

## BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

---

 GRISELDA PEREZ-AVINA,

Claimant,

vs.

BRENNEMAN PORK, INC.,

Employer,

and

FARM BUREAU PROPERTY &  
CASUALTY INSURANCE COMPANY,Insurance Carrier,  
Defendants.

File Nos. 5050212 and 5050213

A P P E A L  
D E C I S I O NHead Notes: 1402.40; 1403.10; 1804;  
2204; 2500; 2501; 5-9998

---

Defendants Brenneman Pork, Inc., employer, and its insurer, Farm Bureau Property & Casualty Insurance Company, appeal from an arbitration decision filed on April 10, 2018. Claimant Griselda Perez-Avina cross-appeals. The case was heard on December 19, 2017, and it was considered fully submitted in front of the deputy workers' compensation commissioner on January 30, 2018.

The deputy commissioner found claimant sustained permanent total disability as a result of two injuries which arose out of and in the course of claimant's employment with defendant-employer on February 26, 2014, and on April 16, 2014. The deputy commissioner found claimant is entitled to receive permanent total disability benefits commencing on April 16, 2014, as a result of the work injuries.

While the deputy commissioner found claimant carried her burden of proof to establish she sustained chronic pain syndrome in her bilateral upper extremities as a result of the work injuries, the deputy commissioner found claimant failed to carry her burden of proof to establish she also sustained chronic regional pain syndrome (CRPS) as a result of the work injuries. The deputy commissioner found claimant is entitled to payment by defendants for all reasonably necessary ongoing medical treatment for claimant's chronic pain syndrome in her bilateral upper extremities, and the deputy commissioner found defendants are entitled to direct claimant's ongoing medical care for her chronic pain syndrome in her bilateral upper extremities.

The deputy commissioner found claimant failed to carry her burden of proof to establish she sustained chronic pain syndrome in her left lower extremity as a result of the work injuries.

The deputy commissioner found claimant sustained depression and anxiety as a result of the work injuries. The deputy commissioner found claimant is entitled to payment by defendants for all reasonably necessary ongoing medical care for claimant's depression and anxiety, and the deputy commissioner found defendants are entitled to direct claimant's ongoing medical care for her depression and anxiety.

The deputy commissioner found claimant is entitled to payment by defendants to the providers, or reimbursement by defendants to claimant, for past requested medical charges from Luminis Minds totaling \$3,300.00, itemized in Exhibit 28, for counseling services received by claimant for her depression and anxiety. The deputy commissioner found claimant is not entitled to payment or reimbursement by defendants for the remaining medical charges totaling \$6,979.59 itemized in Exhibit 28.

The deputy commissioner ordered defendants to pay claimant's costs of the arbitration proceeding in the amount of \$1,579.86.

Defendants assert on appeal that the deputy commissioner erred in finding claimant sustained any permanent disability as a result of the work injuries and defendants assert the deputy commissioner erred in finding claimant is permanently and totally disabled as a result of the work injuries. Defendants assert claimant should not be awarded any permanent disability benefits for the work injury.

Defendants assert the deputy commissioner erred in finding claimant sustained chronic pain syndrome in her bilateral upper extremities as a result of the work injuries. Defendants assert the deputy commissioner erred in finding claimant sustained depression and anxiety as a result of the work injury.

Defendants assert the deputy commissioner erred in finding claimant is entitled to payment by defendants for ongoing medical treatment for claimant's chronic pain syndrome in her bilateral upper extremities and for her depression and anxiety.

Defendants assert the deputy commissioner erred in finding claimant is entitled to payment or reimbursement from defendants for the past requested medical charges from Luminis Minds.

Claimant asserts on cross-appeal that the deputy commissioner erred in finding claimant failed to carry her burden of proof to establish she sustained CRPS as a result of the work injuries. Claimant asserts the deputy commissioner erred in failing to find claimant is entitled to payment by defendants for all reasonably necessary ongoing medical treatment for claimant's alleged CRPS.

Claimant asserts the deputy commissioner erred in finding claimant failed to carry her burden of proof to establish she sustained chronic pain syndrome in her left lower extremity as a result of the work injuries.

