

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

KELLY R. DANILSON,

Claimant,

vs.

COLLEGE COMMUNITY SCHOOL
DISTRICT,

Employer,

WEST BEND MUTUAL
INSURANCE COMPANY,Insurance Carrier,
Defendants.

File No. 5067985.01

A P P E A L

D E C I S I O N

Head Notes: 1402.40, 1801, 2204
2501, 2502, 2701, 2907

Defendants College Community School District, employer, and its insurer, West Bend Mutual Insurance Company, appeal from an arbitration decision filed on January 24, 2022. Claimant Kelly R. Danilson responds to the appeal. The case was heard on August 4, 2021, and it was considered fully submitted in front of the deputy workers' compensation commissioner on September 20, 2021.

In the arbitration decision, the deputy commissioner found claimant carried his burden of proof to establish he sustained a mental health injury as a result of the stipulated work incident which occurred on October 25, 2018. The deputy commissioner found claimant's work-related mental health condition consists of post-traumatic stress disorder (PTSD) and major depressive disorder (MDD). The deputy commissioner found claimant is not at maximum medical improvement (MMI) for the work injury and the deputy commissioner found claimant is entitled to a running award of healing period benefits from November 9, 2018, through the date of the arbitration hearing and continuing into the future. The deputy commissioner found that pursuant to Iowa Code section 85.39, claimant is not entitled to reimbursement from defendants for the independent medical evaluation (IME) of claimant performed by Frank S. Gersh, Ph.D. The deputy commissioner found claimant is entitled to alternate medical care in the future consisting of treatment and therapy by Cher Stephenson, LMHC, CRC, additional medical care through, or at the direction and recommendation of, Ms. Stephenson, and marital counseling through Keys to Life in Cedar Rapids, Iowa. The deputy commissioner found that because claimant remains in healing period as of the date of the arbitration hearing, it is not ripe to determine whether claimant has sustained permanent disability as a result of the work injury, and it is not ripe to determine whether claimant should receive vocational rehabilitation benefits pursuant to Iowa Code section

85.70(1). The deputy commissioner ordered defendants to pay claimant's costs of the arbitration proceeding in the amount of \$488.80.

Defendants assert on appeal that the deputy commissioner erred in finding claimant is not at MMI for the work injury and in finding claimant is entitled to a running award of healing period benefits. Defendants assert the deputy commissioner erred in finding claimant is entitled to alternate medical care. Defendants assert the deputy commissioner erred in finding it is not ripe to determine whether claimant has sustained permanent disability, and in finding it is not ripe to determine whether claimant should receive vocational rehabilitation benefits pursuant to Iowa Code section 85.70(1). Defendants assert the deputy commissioner erred in ordering defendants to pay claimant's costs of the arbitration proceeding.

Claimant asserts on appeal that the arbitration decision should be affirmed in its entirety.

Those portions of the proposed arbitration 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 January 24, 2022, 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.

I affirm the deputy commissioner's finding that claimant proved he sustained a mental health injury as a result of the October 25, 2018, work incident. I affirm the deputy commissioner's finding that the work-related mental health condition sustained by claimant consists of PTSD and MDD. I affirm the deputy commissioner's finding that claimant has not reached MMI for the work injury, and I affirm the deputy commissioner's finding that claimant is entitled to a running award of healing period benefits from November 9, 2018, through the date of the arbitration hearing and continuing into the future. I affirm the deputy commissioner's finding that pursuant to Iowa Code section 85.39, claimant is not entitled to reimbursement from defendants for Dr. Gersh's IME. I affirm the deputy commissioner's finding that claimant is entitled to alternate medical care in the future consisting of treatment and therapy by Cher Stephenson, LMHC, CRC, additional medical care through, or at the direction and recommendation of, Ms. Stephenson, and marital counseling through Keys to Life. I affirm the deputy commissioner's finding that because claimant remains in healing period as of the date of the arbitration hearing, it is not ripe to determine whether claimant has sustained permanent disability as a result of the work injury, and I affirm the deputy commissioner's finding that it is not ripe to determine whether claimant

should receive vocational rehabilitation benefits pursuant to Iowa Code section 85.70(1). I affirm the deputy commissioner's order that defendants pay claimant's costs of the arbitration proceeding in the amount of \$488.80.

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

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on January 24, 2022, is affirmed in its entirety.

Defendants shall pay claimant temporary total disability benefits from November 9, 2018, through the date of the arbitration hearing and continuing into the future until claimant returns to work, is capable of performing substantially similar employment, or achieves maximum medical improvement, whichever shall occur first.

All weekly benefits shall be payable at the stipulated weekly rate of eight hundred ninety-three and 90/100 dollars (\$893.90).

Defendants are entitled to the stipulated credit for weekly benefits paid to claimant against the award of temporary total disability benefits.

If additional weekly benefits are owed after the aforementioned credits are taken and applied, all additional accrued benefits shall be paid in lump sum and interest shall be payable on the accrued weekly benefits at an annual rate equal to the one-year treasury constant maturity published by the federal reserve in the most recent H15 report settled as of the date of injury, plus two percent. See Gamble v. AG Leader Technology, File No. 5054686 (App. Apr. 24, 2018).

Continued mental health therapy or treatment is authorized through or at the referral of Cher Stephenson, LMHC.

Defendants shall pay for all causally related mental health therapy or treatment performed through or at the referral of Cher Stephenson, LMHC.

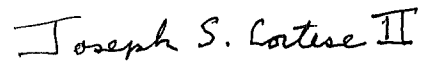
Future medication management is authorized through Dr. Pospisil or through a referral to a psychiatrist by either Dr. Pospisil or Ms. Stephenson, if deemed medically appropriate by either of those providers.

Marital counseling is authorized through Keys to Life in Cedar Rapids, Iowa, and defendants shall pay for the marital counseling through Keys to Life.

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration proceeding in the amount of four hundred eighty-eight and 80/100 dollars (\$488.80), 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 on this 31st day of May, 2022.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

Gary Nelson (via WCES)

Mark Woollums (via WCES)

Edward Rose (via WCES)

Patrick Waldron (via WCES)