

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

VIVIAN CALHOUN,

Claimant,

vs.

WELLS MANUFACTURING, LP,

Employer,

and

STANDARD FIRE INSURANCE CO.,

Insurance Carrier,
Defendants.

File No. 5049004

A P P E A L
D E C I S I O N

Head Note No.: 1100, 1402.50 1803

FILED

MAR 23 2016

WORKERS' COMPENSATION

Claimant Vivian Calhoun appeals from an arbitration decision filed on January 15, 2015. The case was heard on November 18, 2014, and it was considered fully submitted on January 2, 2015, in front of the deputy workers' compensation commissioner. Defendants Wells Manufacturing, LP, and its insurer, Standard Fire Insurance Co., respond to the appeal.

The deputy commissioner found claimant failed to carry her burden of proof that she sustained an injury on or about June 26, 2013, which arose out of and in the course of her employment with defendant-employer. The deputy commissioner also found claimant is not entitled under Iowa Code section 85.39 to reimbursement for the cost of the independent medical evaluation (IME) performed by Sunil Bansal, M.D.

Claimant asserts on appeal that the deputy commissioner erred in finding claimant failed to carry her burden of proof that she sustained an injury on or about June 26, 2013, which arose out of and in the course of her employment. Claimant also asserts that the deputy commissioner erred in finding claimant is not entitled under Iowa Code section 85.39 to reimbursement for the cost of Dr. Bansal's IME.

Defendants assert on appeal that the arbitration decision should be affirmed in its entirety.

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 86.24 and 17A.5, I affirm and adopt as the final agency decision those portions of the proposed arbitration decision filed on January 15, 2015, which relate to issues properly raised on intra-agency appeal with the following analysis:

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 failed to carry her burden of proof that she sustained an injury on or about June 26, 2013, which arose out of and in the course of her employment. I affirm the deputy commissioner's finding that claimant is not entitled under Iowa Code section 85.39 to reimbursement for the cost of Dr. Bansal's IME. I affirm the deputy commissioner's findings, conclusions and analysis regarding those issues.

Some of the findings by the presiding deputy were based on the deputy's conclusion that claimant was lacking in credibility. While I performed a de novo review, I give considerable deference to findings of fact impacted by the credibility findings, expressly or impliedly, made by the deputy commissioner who presided at the hearing.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision of January 15, 2015, is AFFIRMED in its entirety.

Claimant shall take nothing.

Each party shall be responsible for their own costs in the arbitration proceeding and claimant shall pay the costs of this appeal, including the cost of the hearing transcript, pursuant to rule 876 IAC 4.33.

Signed and filed this 23rd day of March, 2016.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

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