

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

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AMY MALLOY,  
Claimant,

vs.

CARROLL AREA NURSING  
SERVICES,  
Employer,

and

CINCINNATI INSURANCE COMPANY,  
Insurance Carrier,  
Defendants.

**FILED**

**MAY 31 2018**

**WORKERS' COMPENSATION**

File No. 5055317

A P P E A L

D E C I S I O N

Head Note No: 1402.30

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Defendants Carroll Area Nursing Services, employer, and its insurer, Cincinnati Insurance Company, appeal from an arbitration decision filed on February 1, 2017. Claimant Amy Malloy responds to the appeal. The case was heard on November 3, 2016, and it was considered fully submitted in front of the deputy workers' compensation commissioner on December 23, 2016.

The deputy commissioner found the stipulated motor vehicle accident involving claimant, which occurred on October 14, 2014, arose out of and in the course of claimant's employment with defendant-employer. The deputy commissioner found claimant is entitled to receive a running award of healing period benefits for her injuries. The deputy commissioner also ordered defendants to pay claimant's costs of the arbitration proceeding in the amount of \$813.00.

Defendants assert on appeal that the deputy commissioner erred in finding claimant's accident arose out of and in the course of claimant's employment with defendant-employer. Defendants assert the deputy commissioner erred in finding claimant is entitled to receive a running award of healing period benefits.

Claimant asserts on appeal that 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 a part of this appeal decision.

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 17A.5 and 86.24, I affirm and adopt as the final agency decision those portions of the proposed arbitration decision filed on February 1, 2017, which relate to the issues properly raised on intra-agency appeal.

I affirm the deputy commissioner's findings of fact and conclusions of law pertaining to the issues raised in the arbitration proceeding. I affirm the deputy commissioner's finding that claimant's accident, which occurred on October 14, 2014, arose out of and in the course of claimant's employment with defendant-employer. I affirm the deputy commissioner's finding that claimant is entitled to receive a running award of healing period benefits for her injuries. I affirm the deputy commissioner's order that defendants pay claimant's costs of the arbitration proceeding in the amount of \$813.00. I affirm the deputy commissioner's findings, conclusions and analysis regarding those issues.

#### ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on February 1, 2017, is affirmed in its entirety.

Defendants shall pay claimant a running award of healing period benefits from October 14, 2014, at the weekly rate of six hundred thirty-nine and 89/100 dollars (\$639.89), until such time as claimant's healing period terminates under Iowa Code section 85.34(1).

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).

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration proceeding in the amount of \$813.00, 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 31<sup>st</sup> day of May, 2018.

*Joseph S. Cortese II*  
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JOSEPH S. CORTESE II  
WORKERS' COMPENSATION  
COMMISSIONER

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