

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

LACY ALLEN,	:	File No. 5024900	FILED
Claimant,	:		JUN 7 2018
vs.	:	APPEAL	WORKERS' COMPENSATION
ANNETT HOLDINGS, INC.,	:	DECISION	
Employer,	:		
Self-Insured,	:	Head Note No: 2905	
Defendant.	:		

Claimant Lacy Allen appeals from a review-reopening decision filed on March 15, 2017. Defendant Annett Holdings, Inc., responds to the appeal. The case was heard on November 22, 2016, and it was considered fully submitted in front of the deputy workers' compensation commissioner on January 13, 2017.

The deputy commissioner found claimant is not entitled to review-reopening against defendant in this matter because claimant failed to carry his burden of proof that he sustained a physical change of condition following an arbitration decision which was filed in this matter on June 15, 2010, for injuries which occurred on March 31, 2006, which arose out of and in the course of claimant's employment with defendant. In the arbitration decision, which was affirmed by this agency and by the Iowa Supreme Court, claimant was awarded 42.714 weeks of healing period benefits and 50 percent industrial disability, which entitled claimant to 250 weeks of permanent partial disability (PPD) benefits commencing July 28, 2007. Based on the finding of no change of physical condition in the review-reopening decision, the deputy commissioner found claimant is entitled to receive no additional PPD benefits. The deputy commissioner found claimant is not entitled to receive reimbursement from defendant for the cost of an independent medical evaluation (IME) performed by Howard Katz, M.D., on October 23, 2015. The deputy commissioner ordered the parties to pay their own costs of the review-reopening proceeding.

Claimant asserts on appeal that the deputy commissioner erred in finding he is not entitled to review-reopening in this matter because claimant asserts the deputy commissioner erred in finding claimant failed to carry his burden of proof that he sustained a physical change of condition following the June 15, 2010, arbitration decision. Claimant asserts the deputy commissioner erred in failing to find claimant is entitled to receive substantial additional industrial disability benefits or, in the alternative, claimant asserts the deputy commissioner erred in failing to find claimant is entitled to receive permanent total disability benefits. Claimant also asserts the deputy

commissioner erred in finding claimant is not entitled to receive reimbursement from defendant for the cost of Dr. Katz's IME.

Defendant 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 March 15, 2017, 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 not entitled to review-reopening against defendant in this matter because I affirm the deputy commissioner's finding that claimant failed to carry his burden of proof that he sustained a physical change of condition following the June 15, 2010, arbitration decision. I affirm the deputy commissioner's finding that claimant is entitled to receive no additional PPD benefits. I affirm the deputy commissioner's finding that claimant is not entitled to receive reimbursement from defendant for the cost of Dr. Katz's IME. I affirm the deputy commissioner's order that the parties pay their own costs of the review-reopening proceeding. I affirm the deputy commissioner's findings, conclusions and analysis regarding those issues.

ORDER

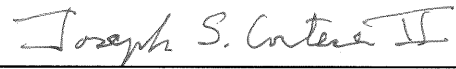
IT IS THEREFORE ORDERED that the review-reopening decision filed on March 15, 2017, is affirmed in its entirety.

Claimant shall take nothing further.

Pursuant to rule 876 IAC 4.33, the parties shall pay their own costs of the arbitration proceeding, and claimant shall pay the costs of the appeal, including the cost of the hearing transcript.

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

Signed and filed on this 7^h day of June, 2018.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

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