

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

FRANCES COCKRELL-COLTON,

Claimant,

vs.

CATHOLIC HEALTH INITIATIVES,

Employer,

and

INDEMNITY INSURANCE COMPANY
OF NORTH AMERICA,

Insurance Carrier,
Defendants.

FILED

MAR 23 2018

WORKERS' COMPENSATION

File Nos. 5051851, 5055856

A P P E A L

D E C I S I O N

Head Note Nos: 1402.40; 1802; 1803;
1803.1; 2209; 2907;
5-9998

Defendants Catholic Health Initiatives, employer, and its insurer, Indemnity Insurance Company of North America, appeal from an arbitration decision filed on August 22, 2016. Claimant Frances Cockrell-Colton responds to the appeal. The case was heard on May 2, 2016, and it was considered fully submitted in front of the deputy workers' compensation commissioner on May 23, 2016.

In File No. 5051851, the deputy commissioner found claimant carried her burden of proof that she sustained permanent disability as a result of the stipulated injury which arose out of and in the course of claimant's employment with defendant-employer on December 15, 2011. The deputy commissioner awarded claimant scheduled member functional impairment of eight percent of the right thumb, which entitles claimant to receive 4.8 weeks of permanent partial disability (PPD) benefits commencing on July 19, 2012, for the December 15, 2011, work injury. The deputy commissioner also ordered defendants to pay claimant's costs of the arbitration proceeding in the amount of \$100.00.

In File No. 5055856, the deputy commissioner found claimant carried her burden of proof that she sustained a permanent cumulative trauma injury which arose out of and in the course of her employment with defendant-employer with an injury date of May 20, 2012. The deputy commissioner found claimant sustained 35 percent industrial disability as a result of the May 20, 2012, work injury, which entitles claimant to receive

175 weeks of PPD benefits commencing on May 17, 2013. The deputy commissioner also ordered defendants to pay claimant's costs of the arbitration proceeding in the amount of \$100.00.

In File No. 5055856, defendants assert on appeal that the deputy commissioner erred in finding claimant sustained either a work-related cumulative trauma injury or a work-related acute injury on or about May 20, 2012. Defendants assert the deputy commissioner erred in finding claimant sustained 35 percent industrial disability as a result of the alleged work injury.

Defendants' appeal in this matter is limited to File No. 5055856. Defendants accept the deputy commissioner's findings in File No. 5051851 and defendants make no assertions on appeal regarding File No. 5051851.

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 August 22, 2016, which relate to the issues properly raised on intra-agency appeal.

I find the deputy commissioner provided a well-reasoned analysis of all the issues raised in the arbitration proceeding. I affirm the deputy commissioner's findings of fact and conclusions of law pertaining to those issues.

In File No 5051851, I affirm the deputy commissioner's finding that claimant sustained permanent disability as a result of the December 15, 2011, work injury. I affirm the deputy commissioner's finding that claimant sustained scheduled member functional impairment of eight percent of the right thumb as a result of the December 15, 2011, work injury, which entitles claimant to receive 4.8 weeks of PPD benefits commencing on July 19, 2012. I affirm the deputy commissioner's order that defendants pay claimant's costs of the arbitration proceeding in the amount of \$100.00.

In File No. 5055856, I affirm the deputy commissioner's finding that claimant carried her burden of proof that she sustained a permanent cumulative trauma injury on or about May 20, 2012, which arose out of and in the course of her employment with defendant-employer. I affirm the deputy commissioner's finding that claimant sustained 35 percent industrial disability as a result 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 \$100.00.

I affirm the deputy commissioner's findings, conclusions and analysis regarding all of the above issues.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on August 22, 2016, is affirmed in its entirety.

Regarding File No. 5051851, injury date of December 15, 2011:

Defendants shall pay claimant four point eight (4.8) weeks of permanent partial disability benefits commencing on July 19, 2012, at the rate of three hundred forty-nine and 00/100 dollars (\$349.00) per week.

Defendants shall be given credit for all benefits previously paid.

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

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration proceeding in the amount of \$100.00.

Pursuant to rule 876 IAC 3.1(2), defendants shall file subsequent reports of injury as required by this agency.

Regarding File No. 5055856, injury date of May 20, 2012:

Defendants shall pay claimant one hundred seventy-five (175) weeks of permanent partial disability benefits commencing on May 17, 2013, at the rate of three hundred forty-nine and 00/100 dollars (\$349.00) per week.

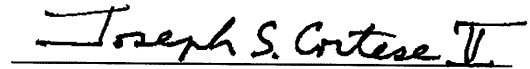
Pursuant to the parties stipulations on the hearing reports, defendants are entitled to credit for benefits paid after May 16, 2015, against this award.

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

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration proceeding in the amount of \$100.00, 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 23rd day of March, 2018.

A handwritten signature in black ink, reading "Joseph S. Cortese II", is written over a horizontal line.

JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

Copies to:

Ryan T. Beattie
Attorney at Law
4300 Grand Ave.
Des Moines, IA 50312-2426
ryan.beattie@beattielawfirm.com

Kent M. Smith
Attorney at Law
1225 Jordan Creek Parkway, Ste. 108
West Des Moines, IA 50266
ksmith@scheldruplaw.com