

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

SUSAN COFFLAND,

Claimant,

vs.

WALGREENS,

Employer,

and

AMERICAN ZURICH INSURANCE
COMPANY,

Insurance Carrier,
Defendants.

FILED

JAN 27 2017

File No. 5040072

WORKERS' COMPENSATION

A P P E A L

D E C I S I O N

Head Note Nos: 1803, 2905

Defendants Walgreens, employer, and its insurer, American Zurich Insurance Company, appeal from a review-reopening decision filed on August 14, 2015. Claimant Susan Coffland responds to the appeal. The case was heard on April 22, 2015, and it was considered fully submitted in front of the deputy workers' compensation commissioner on May 27, 2015.

The deputy commissioner found claimant is entitled to review-reopening in this matter because claimant carried her burden of proof that she sustained a physical change of condition following an arbitration decision which was filed in this matter on December 6, 2013, for a work-related injury which occurred on December 25, 2011. In the arbitration decision filed on December 6, 2013, claimant was awarded 60 percent industrial disability benefits, which entitled claimant to 300 weeks of permanent partial disability (PPD) benefits, commencing June 11, 2012. In the arbitration decision, the deputy commissioner also found defendants were entitled to a credit for 37 weeks of PPD benefits paid by defendants prior to the arbitration hearing.

Based on the finding of a change of physical condition in the review-reopening decision, the deputy commissioner awarded claimant an additional 10 percent industrial disability, which entitles claimant to an additional 50 weeks of PPD benefits. The deputy commissioner ordered defendants to pay for claimant's prior medical expenses submitted by claimant at the review-reopening hearing. The deputy commissioner ordered defendants to pay for claimant's future medical treatment for the work injury. The deputy commissioner also ordered defendants to pay claimant's costs of the review-reopening proceeding.

Defendants assert on appeal that the deputy commissioner erred in finding claimant is entitled to review-reopening in this matter because defendants assert the deputy commissioner erred in finding claimant carried her burden of proof that she sustained a physical change of condition following the arbitration decision filed on December 6, 2013. Defendants assert the deputy commissioner erred in awarding claimant an additional 10 percent industrial disability. Defendants assert the deputy commissioner erred in ordering defendants to pay for claimant's prior medical expenses submitted by claimant at the review-reopening hearing. Defendants assert the deputy commissioner erred in ordering defendants to pay for claimant's future medical treatment for the work injury. Defendants also assert the deputy commissioner erred in ordering defendants to pay claimant's costs of the review-reopening proceeding.

Claimant asserts on appeal that the review-reopening 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 review-reopening decision filed on August 10, 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 review-reopening 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 is entitled to review-reopening in this matter because I affirm the deputy commissioner's finding that claimant carried her burden of proof that she sustained a physical change of condition following the December 6, 2013, arbitration decision. I affirm the deputy commissioner's award of an additional 10 percent industrial disability, which entitles claimant to an additional 50 weeks of PPD benefits. I affirm the deputy commissioner's order that defendants pay for claimant's prior medical expenses submitted by claimant at the review-reopening hearing. I affirm the deputy commissioner's order that defendants pay for claimant's future medical treatment for the work injury. I affirm the deputy commissioner's order that defendants pay claimant's costs of the review-reopening proceeding. I affirm the deputy commissioner's findings, conclusions and analysis regarding those issues.

ORDER

IT IS THEREFORE ORDERED that the review-reopening decision filed on August 14, 2015, is affirmed in its entirety.

In addition to the 300 weeks of permanent partial disability benefits awarded to claimant in the arbitration decision filed on December 6, 2013, defendants shall also pay claimant an additional fifty (50) weeks of permanent partial disability benefits at the rate of two hundred six and 27/100 dollars (\$206.27) per week.

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

Defendants shall be given credit for all benefits previously paid.

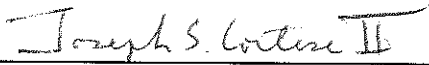
Defendants shall pay claimant's prior medical expenses submitted by claimant at the review-reopening hearing.

Defendants shall pay the future medical expenses of claimant necessitated by the work injury.

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration proceeding, and defendants shall pay the costs of the appeal, including the cost of the hearing transcript.

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

Signed and filed this 27th day of January, 2017.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

Copies To:

Richard R. Schmidt
Dustin M. Mueller
Attorneys at Law
2423 Ingersoll Ave.
Des Moines, IA 50312
rick.schmidt@sbsattorneys.com
dustin.mueller@sbsattorneys.com

Lindsey E. Mills
Sasha L. Monthei
Attorneys at Law
PO Box 36
Cedar Rapids, IA 52406
lmills@scheldruplaw.com
smonthei@scheldruplaw.com