

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

JACQUELYN L. HAGER,

Claimant,

vs.

U.S. BANK NATIONAL ASSOCIATION,

Employer,

and

OLD REPUBLIC INSURANCE
COMPANY,

Insurance Carrier,
Defendants.

FILED

JUN 28 2018

File No. 5051056 WORKERS' COMPENSATION

A P P E A L

D E C I S I O N

: Head Note Nos: 1803; 2500; 4000.2; 5-9998

Claimant Jacquelyn L. Hager appeals from an arbitration decision filed on November 28, 2016. Defendants U.S. Bank National Association, employer, and its insurer, Old Republic Insurance Company, respond to the appeal. The case was heard on August 15, 2016, and it was considered fully submitted in front of the deputy workers' compensation commissioner on September 6, 2016.

The deputy commissioner found claimant sustained 20 percent industrial disability as a result of the stipulated injury which arose out of and in the course of claimant's employment with defendant-employer on October 25, 2012, which entitles claimant to receive 100 weeks of permanent partial disability (PPD) benefits commencing on November 29, 2012. The deputy commissioner found defendants are entitled to receive a credit against the award for 25 weeks of PPD benefits paid prior to the arbitration hearing. The deputy commissioner found claimant is entitled to receive penalty benefits in the amount of 20 percent of the PPD benefits unpaid as of November 28, 2016, for an unreasonable delay in the payment of weekly benefits. The deputy commissioner found claimant is entitled to payment by defendants of requested past medical expenses itemized in Exhibit 2 totaling \$303.32. The deputy commissioner ordered defendants to pay claimant's costs of the arbitration proceeding.

Claimant asserts on appeal that the deputy commissioner erred in awarding 20 percent industrial disability. Claimant asserts the deputy commissioner should have awarded substantially more than 20 percent industrial disability for the work injury. Claimant asserts the deputy commissioner erred in awarding penalty benefits in the amount of 20 percent of the PPD benefits unpaid as of November 28, 2016. Claimant asserts the award for penalty benefits should be increased to 50 percent of the total 20 percent industrial disability.

Defendants assert on appeal that the award for industrial disability should be reduced or, in the alternative, it should be affirmed. Defendants assert the award for penalty benefits should be reversed or, in the alternative, it should be affirmed

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 November 28, 2016, 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 findings of fact and conclusions of law pertaining to those issues. I affirm the deputy commissioner's finding that claimant sustained 20 percent industrial disability as a result of the work injury. I affirm the deputy commissioner's finding that defendants are entitled to a credit against the award for 25 weeks of PPD benefits paid prior to the arbitration hearing. I affirm the deputy commissioner's finding that claimant is entitled to penalty benefits in the amount of 20 percent of the PPD benefits unpaid as of November 28, 2016, for an unreasonable delay in the payment of weekly benefits. I affirm the deputy commissioner's finding that claimant is entitled to payment by defendants of requested past medical expenses itemized in Exhibit 2 totaling \$303.32. I affirm the deputy commissioner's order that defendants pay 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 November 28, 2016, is affirmed in its entirety.

Defendants shall pay claimant one hundred (100) weeks of permanent partial disability benefits at the weekly rate of nine hundred sixty and 66/100 dollars (\$960.66) commencing on November 29, 2012.

Defendants shall receive credit against the award for 25 weeks of permanent partial disability benefits previously paid.

Defendants shall pay penalty benefits in the amount of twenty (20) percent of the permanent partial disability benefits owed as of November 28, 2016.

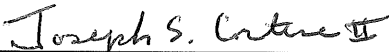
Defendants shall pay accrued weekly benefits in a lump sum together with interest pursuant to Iowa Code section 85.30.

Defendants shall pay requested past medical expenses itemized in Exhibit 2 totaling \$303.32.

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's 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), defendants shall file subsequent reports of injury as required by this agency.

Signed and filed on this 28th day of June, 2018.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

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