

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

KEVIN SAWYER,

Claimant,

vs.

TRI-STATE CAST TECHNOLOGIES,

Employer,

and

GRANITE STATE INS. CO.,

Insurance Carrier,

and

SECOND INJURY FUND OF IOWA,

Defendants.

File No. 5061623

A P P E A L

D E C I S I O N

Head Notes: 1402.40; 1803; 1803.1, 2502;
2907; 3200; 3203; 5-9998

Defendants Tri-State Cast Technologies, employer, and its insurer, Granite State Insurance Company, appeal from an arbitration decision filed on October 11, 2019. Claimant Kevin Sawyer and defendant Second Injury Fund of Iowa (the Fund) respond to the appeal. The case was heard on May 15, 2019, and it was considered fully submitted in front of the deputy workers' compensation commissioner on July 17, 2019.

The deputy commissioner found that the stipulated work-related injury which claimant sustained on September 21, 2017, extends beyond claimant's left eye into his body as a whole and should be compensated industrially by defendants employer and insurer. The deputy commissioner found that because the work injury should be compensated industrially by defendants employer and insurer, claimant is not entitled to receive benefits from the Fund. The deputy commissioner also found the work injury includes an injury to claimant's right eye. The deputy commissioner found claimant was not at maximum medical improvement (MMI) for the work injury at the time of the arbitration hearing and, as such, it was premature to address the issues of the extent of claimant's permanent disability and claimant's entitlement to penalty benefits. The deputy commissioner found that pursuant to Iowa Code section 85.39, claimant is entitled to receive reimbursement from defendants employer and insurer in the amount of \$1,773.54 for the cost of the IME of claimant performed by Sunil Bansal, M.D.

Defendants employer and insurer assert on appeal that the deputy commissioner erred in finding claimant's injury extends beyond his left eye into his body as a whole and in finding the injury should be compensated industrially by defendants employer and insurer. Defendants employer and insurer assert the deputy commissioner erred in finding the work injury includes an injury to claimant's right eye.

Claimant and the Fund both assert 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 October 11, 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 the work injury sustained by claimant on September 21, 2017, extends beyond claimant's left eye into his body as a whole and should be compensated industrially by defendants employer and insurer. I affirm the deputy commissioner's finding that because the work injury should be compensated industrially by defendants employer and insurer, claimant is not entitled to receive benefits from the Fund. I affirm the deputy commissioner's finding that the work injury includes an injury to claimant's right eye. I affirm the deputy commissioner's finding that claimant was not at MMI for the work injury at the time of the arbitration hearing and, as such, I affirm the deputy commissioner's finding that it was premature to address the issues of the extent of claimant's permanent disability and claimant's entitlement to penalty benefits. I affirm the deputy commissioner's finding that pursuant to Iowa Code section 85.39, claimant is entitled to receive reimbursement from defendants employer and insurer in the amount of \$1,773.54 for the cost of Dr. Bansal's IME.

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

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on October 11, 2019, is affirmed in its entirety.

Claimant has sustained an industrial injury arising out of and in the course of his employment with defendant-employer on September 21, 2017.

Claimant shall receive nothing from the Second Injury Fund of Iowa in these proceedings.


The issues of permanent disability and penalty are not yet ripe for adjudication.

Pursuant to Iowa Code section 85.39, defendants employer and insurer shall reimburse claimant in the amount of one thousand seven hundred seventy-three and 54/100 dollars (\$1,773.54) for the cost of Dr. Bansal's IME.

Pursuant to rule 876 IAC 4.33, defendants employer and insurer shall pay claimant's costs of the arbitration proceeding, and defendants employer and insurer shall pay the costs of the appeal, including the cost of the hearing transcript.

Pursuant to rule 876 IAC 3.1(2), defendants employer and insurer shall file subsequent reports of injury as required by this agency.

Signed and filed this 7th day of July, 2020.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

Randall Schueller (via WCES)

Jean Dickson (via WCES)

Tonya Oetken (via WCES)