

On appeal, defendants assert the deputy commissioner erred in finding claimant sustained a work-related injury. Defendants alternatively assert the deputy commissioner erred in her determination of the manifestation date and in her application of the discovery rule. Lastly, defendants assert if it is found on appeal that claimant sustained a work-related injury that was timely filed, it should be found that the resulting industrial disability is less than the 60 percent awarded by the deputy commissioner.

Claimant asserts on appeal that the arbitration 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.

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 October 11, 2019, which relate to the issues properly raised on intra-agency appeal.

I find the deputy commissioner provided a well-reasoned analysis of all 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 a cumulative injury to her shoulders that arose out of and in the course of her employment. I affirm the deputy commissioner's finding that the cumulative injury manifested by August 25, 2015, but that claimant did not discover the injury for purposes of the discovery rule until at least October 7, 2016. As a result, I affirm the deputy commissioner's finding that claimant's petition was not barred by operation of Iowa Code section 85.26. I affirm the deputy commissioner's finding that claimant sustained 60 percent industrial disability as a result of the work-related cumulative injury to her shoulders.

I affirm the deputy commissioner's findings, conclusions and analysis regarding those issues.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on October 11, 2019, is affirmed in its entirety.

All weekly benefits shall be paid at the stipulated weekly rate of six hundred thirty-one and 56/100 dollars (\$631.56).

Defendants shall pay three hundred (300) weeks of permanent partial disability benefits commencing on August 25, 2015.

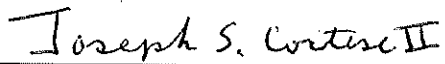
Defendants shall pay accrued weekly benefits in a lump sum together with interest at the rate of ten percent for all weekly benefits payable and not paid when due which accrued before July 1, 2017, and all interest on past due weekly compensation benefits accruing on or after July 1, 2017, shall be payable 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).

Defendants are responsible for medical expenses as set forth in the arbitration decision.

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.

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 14th day of July, 2020.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

James Byrne (via WCES)

Lara Q. Plaisance (via WCES)