

## BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

TARA WALKER,

Claimant,

vs.

WHIRLPOOL CORPORATION,

Self-Insured Employer,  
Defendant.

File No. 1653739.01

A P P E A L

D E C I S I O N

Head Notes: 1402.30, 1402.40, 1701; 1802:  
1803, 2501, 2907

Defendant Whirlpool Corporation, self-insured employer, appeals from an arbitration decision filed on November 22, 2021. Claimant Tara Walker responds to the appeal. The case was heard on May 20, 2021, and it was considered fully submitted in front of the deputy workers' compensation commissioner on July 16, 2021.

In the arbitration decision, the deputy commissioner found claimant carried her burden of proof to establish she sustained an injury arising out of and in the course of her employment with defendant on June 12, 2018. The parties agreed that pursuant to Iowa Code section 85.34(2)(v), claimant's recovery for permanent disability is limited to her functional impairment from the injury because she returned to work after the injury and she earns more now than she earned at the time of the injury. The deputy commissioner found claimant sustained 34 percent functional impairment as a result of the injury, which entitles claimant to receive 170 weeks of permanent partial disability benefits, at the stipulated weekly rate of \$633.85. The deputy commissioner found claimant is entitled to receive healing period benefits from February 5, 2019, through February 20, 2019. The deputy commissioner found defendant is responsible for all of the medical charges itemized in Exhibit 4, including out-of-pocket expenses paid by claimant. The deputy commissioner found defendant is entitled to a credit for the medical expenses paid by the group health insurance plan. The deputy commissioner found that pursuant to Iowa Code section 85.39, claimant is entitled to reimbursement from defendant in the amount of \$4,250.00 for the cost of the independent medical evaluation of claimant (IME) performed by David Segal, M.D. The deputy commissioner ordered defendant to pay claimant's costs of the arbitration proceeding in the amount of \$202.05.

Defendant asserts on appeal that the deputy commissioner erred in finding claimant sustained a work injury on June 12, 2018, as alleged. Defendant asserts the deputy commissioner erred in finding claimant sustained permanent disability as a result of the work injury. Defendant asserts the deputy commissioner erred in finding claimant is entitled to reimbursement from defendant for the cost of Dr. Segal's IME.

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 November 22, 2021, 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 claimant proved she sustained a work injury on June 12, 2018. I affirm the deputy commissioner's finding that claimant sustained 34 percent functional impairment as a result of the work injury. I affirm the deputy commissioner's finding that claimant is entitled to receive healing period benefits from February 5, 2019, through February 20, 2019. I affirm the deputy commissioner's finding that defendant is responsible for all of the medical charges itemized in Exhibit 4, including out-of-pocket expenses paid by claimant. I affirm the deputy commissioner's finding that defendant is entitled to a credit for the medical expenses paid by the group health insurance plan. I affirm the deputy commissioner's finding that pursuant to Iowa Code section 85.39, claimant is entitled to reimbursement from defendant for the cost of Dr. Segal's IME. I affirm the deputy commissioner's order that defendants pay claimant's costs of the arbitration proceeding in the amount of \$202.05.

Some of the findings by the deputy commissioner in the arbitration decision were based on the deputy commissioner's findings regarding claimant's credibility. The deputy commissioner found claimant to be a credible witness. Defendant asserts claimant was not credible. I find the deputy commissioner correctly assessed claimant's credibility. While I performed a de novo review, I give considerable deference to findings of fact which are impacted by the credibility findings, expressly or impliedly made, regarding claimant by the deputy commissioner who presided at the arbitration hearing. I find nothing in the record in this matter which would cause me to reverse the deputy commissioner's findings regarding claimant's credibility.

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 November 22, 2021, is affirmed in its entirety.

Defendant shall pay claimant healing period benefits from February 5, 2019, through February 20, 2019, at the stipulated weekly rate of six hundred thirty-three and 85/100 dollars (\$633.85) per week.

Defendant shall pay claimant 170 weeks of permanent partial disability benefits at the stipulated weekly rate of six hundred thirty-three and 85/100 dollars (\$633.85), commencing on February 21, 2020.

Defendant shall pay accrued weekly benefits in a lump sum together with interest 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, as required by Iowa Code section 85.30.

Defendant shall satisfy, pay, or reimburse all medical expenses itemized in Claimant's Exhibit 4, including but not limited to all out-of-pocket expenses paid by claimant.

Defendant shall receive credit for all medical expenses contained in Claimant's Exhibit 4 for which the employer's health insurance plan paid benefits.

To the extent that the employer's health insurance plan seeks reimbursement of any medical expenses contained in Claimant's Exhibit 4, the employer's workers' compensation plan shall reimburse such payments and hold claimant harmless for any such expenses.

Pursuant to Iowa Code section 85.39, defendant shall reimburse claimant in the amount of four thousand two hundred fifty and 00/100 dollars (\$4,250.00) for the cost of Dr. Segal's IME.

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration proceeding in the amount of two hundred two and 05/100 dollars (\$202.05), and defendant 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 30<sup>th</sup> day of March, 2022.

*Joseph S. Cortese II*

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JOSEPH S. CORTESE II  
WORKERS' COMPENSATION  
COMMISSIONER

The parties have been served as follows:

Thomas Wertz (via WCES)

Steven Durick (via WCES)

Christopher Spencer (via WCES)