

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

JOSE O. RAMIREZ,

Claimant,

vs.

THE WEITZ COMPANY,

Employer,

and

ACIG INSURANCE COMPANY,

Insurance Carrier,
Defendants.

FILED

APR - 5 2018

WORKERS' COMPENSATION

File No. 5041465

A P P E A L

D E C I S I O N

Head Note Nos: 1108.50, 1402.20;
1402.40, 1402.60, 1802, 1803, 4100;
5-9998

Defendants The Weitz Company, employer, and its insurer, ACIG Insurance Company, appeal from an arbitration decision filed on September 2, 2016. Claimant Jose O. Ramirez responds to the appeal. The case was heard on May 3, 2016, and it was considered fully submitted in front of the deputy workers' compensation commissioner on June 13, 2016.

The deputy commissioner found claimant carried his burden of proof that he sustained an injury which arose out of and in the course of his employment with defendant-employer on November 29, 2011. The deputy commissioner found claimant is entitled to receive healing period benefits from December 6, 2011, through March 30, 2015. The deputy commissioner found claimant sustained 60 percent industrial disability as a result of the work injury, which entitles claimant to receive 300 weeks of permanent partial disability (PPD) benefits commencing on March 31, 2015. The deputy commissioner found claimant is entitled to payment by defendants of the past medical expenses itemized in the attachment to the hearing report. The deputy commissioner found that pursuant to Iowa Code section 85.39, claimant is entitled to receive reimbursement for the cost of the independent medical evaluation (IME) performed by Mark Kirkland, D.O., on August 19, 2013. The deputy commissioner also ordered defendants to pay claimant's costs of the arbitration proceeding in the amount of \$2,430.00.

Defendants assert the deputy commissioner erred in finding claimant carried his burden of proof that he sustained a work-related injury on November 29, 2011. Defendants assert the deputy commissioner erred in finding claimant is entitled to receive healing period benefits from December 6, 2011, through March 30, 2015.

Defendants assert the deputy commissioner erred in finding claimant sustained 60 percent industrial disability as a result of the alleged injury.

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.

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 September 2, 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 finding that claimant sustained a work-related injury on November 29, 2011. I affirm the deputy commissioner's finding that claimant is entitled to receive healing period benefits from December 6, 2011, through March 30, 2015. I affirm the deputy commissioner's finding that claimant sustained 60 percent industrial disability as a result of the work injury. I affirm the deputy commissioner's finding that claimant is entitled to payment by defendants of the past medical expenses itemized in the attachment to the hearing report. I affirm the deputy commissioner's finding that claimant is entitled to receive reimbursement for the cost of Dr. Kirkland's IME. I affirm the deputy commissioner's order that defendants pay claimant's costs of the arbitration proceeding in the amount of \$2,430.00. I affirm the deputy commissioner's findings, conclusions and analysis regarding those issues.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on September 2, 2016, is affirmed in its entirety.

Defendants shall pay claimant healing period benefits from December 6, 2011, through March 30, 2015, at the stipulated weekly rate of six hundred forty-nine and 34/100 dollars (\$649.34).

Defendants shall pay claimant three hundred (300) weeks of permanent partial disability benefits commencing on March 31, 2015, at the stipulated weekly rate of six hundred forty-nine and 34/100 dollars (\$649.34).

Defendants shall be entitled to a credit for all benefits paid to date.

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


Defendants shall pay the medical expenses listed in the attachment to the hearing report. Defendants shall reimburse claimant for his out-of-pocket medical expenses and defendants shall hold claimant harmless from the remainder of those expenses.

Defendants shall reimburse claimant for the cost of Dr. Kirkland's IME.

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration proceeding in the amount of two thousand four hundred thirty and no/100 dollars (\$2,430.00), 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 5th day of April, 2018.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

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