

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

STEPHEN CORBIN,

Claimant,

vs.

PRO PLATINUM CONSTRUCTION &
REMODELING LLC,

Employer,

and

LE MARS INSURANCE COMPANY,

Insurance Carrier,
Defendants.

File No. 5059031

A P P E A L

D E C I S I O N

Head Notes: 1402.10; 1402.40; 1801; 1802;
2002; 2502; 2907; 5-9998

Defendants Pro Platinum Construction & Remodeling LLC, employer, and its insurer, Le Mars Insurance Company, appeal from an arbitration decision filed on February 28, 2019. Claimant Stephen Corbin responds to the appeal. The case was heard on July 26, 2018, and it was considered fully submitted in front of the deputy workers' compensation commissioner on October 1, 2018.

In the arbitration decision, the deputy commissioner found claimant was an employee of defendant-employer for workers' compensation purposes at the time of claimant's May 31, 2017, work-related injury. As a result, the deputy commissioner found defendants are liable for workers' compensation benefits for the work injury. More specifically, the deputy commissioner found claimant sustained 12 percent permanent scheduled member functional impairment of his left leg, which entitles claimant to receive 26.4 weeks of permanent partial disability benefits commencing on February 1, 2018. The deputy commissioner found claimant is entitled to receive healing period benefits from May 31, 2017, through January 31, 2018. The deputy commissioner found claimant is not entitled to receive reimbursement from defendants for the cost of his independent medical examination (IME) under Iowa Code section 85.39, but the deputy commissioner assessed the cost of the IME report to defendants. The deputy commissioner also assessed the cost of claimant's filing fee to defendants. The deputy commissioner found defendants are responsible for claimant's medical expenses as itemized in Exhibits 2 through 2k, along with all future causally related medical expenses.

On appeal, defendants assert the deputy commissioner erred in finding claimant was an employee of defendant-employer and not an independent contractor. Defendants assert claimant is not entitled to receive workers' compensation benefits.

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 February 28, 2019, 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 was an employee of defendant-employer for workers' compensation purposes at the time of his May 31, 2017, work injury. I affirm the deputy commissioner's finding that defendants are liable for workers' compensation benefits related to the work injury. I affirm the deputy commissioner's finding that claimant sustained 12 percent permanent scheduled member functional impairment of his left leg as a result of the work injury. I affirm the deputy commissioner's finding that claimant is entitled to receive healing period benefits from May 31, 2017, through January 31, 2018. I affirm the deputy commissioner's finding that claimant is not entitled to receive reimbursement from defendants for the cost of his IME under Iowa Code section 85.39. I affirm the deputy commissioner's decision to assess defendants the cost of claimant's IME report as well as claimant's filing fee. I affirm the deputy commissioner's finding that defendants are responsible for claimant's medical expenses as itemized in Exhibits 2 through 2k, along with all future causally related medical treatment.

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

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on February 28, 2019, is affirmed in its entirety.

Defendants shall pay claimant healing period benefits from May 31, 2017, through January 31, 2018, at the weekly rate of three hundred thirty-five and 26/100 dollars (\$335.26).

Defendants shall pay claimant twenty-six point four (26.4) weeks of permanent partial disability benefits at the weekly rate of three hundred thirty-five and 26/100 dollars (\$335.26) commencing February 1, 2018.

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).

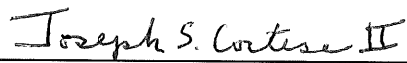
Defendants shall pay the medical expenses itemized in Exhibits 2 through 2k. Defendants shall directly pay claimant the expenses he incurred and paid.

Defendants shall pay all future causally related medical expenses.

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration proceeding in the amount of two thousand two hundred seven and 50/100 dollars (\$2,207.50), 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 6th day of April, 2020.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

Paul Salabert, Jr. Via WCES

Brian L. Yung Via WCES