

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

CRAIG IVESTER,

Claimant,

vs.

XPO LOGISTICS,

Employer,

and

INDEMNITY INSURANCE COMPANY
OF NORTH AMERICA,Insurance Carrier,
Defendants.

File Nos. 5064976.01 and 5064977.01

A P P E A L

D E C I S I O N

Head Notes: 1402.20; 1402.30; 1402.40;
1402.60; 1403.10; 1803;
1804; 2501; 2701; 2907;
5-9998

Defendants XPO Logistics, employer, and its insurer, Indemnity Insurance Company of North America, appeal from an arbitration decision filed on October 26, 2021. Claimant Craig Ivester responds to the appeal. The case was heard on December 9, 2020, and it was considered fully submitted in front of the deputy workers' compensation commissioner on February 2, 2021.

In the arbitration decision, for File Number 5064976.01, stipulated injury date of April 12, 2018, the deputy commissioner found claimant sustained 14 percent permanent impairment of his left shoulder, which entitles claimant to receive 56 weeks of permanent partial disability (PPD) benefits at the stipulated weekly rate of \$652.96, commencing on November 5, 2019.

For File Number 5064977.01, stipulated injury date of June 8, 2016, the deputy commissioner found claimant met his burden of proof to establish his ongoing low back and lower extremity problems, including his right-sided symptoms, are related to the June 8, 2016, work injury. The deputy commissioner found claimant proved he is permanently and totally disabled and awarded claimant permanent total disability benefits at the stipulated weekly rate of \$701.62, commencing on May 7, 2019. The deputy commissioner found defendants are responsible for all reasonable and necessary medical treatment causally related to the June 8, 2016, work injury. The deputy commissioner ordered defendants to reimburse claimant for the portions of the medical bills claimant paid from his own funds, and the deputy commissioner found defendants are responsible to reimburse any providers or lienholders for any outstanding claims. The deputy commissioner granted claimant's request for alternate medical care and ordered defendants to authorize and pay for all reasonable and causally related expenses for claimant's ongoing treatment with Stanley Mathew, M.D.

For both files, the deputy commissioner ordered defendants to pay the \$540.00 cost of claimant's vocational report from Barbara Laughlin, M.A.

Defendants assert on appeal that the deputy commissioner erred in finding claimant's low back condition and need for treatment are causally related to the June 8, 2016, work injury. Alternatively, defendants assert the deputy commissioner erred in finding claimant reached maximum medical improvement for his low back condition.

Claimant asserts on appeal that the arbitration decision should be affirmed in its entirety.

Those portions of the proposed arbitration 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 October 26, 2021, which relate to the issues properly raised on intra-agency appeal.

I find the deputy commissioner provided a well-reasoned analysis of all the issues raised in the arbitration proceeding. I affirm the deputy commissioner's findings of fact and conclusions of law pertaining to those issues.

For File No. 5064976.01, I affirm the deputy commissioner's finding that claimant sustained 14 percent permanent impairment of his left shoulder, which entitles claimant to receive 56 weeks of PPD benefits commencing on November 5, 2019.

For File Number 5064977.01, I affirm the deputy commissioner's finding that claimant proved his ongoing low back and lower extremity problems, including his right-sided symptoms, are related to the June 8, 2016, work injury. I affirm the deputy commissioner's finding that claimant proved he is permanently and totally disabled as a result of the June 8, 2016, work injury, and I affirm the award of permanent total disability benefits commencing on May 7, 2019. I affirm the deputy commissioner's finding that defendants are responsible for all reasonable and necessary medical treatment causally related to the June 8, 2016, work injury. I affirm the deputy commissioner's order that defendants reimburse claimant for those portions of the medical bills claimant paid from his own funds, and I affirm the deputy commissioner's order that defendants reimburse any providers or lienholders for any outstanding claims. I affirm the deputy commissioner's finding that claimant is entitled to alternate medical care with Dr. Mathew, and I affirm the deputy commissioner's order that defendants authorize and pay for all reasonable and causally related expenses with respect to claimant's ongoing treatment with Dr. Mathew.

For both files, I affirm the deputy commissioner's award of \$540.00 for the cost of Ms. Laughlin's vocational report.

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

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on October 26, 2021, is affirmed in its entirety.

File No. 5064976.01 – Injury Date of April 12, 2018:

Defendants shall pay claimant fifty-six (56) weeks of permanent partial disability benefits at the stipulated weekly rate of six hundred fifty-two and 96/100 dollars (\$652.96), commencing on November 5, 2019.

Defendants shall receive credit for all benefits previously paid, as stipulated by the parties.

Defendant 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. Gamble v. AG Leader Tech., File No. 5054686 (App. Apr. 24, 2018).

File No. 5064977.01 – Injury Date of June 8, 2016:

Defendants shall pay claimant permanent total disability benefits at the stipulated weekly rate of seven hundred one and 62/100 dollars (\$701.62), commencing May 7, 2019, and continuing during the period of permanent total disability.

Defendants shall receive credit for all benefits previously paid, as stipulated by the parties.

Defendant 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. Gamble v. AG Leader Tech., File No. 5054686 (App. Apr. 24, 2018).

Defendants shall authorize and pay for all reasonable and causally related medical expenses with respect to claimant's ongoing treatment with Dr. Mathew.

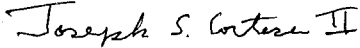
Defendants are responsible for all reasonable and necessary medical treatment causally related to claimant's low back condition beginning June 8, 2016. Defendants shall reimburse claimant for those portions of the medical bills claimant paid from his own funds, and defendants shall reimburse any providers or lienholders for any outstanding claims.

For Both Files:

Pursuant to rule 876 IAC 4.33, defendants shall reimburse claimant in the amount of five hundred forty and 00/100 dollars (\$540.00) for the cost of Ms. Laughlin's vocational report, 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 23rd day of February, 2022.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

Darin Luneckas (via WCES)

Timothy Wegman (via WCES)