

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

LISA KRUSER,

Claimant,

vs.

AREA RESIDENTIAL CARE,

Employer,

and

WEST BEND MUTUAL INS. CO.,

Insurance Carrier,
Defendants.

File No. 5061914.02

A P P E A L

D E C I S I O N

Head Notes: 1402.20; 1402.40; 1403.10;
1801; 1803; 2204; 2206;
2501; 2701; 2907; 4000.2;
5-9998

Claimant Lisa Kruser appeals from an arbitration decision filed on December 14, 2021. Defendants Area Residential Care, employer, and its insurer, West Bend Mutual Insurance Company, respond to the appeal. The case was heard on August 10, 2021, and it was considered fully submitted in front of the deputy workers' compensation commissioner on September 14, 2021.

In the arbitration decision, the deputy commissioner found claimant carried her burden of proof to establish she sustained an aggravation of her pre-existing chronic cervical condition as a sequela of the stipulated May 23, 2016, work injury, but found the aggravation was temporary and resolved as of September 19, 2016, with no permanent impairment. The deputy commissioner found claimant proved she sustained an aggravation of her pre-existing mental health condition as a sequela of the work injury. The deputy commissioner found claimant did not prove her basal cell carcinoma is a sequela of the work injury. The deputy commissioner found claimant did not prove she sustained GI tract problems as a sequela of the work injury. The deputy commissioner found claimant did not prove she sustained a right breast injury as a sequela of the work injury. The deputy commissioner found claimant did prove she is entitled to receive temporary total disability (TTD) benefits from November 1, 2016, through November 9, 2016. The deputy commissioner found claimant is not entitled to a running award of TTD benefits commencing on January 5, 2018. The deputy commissioner found claimant is not entitled to recover medical bills related to her basal cell carcinoma. The deputy commissioner found defendants are liable for payment of medical bills for claimant's cervical condition from May 23, 2016, through September 19, 2016, when the temporary aggravation of her cervical condition resolved, but not for any medical bills for that condition after September 19, 2016. The deputy commissioner

found defendants are not responsible for the medical bills associated with the counseling claimant has received with Joni Downs, Ph.D. The deputy commissioner found defendants have an obligation to authorize counseling services recommended by John Brooke, Ph.D., the authorized treating provider. The deputy commissioner found claimant is not entitled to alternate care consisting of a cervical MRI, a referral for her GI complaints, or authorization for continued care with Dr. Downs. The deputy commissioner found claimant is not entitled to receive penalty benefits from defendants. The deputy commissioner ordered defendants to pay claimant's costs of the arbitration proceeding.

Claimant asserts on appeal that the deputy commissioner erred in finding the aggravation of her chronic cervical condition was temporary and resolved as of September 19, 2016, with no permanent impairment. Claimant asserts the deputy commissioner erred in finding claimant did not prove her basal cell carcinoma is a sequela of the work injury. Claimant asserts the deputy commissioner erred in finding claimant is not entitled to a running award of TTD benefits. Claimant asserts the deputy commissioner erred in finding claimant is not entitled to recover medical bills for her cervical complaints after September 19, 2016, for mental health counseling with Dr. Downs, and for her basal cell carcinoma treatment.

Defendants assert 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 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 December 14, 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 an aggravation of her pre-existing chronic cervical condition as a sequela of the work injury, and I affirm the deputy commissioner's finding that the aggravation was temporary and resolved as of September 19, 2016, with no permanent impairment. I affirm the deputy commissioner's finding claimant proved she sustained an aggravation of her pre-existing mental health condition as a sequela of the work injury. I affirm the deputy commissioner's finding that claimant did not prove her basal cell carcinoma, GI tract problems, and right breast injury are sequelae of the work injury. I affirm the

deputy commissioner's finding claimant proved she is entitled to receive TTD benefits from November 1, 2016, through November 9, 2016. I affirm the deputy commissioner's finding claimant is not entitled to a running award of TTD benefits. I affirm the deputy commissioner's finding claimant is not entitled to recover the cost of medical bills related to her basal cell carcinoma. I affirm the deputy commissioner's finding that defendants are liable for payment of medical bills for claimant's cervical condition from May 23, 2016, through September 19, 2016, when the temporary aggravation of her cervical condition resolved, but not for any medical bills for that condition after September 19, 2016. I affirm the deputy commissioner's finding defendants are not responsible for the medical bills associated with the counseling claimant has received with Dr. Downs. I affirm the deputy commissioner's finding defendants have an obligation to authorize counseling services recommended by Dr. Brooke. I affirm the deputy commissioner's finding claimant is not entitled to alternate care consisting of a cervical MRI, a referral for her GI complaints, or authorization for continued care with Dr. Downs. I affirm the deputy commissioner's finding claimant is not entitled to receive penalty benefits. 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 the above-stated issues.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on December 14, 2021, is affirmed in its entirety.

Defendants shall pay claimant temporary total disability benefits from November 1, 2016, through November 9, 2016.

Defendants shall pay accrued weekly benefits in a lump sum together with interest.

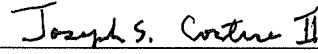
Defendants are responsible for the medical bills for treatment of claimant's cervical condition between May 23, 2016, and September 19, 2016.

Defendants shall authorize counseling recommended by Dr. Brooke, the authorized treating provider.

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 6th day of May, 2022.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

Zeke McCartney (via WCES)

Adam Bates (via WCES)