benefits from February 10, 2015, to March 23, 2015.

Defendants shall pay claimant one hundred (100) weeks of permanent partial disability benefits from March 24, 2015.

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 injury, plus two percent. See Gamble v. AG Leader Technology, File No. 5054686 (App. Apr. 24, 2018).

Defendants shall receive credit for all benefits previously paid.

File No. 5060198 - September 10, 2015:

Defendants shall pay all benefits at the weekly rate of three hundred seventy-seven and 34/100 dollars (\$377.34) per week.

Defendants shall pay claimant two hundred twenty-five (225) weeks of permanent partial disability benefits from December 21, 2018.

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 injury, plus two percent. See Gamble v. AG Leader Technology, File No. 5054686 (App. Apr. 24, 2018).

Defendants shall receive credit for all benefits previously paid.

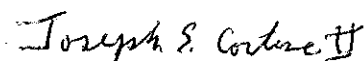
Defendants are responsible for the medical expenses itemized in Claimant's Exhibit 6, consistent with the arbitration decision.

For Both Files:

Pursuant to rule 876 IAC 4.33, defendants shall reimburse claimant's costs as set forth in the arbitration decision, 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 on this 19th day of October, 2020.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

Jason Neifert (via WCES)

Tiernan Siems (via WCES)