

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

MICHAEL VONSPRECKEN,

Claimant,

vs.

BBU, INC.,

Employer,

and

ACE AMERICAN INSURANCE
COMPANY,

Insurance Carrier,
Defendants.

File No. 5057238

A P P E A L

D E C I S I O N

Head Note Nos.: 1100, 1402.30

FILED
MAY 17 2019
WORKERS' COMPENSATION

On May 13, 2019, the Iowa Workers' Compensation Commissioner delegated authority to the undersigned to enter a final agency decision in this matter. Therefore, this appeal decision is entered as final agency action pursuant to Iowa Code section 17A.15(3) and Iowa Code section 86.24.

I performed a de novo review of the evidentiary record before the presiding deputy workers' compensation commissioner and the detailed arguments of the parties.

Pursuant to Iowa Code section 86.24 and 17A.15, I affirm and adopt as the final agency decision those portions of the proposed arbitration decision filed on December 31, 2018 that relate to issues properly raised on intra-agency appeal in their entirety with the following additional analysis and rationale:

In addition to the deputy commissioner's concerns regarding the credibility of claimant's expert, David Segal, M.D., I find Dr. Segal based his opinions on an incomplete and inaccurate medical history. Claimant acknowledged at hearing that he had back pain as far back as 2007 and back pain for which he received a prescription of Flexeril as far back as 2008. (Hearing Transcript, p. 11; see Defendants' Exhibit L, pp. 65-68) Claimant additionally acknowledged reporting low back complaints to his primary care provider in 2010 and 2012. (Hrg. Tr., p. 12; see Def. Ex. L, pp. 69-70, 74-76) Despite claimant's testimony and available medical records, Dr. Segal references

no treatment before 2016 in the medical records review portion of his report. (Claimant's Ex. 1, pp. 1-7)

Dr. Segal also stated in his report that claimant "never had any back problems except for the normal occasional discomfort or strain people get on occasion" and "never sought treatments for back pain" from 2006 through April/May of 2013. (Cl. Ex. 1, p. 8) Later in his report, Dr. Segal indicated that while claimant likely had pre-existing degenerative changes, "those changes were asymptomatic" before May of 2013. (Cl. Ex. 1, p. 11) As discussed above, however, these statements are simply not consistent with claimant's own testimony and the greater weight of the medical evidence.

For the reasons set forth by the deputy commissioner and the additional reasons herein, I affirm the deputy commissioner's finding that Dr. Segal's opinion is not as persuasive as the opinions of Michael Dolphin, D.O., and Brian Braaksma, M.D.


I conclude the presiding deputy commissioner's findings are well-reasoned and supported by the greater weight of the evidence, and they are therefore affirmed in all respects with the additional analysis set forth above.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on December 31, 2018 is AFFIRMED in its entirety with the additional analysis set forth above.

Claimant shall pay the costs of this appeal, including the preparation of the hearing transcript.

Signed and filed this 17th day of May, 2019.



STEPHANIE J. COPLEY
WORKERS' COMPENSATION
COMMISSIONER

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