

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

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CINDY O'BRIEN,	:	<b>FILED</b>
Claimant,	:	<b>JUN 1 2017</b>
vs.	:	<b>WORKERS' COMPENSATION</b>
ALDI INC.,	:	File No. 5049132
Employer,	:	<b>A P P E A L</b>
and	:	<b>D E C I S I O N</b>
TRAVELERS INDEMNITY COMPANY	:	
OF CT.,	:	
Insurance Carrier,	:	
Defendants.	:	Head Note No: 1803

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Defendants Aldi, Inc., employer, and its insurer, Travelers Indemnity Company of CT, appeal from an arbitration decision filed on December 31, 2015. Claimant Cindy O'Brien responds to the appeal. The case was heard on October 13, 2015, and it was considered fully submitted in front of the deputy workers' compensation commissioner on November 17, 2015.

In the arbitration decision, the deputy commissioner found the stipulated work injury which arose out of and in the course of claimant's employment with defendant-employer on April 1, 2013, caused claimant to sustain 50 percent industrial disability, which entitles claimant to 250 weeks of permanent partial disability (PPD) benefits commencing on August 18, 2014. Pursuant to defendants' agreement, the deputy commissioner ordered defendants to pay the cost of the independent medical evaluation (IME) performed by Mark Taylor, M.D., on May 21, 2015. The deputy commissioner also taxed defendants with claimant's costs of the arbitration proceeding.

Defendants assert on appeal that the deputy commissioner erred in awarding claimant 50 percent industrial disability. Defendants assert the deputy commissioner should have awarded nothing for industrial disability.

Claimant asserts on appeal that 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.

Having performed a de novo review of the evidentiary record and the detailed arguments of the parties, 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 December 31, 2015, which relate to the issues properly raised on intra-agency appeal.

I find the deputy commissioner provided sufficient analysis of the issues raised in the arbitration proceeding. I affirm the deputy commissioner's award of 50 percent industrial disability, which entitles claimant to 250 weeks of PPD benefits commencing on August 18, 2014. I affirm the deputy commissioner's order that defendants pay the cost of Dr. Taylor's IME. I also affirm the deputy commissioner's order taxing defendants with claimant's costs of the arbitration proceeding. I affirm the deputy commissioner's findings, conclusions and analysis regarding those issues.

#### ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on December 31, 2015, is affirmed in its entirety.

Defendants shall pay claimant two hundred fifty (250) weeks of permanent partial disability benefits at the rate of three hundred ninety-eight and 66/100 dollars (\$398.66) per week commencing August 18, 2014.

Defendants shall pay accrued weekly benefits in a lump sum together with interest pursuant to Iowa Code section 85.30.

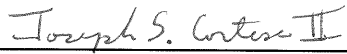
Defendants shall receive credit for all benefits paid to date.

Defendants shall pay/reimburse as appropriate the IME fee of Dr. Taylor in the amount of one thousand five hundred twelve and 00/100 dollars (\$1,512.00).

Pursuant to rule 876 IAC 4.33, defendants are taxed with claimant's costs of the arbitration proceeding, 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 this 1<sup>st</sup> day of June, 2017.

  
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JOSEPH S. CORTESE II  
WORKERS' COMPENSATION  
COMMISSIONER

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