

Defendants assert on appeal that the deputy commissioner erred in finding claimant to be credible. Defendants assert the deputy commissioner erred in finding claimant carried her burden of proof to establish she sustained permanent disability as a result of the work injury and in finding claimant sustained any industrial disability as a result of the work injury. Defendants assert the deputy commissioner erred in finding claimant is entitled to receive alternate medical care, in the form of ongoing treatment with Dr. Schmolck and in the form of psychotherapy. Defendants assert the deputy commissioner erred in finding claimant is entitled to payment by defendants of the requested past medical expenses. Defendants assert the deputy commissioner erred in ordering defendants to pay claimant's costs of the arbitration proceeding.

Claimant asserts on appeal that the arbitration decision should be affirmed in its entirety.

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 arbitration decision filed on December 28, 2018, 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 carried her burden of proof to establish she sustained permanent disability as a result of the November 3, 2016, work injury. I affirm the deputy commissioner's finding that claimant sustained 65 percent industrial disability as a result of the work injury. I affirm the deputy commissioner's finding that the correct commencement date for PPD benefits is September 20, 2017. I affirm the deputy commissioner's finding that claimant is not entitled to receive additional healing period benefits from September 20, 2017, through June 9, 2018, as alleged. I affirm the deputy commissioner's finding that claimant is entitled to receive alternate medical care in the form of ongoing treatment by Dr. Schmolck, and psychotherapy by a counselor of defendants' choosing. I affirm the deputy commissioner's finding that claimant is entitled to payment by defendants of requested past medical expenses totaling \$748.00. I affirm the deputy commissioner's order that defendants pay claimant's costs of the arbitration proceeding in the amount of \$231.67.

Some of the findings by the deputy commissioner in the arbitration decision were based on the deputy commissioner's findings regarding claimant's credibility. The deputy commissioner found claimant was credible. Defendants assert the deputy commissioner erred in finding claimant was credible. While I performed a de novo

review, I give considerable deference to findings of fact which are impacted by the credibility findings, expressly or impliedly made, regarding claimant by the deputy commissioner who presided at the arbitration hearing. I find the deputy commissioner correctly assessed claimant's credibility in this matter. I find nothing in the record in this matter which would cause me to reverse the deputy commissioner's finding that claimant was credible.

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 28, 2018, is affirmed in its entirety.

Defendants shall pay claimant 325 weeks of permanent partial disability benefits at the stipulated weekly rate of four hundred eighty-two and 37/100 dollars (\$482.37), commencing on September 20, 2017.

Defendants shall receive a credit for all benefits paid to date.

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 reimburse, satisfy, or pay claimant for the requested past medical expenses in the total amount of seven hundred forty-eight and no/100 dollars (\$748.00).

Defendants shall provide claimant with alternate medical care consisting of ongoing treatment with Heike Schmolck, M.D.

Defendants shall provide claimant with alternate medical care consisting of ongoing psychotherapy by a provider of defendants' choosing.

Defendants shall provide medical care for the remainder of claimant's causally related conditions, if necessary, with physicians of defendants' choosing.

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration proceeding in the amount of two hundred thirty-one and 67/100 dollars (\$231.67), 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 28th day of February, 2020.

Joseph S. Cortese II

JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

James M. Ballard Via WCES

Aaron T. Oliver Via WCES