

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

DAVID RAMSEY,

Claimant,

vs.

CITY OF NORTH LIBERTY,

Employer,

and

EMC INSURANCE COMPANIES,

Insurance Carrier,  
Defendants.

File No. 5063830

A P P E A L

D E C I S I O N

Head Notes: 1403.30; 2402; 2501; 2502;  
2503; 2907; 4000.2; 5-9998

Claimant David Ramsey appeals from an arbitration decision filed on April 9, 2020. Defendants City of North Liberty, employer, and its insurer, EMC Insurance Companies, respond to the appeal. The case was heard on May 14, 2019, and it was considered fully submitted in front of the deputy workers' compensation commissioner on July 15, 2019.

The deputy commissioner found claimant's claim for weekly workers' compensation benefits for the stipulated January 15, 2007, work injury is barred by the three-year statute of limitations contained in Iowa Code section 85.26(1), which the deputy commissioner found expired on January 26, 2010. The deputy commissioner found claimant failed to carry his burden of proof to establish that defendants paid claimant wages in lieu of weekly workers' compensation benefits at any time after January 26, 2007. The deputy commissioner found that because claimant did not file his original notice and petition until May 7, 2018, more than eight years after the statute of limitations expired on January 26, 2010, the deputy commissioner found claimant is not entitled to receive weekly workers' compensation benefits. The deputy commissioner found claimant is not entitled to receive penalty benefits from defendants.

The deputy commissioner found claimant is entitled to receive medical benefits for the work injury. The deputy commissioner found claimant is entitled to receive reimbursement from defendants in the amount of \$211.47 for causally-related medical transportation expenses. The deputy commissioner found defendants remain responsible for all future, causally-related medical treatment necessitated by the work injury. The deputy commissioner found that pursuant to Iowa Code section 85.39, claimant is entitled to receive reimbursement from defendants in the amount of \$4,680.83 for the cost of the independent medical evaluation (IME) of claimant performed by Kunal Patra, M.D. on January 17, 2019. The deputy commissioner

ordered defendants to pay claimant's costs of the arbitration proceeding in the amount \$505.84.

Claimant asserts on appeal that the deputy commissioner erred in finding the three-year statute of limitations expired in this matter on January 26, 2010. Claimant asserts the deputy commissioner erred in finding claimant failed to prove defendants paid claimant wages in lieu of weekly workers' compensation benefits after January 26, 2007, and in failing to find the statute of limitations was tolled. Claimant asserts the deputy commissioner erred in finding claimant is not entitled to receive weekly workers' compensation benefits. Claimant asserts the deputy commissioner erred in finding claimant is not entitled to receive additional healing period benefits and permanent total disability benefits. Claimant asserts the deputy commissioner erred in finding claimant is not entitled to receive penalty benefits.

Defendants assert 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 performed a de novo review of the evidentiary record and the detailed arguments of the parties. Pursuant to Iowa Code sections 17A.15 and 86.24, I affirm and adopt as the final agency decision those portions of the proposed arbitration decision filed on April 9, 2020, 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's claim for weekly workers' compensation benefits for the work injury is barred by the three-year statute of limitations, and I affirm the deputy commissioner's finding that the statute of limitations expired on January 26, 2010. I affirm the deputy commissioner's finding that claimant failed to prove defendants paid claimant wages in lieu of weekly workers' compensation benefits at any time after January 26, 2007, and I affirm the deputy commissioner's finding that statute of limitations was not tolled. I affirm the deputy commissioner's finding that because claimant did not file his original notice and petition until May 7, 2018, more than eight years after the statute of limitations expired on January 26, 2010, claimant is not entitled to receive weekly workers' compensation benefits. I affirm the deputy commissioner's finding that claimant is not entitled to receive penalty benefits from defendants.

I affirm the deputy commissioner's finding that claimant is entitled to receive medical benefits for the work injury. I affirm the deputy commissioner's finding that claimant is entitled to receive reimbursement from defendants in the amount of \$211.47 for causally-related medical transportation expenses. I affirm the deputy commissioner's

finding that defendants remain responsible for all future, causally-related medical treatment necessitated by the work injury. I affirm the deputy commissioner's finding that pursuant to Iowa Code section 85.39, claimant is entitled to receive reimbursement from defendants for the cost of Dr. Patra's IME. I affirm the deputy commissioner's order that defendants pay claimant's costs of the arbitration proceeding in the amount \$505.84.

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

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on April 9, 2020, is affirmed in its entirety.

Defendants shall reimburse claimant in the amount of two hundred eleven and 47/100 dollars (\$211.47) for medical transportation expenses.

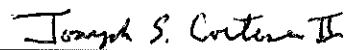
Defendants shall reimburse claimant in the amount of four thousand six hundred eighty and 83/100 dollars (\$4,680.83) for the cost of Dr. Patra's IME.

Defendants remain responsible for all future, causally-related medical treatment necessitated by the work injury.

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration proceeding in the amount of five hundred five and 84/100 dollars (\$505.84), 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 20<sup>th</sup> day of January, 2021.



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JOSEPH S. CORTESE II  
WORKERS' COMPENSATION  
COMMISSIONER

The parties have been served as follows:

Eric Bigley (via WCES)

M. Anne McAtee (via WCES)

Amanda Motto (via WCES)