

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

DONNA COOK,

Claimant,

vs.

NEWTON CORRECTIONAL FACILITY,

Employer,

and

STATE OF IOWA,

Insurance Carrier,
Defendants.

File No. 5064180.01

A P P E A L

D E C I S I O N

Head Notes: 1402.20; 1402.40; 1703; 1803;
1803.1; 2905; 2907; 5-9998

Defendant Newton Correctional Facility, employer, and its insurer, State of Iowa, appeal from a review-reopening decision filed on April 7, 2022. Claimant Donna Cook responds to the appeal. The case was heard on November 18, 2021, and it was considered fully submitted in front of the deputy workers' compensation commissioner on December 20, 2021.

In the review-reopening decision, the deputy commissioner found claimant is entitled to review-reopening because the deputy commissioner found that after the arbitration hearing which took place on August 13, 2019, claimant sustained a change in physical condition by reaching maximum medical improvement (MMI) for the low back condition caused by the June 30, 2017, work injury. The deputy commissioner found that upon reaching MMI for the low back condition caused by the work injury, claimant's total industrial disability resulting from the June 30, 2017, work injury is 50 percent, which entitles claimant to receive 250 weeks of permanent partial disability (PPD) benefits. The deputy commissioner found defendants are entitled to a credit of 36.52 weeks of PPD benefits for payments made by defendants to claimant for the permanent bilateral knee condition also caused by the June 30, 2017, work injury, with the result that defendants owe claimant a balance of 213.48 weeks of PPD benefits commencing on January 28, 2021. The deputy commissioner ordered defendants to pay claimant's costs of the arbitration proceeding in the amount of \$2,461.00.

Defendants assert on appeal that the deputy commissioner erred in finding claimant sustained a change in physical condition after the August 13, 2019, arbitration hearing, and in finding claimant is entitled to receive additional PPD benefits under review-reopening. Defendants assert the deputy commissioner erred in finding claimant

sustained 50 percent industrial disability as a result of the June 30, 2017, work injury, and in ordering defendants to pay claimant's costs of the arbitration proceeding.

Claimant asserts on appeal that the review-reopening decision should be affirmed in its entirety.

Those portions of the proposed arbitration decision pertaining to issues not raised on appeal are adopted as 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 review-reopening decision filed on April 7, 2022, 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 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 proved entitlement to review-reopening in this matter by proving she sustained a change in physical condition by reaching MMI after the August 13, 2019, arbitration hearing for the low back condition caused by the June 30, 2017, work injury. I affirm the deputy commissioner's finding that upon reaching MMI for the low back condition caused by the work injury, claimant's total industrial disability resulting from the June 30, 2017, work injury is 50 percent. I affirm the deputy commissioner's finding that defendants are entitled to a credit of 36.52 weeks of PPD benefits for payments made by defendants to claimant for the permanent bilateral knee condition also caused by the June 30, 2017, work injury, with the result that defendants owe claimant a balance of 213.48 weeks of PPD benefits for the work injury. I affirm the deputy commissioner's order that defendants pay claimant's costs of the arbitration proceeding in the amount of \$2,461.00.

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 April 7, 2022, is affirmed in its entirety

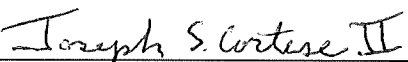
Defendants shall pay claimant an additional 213.48 weeks of permanent partial disability benefits payable at the stipulated weekly rate of one thousand forty-eight and 78/100 dollars (\$1,048.78) commencing on January 28, 2021.

Accrued weekly benefits shall be paid in lump sum and interest shall be payable on all accrued benefits 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).

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration decision in the amount of two thousand four hundred sixty-one and 00/100 dollars (\$2,461.00), 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 25th day of July, 2022.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

Tammy Gentry (via WCES)

Sarah Timko (via WCES)