

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

JOSEPH BAUMAN,

Claimant,

vs.

BRIDGESTONE/FIRESTONE,

Employer,

and

OLD REPUBLIC INSURANCE  
COMPANY,

Insurance Carrier,  
Defendants.

**FILED**

**JUL 16 2018**

WORKERS' COMPENSATION

File No. 5054286

A P P E A L

D E C I S I O N

Head Note Nos: 1803; 2501; 2907; 5-9998

Defendants Bridgestone/Firestone, employer, and its insurer, Old Republic Insurance Company, appeal from an arbitration decision filed on January 11, 2017. Claimant Joseph Baumann responds to the appeal. The case was heard on August 22, 2017, and it was considered fully submitted in front of the deputy workers' compensation commissioner on October 7, 2016.

The deputy commissioner found claimant carried his burden of proof that the stipulated injury which arose out of and in the course of claimant's employment with defendant-employer on June 13, 2013, caused a material and permanent aggravation of the pre-existing arthritic condition of claimant's left knee. The deputy commissioner found claimant sustained functional scheduled member permanent disability of 27 percent of the left lower extremity as a result of the work injury, which entitles claimant to receive 59.4 weeks of permanent partial disability (PPD) benefits commencing on January 28, 2014. The deputy commissioner found claimant is entitled to payment by defendants for all requested past medical expenses itemized in Exhibit 3. The deputy commissioner found claimant is entitled to receive reasonable ongoing medical treatment for his left knee condition from William Jacobson, M.D. The deputy commissioner ordered defendants to pay claimant's costs of the arbitration proceeding, including the preparation fee of \$2,341.00 for the report of Sunil Bansal, M.D., for his independent medical evaluation (IME) of claimant performed on June 24, 2016.

Defendants assert on appeal that the deputy commissioner erred in finding claimant met his burden of proof that his need for ongoing medical care for his left knee condition is related to the work injury. Defendants assert the deputy commissioner erred in finding claimant sustained functional scheduled member permanent disability of 27 percent of the left lower extremity as a result of the work injury. Defendants assert

the award for permanent disability should be reduced to the permanent impairment rating of two percent of the left lower extremity issued by Dr. Jacobson.

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 January 11, 2017, which relate to the issues properly raised on intra-agency appeal.

I find the deputy commissioner provided a well-reasoned analysis 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 carried his burden of proof that the work injury caused a material and permanent aggravation of the pre-existing arthritic condition of claimant's left knee. I affirm the deputy commissioner's finding that claimant sustained functional scheduled member permanent disability of 27 percent of the left lower extremity as a result of the work injury. I affirm the deputy commissioner's finding that claimant is entitled to payment by defendants for all past medical expenses itemized in Exhibit 3. I affirm the deputy commissioner's finding that claimant is entitled to receive reasonable ongoing medical treatment for his left knee condition from Dr. Jacobson. I affirm the deputy commissioner's order that defendants pay claimant's costs of the arbitration proceeding, including the preparation fee of \$2,341.00 for Dr. Bansal's IME report. I affirm the deputy commissioner's findings, conclusions and analysis regarding those issues.

#### ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on January 11, 2017, is affirmed in its entirety.

Defendants shall pay claimant fifty-nine point four (59.4) weeks of permanent partial disability benefits at the stipulated weekly rate of four hundred thirty-eight and 78/100 dollars (\$438.78) per week commencing on January 28, 2014.

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, reimburse, or otherwise satisfy, all past requested medical expenses itemized in claimant's exhibit 3.

Defendants shall provide reasonable ongoing medical care with Dr. William Jacobson of Capital Orthopaedics for claimant's left knee condition.

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration proceeding, including the preparation fee for Dr. Bansal's IME report of two thousand three hundred forty-one and no/100 dollars (\$2,341.00), 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 16<sup>th</sup> day of July, 2018.



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JOSEPH S. CORTESE II  
WORKERS' COMPENSATION  
COMMISSIONER

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