

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

DIANA ARTER,  
Claimant,

vs.

ABCM CORPORATION (HARMONY  
HOUSE),  
Employer,

and

SAFETY NATIONAL CASUALTY  
CORPORATION,

Insurance Carrier,  
Defendants.

**FILED**

**NOV - 8 2018**

**WORKERS' COMPENSATION**

File No. 5054309

**A P P E A L**

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

: Head Note Nos: 1108.50; 1402.30; 1403.30  
: 1802; 1803; 2501; 2502;  
: 2801; 4000.2; 5-9998

Defendants ABCM Corporation (Harmony House), employer, and its insurer, Safety National Casualty Corporation, appeal from an arbitration decision filed on April 18, 2017. Claimant Diana Arter cross-appeals. The case was heard on February 2, 2017, and it was considered fully submitted in front of the deputy workers' compensation commissioner on February 23, 2017.

The deputy commissioner found claimant carried her burden of proof that she sustained an injury to her right knee which arose out of and in the course of her employment with defendant-employer on February 12, 2015. The deputy commissioner found claimant provided timely notice of the work injury to defendants pursuant to Iowa Code Section 85.23. The deputy commissioner found claimant is entitled to receive healing period benefits for the injury from February 12, 2015, through December 26, 2016. The deputy commissioner found claimant sustained permanent scheduled member functional impairment of two percent of the right lower extremity as a result of the work injury, which entitles claimant to receive 4.4 weeks of permanent partial disability (PPD) benefits commencing on December 27, 2016. The deputy commissioner found that pursuant to Iowa Code section 86.16, claimant is entitled to receive penalty benefits in the amount of \$6,000.00 for an unreasonable denial of this claim. The deputy commissioner found claimant is entitled to payment by defendants for requested past medical expenses itemized in the attachment to the hearing report

for treatment of the work injury. The deputy commissioner ordered defendants to pay claimant's costs of the arbitration proceeding in the amount of \$1,400.00.

Defendants assert on appeal that the deputy commissioner erred in finding claimant sustained a work-related right knee injury on February 12, 2015. Defendants assert the deputy commissioner erred in finding claimant gave timely notice of the work injury to defendants pursuant to Iowa Code Section 85.23. Defendants assert the deputy commissioner erred in finding claimant is entitled to receive healing period benefits and permanent partial disability benefits. Defendants assert the deputy commissioner erred in finding claimant is entitled to receive penalty benefits. Defendants asserts the deputy commissioner erred in finding claimant is entitled to payment by defendants for the past requested medical expenses. Defendants assert the deputy commissioner erred in ordering defendants to pay claimant's costs of the arbitration proceeding.

Claimant asserts on cross-appeal that the deputy commissioner erred in failing to award substantially more than \$6,000.00 in penalty benefits.

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 April 18, 2017, which relate to the issues properly raised on intra-agency appeal.

I find the deputy commissioner provided a well-reasoned analysis of all 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 carried her burden of proof that she sustained a work-related right knee injury on February 12, 2015. I affirm the deputy commissioner's finding that claimant gave timely notice of the work injury to defendants pursuant to Iowa Code Section 85.23. I affirm the deputy commissioner's finding that claimant is entitled to receive healing period benefits for the work injury from February 12, 2015, through December 26, 2016. I affirm the deputy commissioner's finding that claimant sustained permanent scheduled member functional impairment of two percent of the right lower extremity as a result of the work injury. I affirm the deputy commissioner's finding that claimant is entitled to receive penalty benefits in the amount of \$6,000.00 for an unreasonable denial of this claim. I affirm the deputy commissioner's finding that claimant is entitled to payment by defendants for the requested past medical expenses itemized in the attachment to the hearing report for

treatment of the work injury. I affirm the deputy commissioner's order that defendants pay claimant's costs of the arbitration proceeding in the amount of \$1,400.00. I affirm the deputy commissioner's findings, conclusions and analysis regarding those issues.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on April 18, 2017, is affirmed in its entirety.

Defendants shall pay claimant healing period benefits at the weekly rate of four hundred thirty-one and 80/100 dollars (\$431.80) from February 12, 2015, through December 26, 2016.

Defendants shall pay claimant four point four (4.4) weeks of permanent partial disability benefits at the weekly rate of four hundred thirty-one and 80/100 dollars (\$431.80) commencing on December 27, 2016.

All past due weekly benefits shall be paid in a lump sum with applicable interest pursuant to Iowa Code section 85.30.

Defendants shall be responsible for the requested past medical expenses set forth in the attachment to the hearing report.

Defendants shall pay claimant a penalty in the amount of six thousand and no/100 dollars (\$6,000.00).

Pursuant to rule 876 IAC 4.33, defendant shall pay claimant's costs of the arbitration proceeding in the amount of \$1,400.00, and the parties shall split 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 6<sup>th</sup> day of November, 2018.

*Joseph S. Cortese II*

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JOSEPH S. CORTESE II  
WORKERS' COMPENSATION  
COMMISSIONER

Copies to:

John S. Pieters, Sr.  
Attorney at Law  
PO Box 2245  
Waterloo, IA 50704-2245  
[johnsr@pieterslaw.com](mailto:johnsr@pieterslaw.com)

David E. Schrock  
Attorney at Law  
PO Box 36  
Cedar Rapids, IA 52406-0036  
[dschrock@smithmillslaw.com](mailto:dschrock@smithmillslaw.com)

Chris J. Scheldrup  
Attorney at Law  
905 Third Street SE, Unit 111  
Cedar Rapids, IA 52401  
[cscheldrup@corridorlaw.legal](mailto:cscheldrup@corridorlaw.legal)