

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

RICARDO RAMIREZ,

Claimant,

vs.

ARCONIC, INC.,

Employer,

and

INDEMNITY INS. CO. OF N. AMERICA,

Insurance Carrier,
Defendants.

File No. 20010579.02

A P P E A L

D E C I S I O N

: Head Notes: 1402.30; 1402.40; 2401; 2402;
: 2501; 2502; 2701; 2907;
: 5-9998

Defendants Arconic, Inc., employer, and its insurer, Indemnity Insurance Company of North America, appeal from an arbitration decision filed on September 14, 2022. Claimant Ricardo Ramirez responds to the appeal. The case was heard on May 25, 2022, and it was considered fully submitted in front of the deputy workers' compensation commissioner on July 1, 2022.

In the arbitration decision, the deputy commissioner found claimant met his burden of proof to establish his left cubital tunnel syndrome and left carpal tunnel syndrome arose out of and in the course of his employment with defendant-employer on or about November 27, 2019. The deputy commissioner found defendants failed to prove claimant's claim is barred by Iowa Code section 85.23 or Iowa Code section 85.26. The deputy commissioner found claimant's claim for permanent partial disability benefits is not ripe because he has not yet reached maximum medical improvement (MMI). The deputy commissioner found claimant is entitled to alternate medical care under Iowa Code section 85.27, and ordered defendants to authorize and pay for the surgical procedures recommended by Jonathan Winston, M.D. and Sunil Bansal, M.D. The deputy commissioner found that pursuant to Iowa Code section 85.39, claimant is entitled to reimbursement from defendants for the cost of the independent medical examination (IME) of claimant performed by Dr. Bansal. The deputy commissioner ordered defendants to pay claimant's costs of the arbitration proceeding in the amount of \$113.34.

Defendants assert on appeal that the deputy commissioner erred in finding claimant proved he has left cubital tunnel syndrome. Defendants assert the deputy commissioner erred in finding claimant proved his alleged left cubital tunnel syndrome and left carpal tunnel syndrome was caused by his employment with defendant-employer. Defendants assert the deputy commissioner erred in finding defendants failed to prove claimant's claim for benefits for his left carpal tunnel syndrome is barred by Iowa Code section 85.26. Defendants assert the deputy commissioner erred in finding that pursuant to Iowa Code section 85.39, claimant is entitled to reimbursement from defendants for the cost of Dr. Bansal's IME because defendants assert claimant failed to establish a compensable claim under Iowa Code chapter 85. 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.

Those portions of the proposed arbitration decision pertaining to issues not raised on appeal are adopted as part of this appeal decision.

I 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.15 and 86.24, I affirm and adopt as the final agency decision those portions of the proposed arbitration decision filed on September 14, 2022, which relate to the issues properly raised on intra-agency appeal.

I find the deputy commissioner provided a well-reasoned analysis of all 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 proved his left cubital tunnel syndrome and his left carpal tunnel syndrome arose out of and in the course of his employment with defendant-employer on or about November 27, 2019. I affirm the deputy commissioner's finding that defendants failed to prove claimant's claim for benefits is barred by Iowa Code section 85.23 or Iowa Code section 85.26. I affirm the deputy commissioner's finding that claimant's claim for permanent partial disability benefits is not ripe because claimant has not reached MMI. I affirm the deputy commissioner's finding that claimant is entitled to alternate medical care under Iowa Code section 85.27 and I affirm the deputy commissioner's order that defendants shall authorize and pay for the surgical procedures recommended by Dr. Winston and Dr. Bansal. I affirm the deputy commissioner's finding that pursuant to Iowa Code section 85.39, claimant is entitled to reimbursement from defendants for the cost of Dr. Bansal's IME. 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 the above-stated issues.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on September 14, 2022, is affirmed in its entirety.

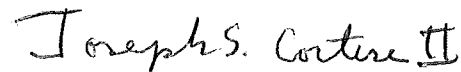
Defendants shall authorize and pay for the surgical procedures recommended by Dr. Winston and Dr. Bansal.

Pursuant to Iowa Code section 85.39, defendants shall reimburse claimant in the amount of two thousand six hundred eighty and 00/100 dollars (\$2,680.00) for the cost of Dr. Bansal's IME.

Pursuant to 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration proceeding in the amount of one hundred thirteen and 34/100 dollars (\$113.34), and defendants shall pay the costs of the appeal, including the cost of the hearing transcript.

Pursuant to rule 876 Iowa Administrative Code 3.1(2), defendants shall file subsequent reports of injury as required by this agency.

Signed and filed on this 10th day of March, 2023.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

Andrew Bribriesco (via WCES)

Troy Howell (via WCES)