

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

DEAN BAHE,

Claimant,

vs.

IOWA DEPARTMENT OF  
TRANSPORTATION,

Employer,

STATE OF IOWA,

Insurance Carrier,  
Defendants.

**FILED**

**JUL 3 2018**

**WORKERS' COMPENSATION**

File No. 5054363

**A P P E A L**

**D E C I S I O N**

Head Note Nos: 1803; 3001; 5-9998

Defendants Iowa Department of Transportation, employer, and its insurer, State of Iowa, appeal from an arbitration decision filed on December 20, 2016. Claimant Dean Bahe cross-appeals. The case was heard on August 17, 2016, and it was considered fully submitted in front of the deputy workers' compensation commissioner on October 6, 2016.

The deputy commissioner found claimant sustained 40 percent industrial disability as a result of the stipulated injury which arose out of and in the course of claimant's employment with defendant-employer on February 17, 2014, which entitles claimant to receive 200 weeks of permanent partial disability (PPD) benefits, commencing on June 23, 2014. The deputy commissioner found claimant is entitled to receive healing period benefits from October 6, 2014, through April 17, 2015. The deputy commissioner found claimant's correct average gross weekly wage for the work injury is \$965.48, and the deputy commissioner found claimant's correct weekly benefit rate for the work injury, classification married with four exemptions, is \$630.46. The deputy commissioner ordered defendants to pay claimant's costs of the arbitration proceeding.

Defendants assert on appeal that the deputy commissioner erred in finding claimant sustained 40 percent industrial disability as a result of the work injury. Defendants assert the award for industrial disability should be reduced substantially.

Claimant asserts on cross-appeal that the deputy commissioner erred in finding claimant's correct average gross weekly wage for the work injury is \$965.48, and claimant asserts the deputy commissioner erred in finding claimant's correct weekly

benefit rate for the work injury is \$630.46. Claimant asserts the correct average gross weekly wage for the work injury is \$1,142.28, and the correct weekly benefit rate for the work injury is \$730.49.

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 December 20, 2016, which relate to the issues properly raised on intra-agency appeal.

I find the deputy commissioner provided sufficient 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 sustained 40 percent industrial disability as a result of the work injury. I affirm the deputy commissioner's finding that claimant is entitled to receive healing period benefits from October 6, 2014, through April 17, 2015. I affirm the deputy commissioner's finding that claimant's correct average gross weekly wage for the work injury is \$965.48, and I affirm the deputy commissioner's finding that claimant's correct weekly benefit rate for the work injury is \$630.46. I affirm the deputy commissioner's order that defendants pay claimant's costs of the arbitration proceeding. I affirm the deputy commissioner's findings, conclusions and analysis regarding those issues.

#### ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on December 20, 2016, is affirmed in its entirety.

Defendants shall pay claimant healing period benefits from October 6, 2014, through April 17, 2015, at the weekly rate of six hundred thirty and 46/100 dollars (\$630.46).

Defendants shall pay claimant two hundred (200) weeks of permanent partial disability benefits at the weekly rate of six hundred thirty and 46/100 dollars (\$630.46) commencing June 23, 2014.

Defendants shall receive a credit for all benefits previously paid.

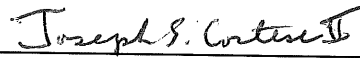
Defendants shall pay accrued weekly benefits in a lump sum together with interest at the rate of ten percent for all weekly benefits payable and not paid when due which accrued before July 1, 2017, and all interest on past due weekly compensation benefits accruing on or after July 1, 2017, shall be payable 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).

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration proceeding, 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 3<sup>rd</sup> day of July, 2018.



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JOSEPH S. CORTESE II  
WORKERS' COMPENSATION  
COMMISSIONER

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