

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

SAMIR DAOUD,

Claimant,

vs.

QUAKER OATS COMPANY,

Employer,

and

ACE-CIGNA,

Insurance Carrier,  
Defendants.

**FILED**

**APR 12 2017**

WORKERS' COMPENSATION

File No. 5026754

A P P E A L

D E C I S I O N

Head Note Nos: 1100, 2500

Defendants Quaker Oats Company, employer, and its insurer, ACE-CIGNA, appeal from a review-reopening decision filed on November 18, 2015. Claimant Samir Daoud responds to the appeal. The case was heard on June 11, 2015, and it was considered fully submitted in front of the deputy workers' compensation commissioner on July 7, 2015.

The deputy commissioner found claimant is entitled to review-reopening in this matter because claimant carried his burden of proof that his laryngeal squamous cell carcinoma of the left vocal fold (cancer) is causally related claimant's work injury which occurred on July 28, 2006. The deputy commissioner also found defendants are liable for the medical costs of treating claimant's cancer. The deputy commissioner also ordered defendants to pay claimant's costs of the review-reopening proceeding.

Defendants assert on appeal that the deputy commissioner erred in finding claimant carried his burden of proof to establish his cancer is causally related to the work injury. Defendants also assert the deputy commissioner erred in finding defendants are liable for the medical costs of treating claimant's cancer. Defendants also assert the deputy commissioner erred in ordering defendants to pay claimant's costs of the review-reopening proceeding.

Claimant asserts on appeal that the review-reopening 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 review-reopening decision filed on November 18, 2015, 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 review-reopening 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 is entitled to review-reopening in this matter because I affirm the deputy commissioner's finding that claimant carried his burden of proof that his cancer is causally related to claimant's July 28, 2006, work injury. I affirm the deputy commissioner's finding that defendants are liable for the medical costs of treating claimant's cancer. I affirm the deputy commissioner's order that defendants shall pay claimant's costs of the review-reopening proceeding. I affirm the deputy commissioner's findings, conclusions and analysis regarding those issues with the following additional analysis:

The fighting issue in this case is whether claimant's cancer is causally related to the July 28, 2006, work injury. Regarding that particular point, Douglas J. Van Daele, M.D., FACS, head and neck surgeon in the Department of Otolaryngology at the University of Iowa Hospitals and Clinics, stated the following in his report dated February 8, 2015:

It is more likely than not that his vocal fold cancer is a result of inhalation (burn) injury as a small percentage of skin burns are known to develop into squamous cell carcinomas over time.

(Claimant's Second Amended Witness and Exhibit List, Exhibit 5)

Farid Manshadi, M.D., physical medicine and rehabilitation specialist in Waterloo, Iowa, who performed an IME at claimant's request, also addressed this particular point. In his IME report dated March 16, 2015. Dr. Manshadi stated the following:

In regard to Mr. Daoud's laryngeal cancer, I believe that the work injury of 2006 when Mr. Daoud had inhalation injury as a result of the vapors and dust from the artificial flavoring at Quaker Oats was a significant contributing factor for Mr. Daoud to develop the laryngeal cancer.

(Claimant's Second Amended Witness and Exhibit List, Ex. 6, p. 3)

Susannah Friemel, M.D., oncologist in Davenport, Iowa, performed a records review and drafted a report at the request of defendants. Dr. Friemel did not personally evaluate claimant and she took no medical history directly from claimant. In her report dated January 22, 2014, Dr. Friemel provides a general discussion of various possible causes of head and neck cancers. The final two paragraphs of Dr. Friemel's report state the following:

The full manufacturer's prescribing information for albuterol sulfate, triamcinolone acetonide, fluticasone-salmeterol, tiotropium bromide, and fluticasone aerosol was reviewed, and carcinoma of the head and neck is not described as a potential adverse outcome from using these inhaled substances.

In summary, after reviewing the records in this case, it is my professional opinion to a probable degree of medical certainty that Mr. Daoud's laryngeal carcinoma was not caused by the longterm use of inhaled medications prescribed to treat his pulmonary condition, bronchiolitis obliterans.

(Defendants' Amended Exhibit List, Ex. C, p. 2)

Claimant has never asserted in this matter that his cancer was caused by any of the medications he has taken to treat the symptoms of his original work injury. Claimant contends the cancer is a result of the inhalation injury itself. Both Dr. Van Daele and Dr. Manshadi address the specific causation issue raised by claimant. Nowhere in her report does Dr. Friemel actually state whether she believes claimant's cancer is causally related to the work injury. Therefore, the causation opinions of both Dr. Van Daele and Dr. Manshadi are un rebutted. For this reason, and for the other reasons discussed by the deputy commissioner in the review-reopening decision, I affirm the deputy commissioner's finding that Claimant has carried his burden of proof to establish that his cancer is causally related to the work injury he sustained on July 28, 2006.

#### ORDER

IT IS THEREFORE ORDERED that the review-reopening decision filed on November 18, 2015, is affirmed in its entirety.

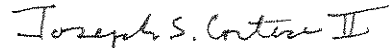
Claimant's cancer is found to be causally related to claimant's original work injury of July 28, 2006.

Defendants shall pay the medical costs to treat claimant's cancer as provided by Iowa Code section 85.27 and as detailed in the body of the review-reopening decision.

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the review-reopening proceeding, and defendants shall also 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 this 12<sup>th</sup> day of April, 2017.

  
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JOSEPH S. CORTESE II  
WORKERS' COMPENSATION  
COMMISSIONER

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