Claimant asserts the deputy commissioner erred in failing to find claimant is entitled to payment or reimbursement by defendants for all of the requested past medical expenses itemized in Exhibit 28.

Those portions of the proposed agency decision pertaining to issues not raised on appeal are adopted as a 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 April 10, 2018, 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 sustained permanent total disability as a result of the February 26, 2014, and the April 16, 2014, work injuries. I affirm the deputy commissioner's finding that claimant is entitled to receive permanent total disability benefits commencing on April 16, 2014, as a result of the work injuries.

I affirm the deputy commissioner's finding that claimant carried her burden of proof to establish she sustained chronic pain syndrome in her bilateral upper extremities as a result of the work injuries. I affirm the deputy commissioner's finding that claimant failed to carry her burden of proof to establish she also sustained CRPS as a result of the work injuries. I affirm the deputy commissioner's finding that claimant is entitled to payment by defendants for all reasonably necessary ongoing medical treatment for claimant's chronic pain syndrome in her bilateral upper extremities, and I affirm the deputy commissioner's finding that defendants are entitled to direct claimant's ongoing medical care for her chronic pain syndrome in her bilateral upper extremities.

I affirm the deputy commissioner's finding that claimant failed to carry her burden of proof to establish she sustained chronic pain syndrome in her left lower extremity as a result of the work injuries.

I affirm the deputy commissioner's finding that claimant sustained depression and anxiety as a result of the work injuries. I affirm the deputy commissioner's finding that claimant is entitled to payment by defendants for all reasonably necessary ongoing medical treatment for claimant's depression and anxiety, and I affirm the deputy commissioner's finding that defendants are entitled to direct claimant's ongoing medical care for her depression and anxiety.

I affirm the deputy commissioner's finding that claimant is entitled to payment or reimbursement from defendants in the amount of \$3,300.00 for the past requested medical charges itemized in Exhibit 28 from Luminis Minds for counseling services received by claimant for her depression and anxiety. I affirm the deputy commissioner's finding that claimant is not entitled to payment or reimbursement from defendants for the remaining medical charges totaling \$6,979.59 itemized in Exhibit 28.

I affirm the deputy commissioner's order that defendants pay claimant's costs of the arbitration proceeding in the amount of \$1,579.86.

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

#### ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on April 10, 2018, is affirmed in its entirety.

**File No. 5050212 – Injury date of February 26, 2014:**

Claimant shall take nothing in this matter.

**File No. 5050213 – Injury date of April 16, 2014:**

Defendants shall pay claimant permanent total disability benefits at the weekly rate of three hundred seventy-four and 19/100 dollars (\$374.19) per week, commencing on April 16, 2014, and continuing during the period of disability.

Defendants shall receive a credit for all weekly benefits paid to date.

Defendants shall pay accrued weekly benefits in a lump sum together with interest at the rate of ten percent for all weekly benefits payable and not paid when due which accrued before July 1, 2017, and all interest on past due weekly compensation benefits accruing on or after July 1, 2017, shall be payable at an annual rate equal to the one-year treasury constant maturity published by the federal reserve in the most recent H15 report settled as of the date of injury, plus two percent. See Gamble v. AG Leader Technology, File No. 5054686 (App. Apr. 24, 2018).


Defendants shall pay for all reasonably necessary ongoing medical care needed by claimant for her chronic pain syndrome in her bilateral upper extremities and for her depression and anxiety, and defendants shall direct all such medical treatment pursuant to Iowa Code section 85.27.

Defendants shall pay the providers or reimburse claimant in the amount of three thousand three hundred and no/100 dollars (\$3,300.00) for the past requested medical charges from Luminis Minds itemized in Exhibit 28.

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration proceeding in the amount of one thousand five hundred seventy-nine and 86/100 dollars (\$1,579.86), and the parties shall split 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 13<sup>th</sup> day of December, 2019.



---

JOSEPH S. CORTESE II  
WORKERS' COMPENSATION  
COMMISSIONER

The parties have been served as follows:

Andrew W. Bribriesco      Via WCES

James W. Russell          Via WCES