

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

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|------------------------|---|--------------------------------------|
| BETTY CLARK, | : | |
| | : | File No. 5054351 |
| Claimant, | : | |
| | : | |
| vs. | : | |
| | : | APPEAL DECISION |
| SEDONA STAFFING, | : | |
| | : | |
| Employer, | : | |
| | : | |
| and | : | |
| | : | |
| ACE AMERICAN INSURANCE | : | |
| COMPANY, | : | Head Note Nos.: 1402.40, 1803, 1806, |
| | : | 2501, 2502, 2701, |
| Insurance Carrier, | : | 2907, 3001 |
| Defendants. | : | |

Defendants Sedona Staffing Services and Ace American Insurance Company appeal from an arbitration decision filed on January 7, 2019. Claimant Betty Clark responds to the appeal.

Iowa Workers' Compensation Commissioner Joseph S. Cortese, II, delegated authority to the undersigned to issue the final agency decision on the intra-agency appeal currently pending before this agency. The decision in this matter shall be the final agency action.

An arbitration hearing was held on August 3, 2018, at the Division of Workers' Compensation, in Des Moines, Iowa. The parties filed post-hearing briefs and the matter was deemed fully submitted on September 10, 2018. The deputy workers' compensation commissioner issued an arbitration decision on January 7, 2019, finding the claimant sustained a 13 percent permanent impairment to her left upper extremity, less apportionment of 5 percent, for an award of 8 percent permanent partial disability of the left upper extremity, or 20 weeks of permanent partial disability benefits at the rate of \$199.72 commencing on July 15, 2016, ordering the defendants to pay for all outstanding medical expenses, reimburse the claimant for any out-of-pocket expenses paid, and otherwise hold the claimant harmless from the April 17, 2015 emergency room visit totaling \$224.00 and the December 4, 2015 bone scan totaling \$165.00, granting the claimant's request for alternate medical care and ordering the defendants to authorize medical care with Ericka Lawler, M.D. at the University of Iowa Hospitals

and Clinics and if Dr. Lawler declines to accept the claimant as a patient, ordering the defendants, within 21 days from the date Dr. Lawler declines to accept the claimant as a patient, to identify another board-certified hand specialist, other than any of the medical providers already used in the case to assume care for the claimant's left wrist and left trigger finger conditions, and ordering the defendants to reimburse the claimant \$786.83 for the cost of the independent medical examination and \$100.00 for the filing fee.

Defendants timely appealed the decision. Defendants assert the deputy commissioner erred: (1) in finding the claimant's left wrist conditions are causally related to her work for the defendant because the greater weight of the evidence shows the claimant suffers from preexisting left radial carpal osteoarthritis unrelated to the September 24, 2014 work injury and any report of current ulnar-sided symptoms are due only to her subjective reports, pain behaviors, and secondary gain and not due to the work injury; (2) in concluding the claimant is entitled to alternate medical care for her left wrist with Dr. Lawler at the University of Iowa Hospitals and Clinics; and (3) in finding the claimant is entitled to reimbursement for the April 17, 2015 emergency room visit. Alternatively, the defendants assert if the claimant has sustained a permanent impairment to her left upper extremity caused by the work injury, the deputy commissioner erred in finding the claimant sustained a 13 percent permanent impairment to her left upper extremity, alleging the claimant has only sustained a six percent permanent impairment to her left upper extremity. Claimant contends 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 part of this appeal decision. Having performed a de novo review of the evidentiary record, and considering 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 7, 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 the claimant sustained a 13 percent permanent impairment to her left upper extremity, less apportionment of 5 percent for an award of 20 weeks permanent partial disability benefits at the rate of \$199.72 commencing on July 15, 2016. I affirm the deputy commissioner's order finding the defendants are responsible for all outstanding medical expenses, ordering the defendants to reimburse the claimant for any out-of-pocket expenses paid, and otherwise hold the claimant harmless from the April 17, 2015 emergency room visit totaling \$224.00 and the December 4, 2015 bone scan totaling \$165.00. I affirm the deputy commissioner's finding the claimant's request for alternate medical care should be granted and ordering the defendants to authorize medical care with Dr. Lawler at the University of Iowa Hospitals and Clinics and if Dr. Lawler declines to accept the claimant as a patient, ordering the defendants, within 21 days from the date Dr. Lawler declines

to accept the claimant as a patient, to identify another board-certified hand specialist, other than any of the medical providers already used in the case to assume care for the claimant's left wrist and left trigger finger conditions. I affirm the deputy commissioner's order the defendants pay \$786.83 for the cost of the independent medical examination and \$100.00 for the filing fee.

ORDER

IT IS THEREFORE ORDERED, that the arbitration decision filed on January 7, 2019, is affirmed in its entirety.

Defendants shall pay Claimant twenty (20) weeks of permanent partial disability benefits at the rate of one hundred ninety-nine and 72/100 dollars (\$199.72) commencing on July 15, 2016..

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. Sanchez v. Tyson, File No. 5052008 (Apr. 23, 2018 Ruling on Defendant's Motion to Enlarge, Reconsider, or Amend Appeal Decision Re: Interest Rate Issue).

Defendants shall pay medical providers directly for any outstanding medical expenses, reimburse Claimant for any out-of-pocket expenses paid, and otherwise hold claimant harmless for the April 17, 2015 emergency room visit to Mercy Medical Center totaling two hundred twenty-four and 00/100 dollars (\$224.00) and for the December 4, 2015 bone scan performed at Finley Hospital totaling one hundred sixty-five and 00/100 dollars (\$165.00).

Defendants shall contact Dr. Lawler's office within fourteen (14) days of the entry of this decision and attempt to coordinate care.

If referrals are required by Dr. Lawler to establish care through her office, Defendants shall coordinate such referrals through Dr. Kennedy, Dr. Castenada, and/or Dr. Taylor to accomplish the intended result of this order.

If Dr. Lawler will accept Claimant as a patient, Defendants are ordered to provide and pay for such care, including any referrals, diagnostic testing, or other recommendations made by Dr. Lawler.

If Dr. Lawler declines to accept Claimant as a patient, Defendants shall have twenty-one (21) days from the date Dr. Lawler declines to accept Claimant as a patient to identify another board-certified hand specialist, other than any of the medical providers already utilized in this case, to assume care for Claimant's left wrist and left trigger finger conditions.

Regardless of whether Dr. Lawler accepts Claimant as a patient, Defendants shall provide prompt and reasonable medical care for Claimant's ongoing conditions.

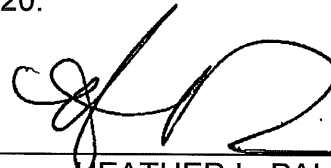
Defendants shall reimburse Claimant an additional seven hundred eighty-six and 83/100 dollars (\$786.83) for Claimant's independent medical evaluation.

Defendants shall reimburse Claimant's costs in the amount of one hundred dollars (\$100.00).

Defendants shall file subsequent reports of injury (SROI) as required by this agency pursuant to rules 876 IAC 3.1(2) and 876 IAC 11.7.

Defendants shall pay the cost of the appeal, including the cost of the transcript.

Signed and filed this 11th day of March, 2020.



HEATHER L. PALMER
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

The parties have been served, as follows:

| | |
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| Zeke R. McCartney | Via WCES |
| Peter J. Thill | Via WCES |
| Paul M. Powers | Via WCES |