

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

GRADY BILLICK,

Claimant,

vs.

ROBERTS DAIRY,

Employer,

and

OLD REPUBLIC INSURANCE
COMPANY,

Insurance Carrier,
Defendants.

File Nos. 5018189
5021247
5021248
5022146

FILED

JUL 14 2017

A P P E A L

D E C I S I O N

WORKERS' COMPENSATION

Head Note No: 2501, 2701, 5-9998

Defendants Roberts Dairy, employer, and its insurer, Old Republic Insurance Company, appeal from an arbitration decision filed on December 31, 2015. Claimant Grady Billick responds to the appeal. The case was heard on November 5, 2015, and it was considered fully submitted in front of the deputy workers' compensation commissioner on November 30, 2015.

In the arbitration decision, the deputy commissioner found defendants are obligated, pursuant to Iowa Code section 85.27, to pay the medical expenses requested by claimant as itemized in Exhibits 5, 6, 7, 8 and 11. The deputy commissioner found those medical expenses are causally related to the injuries claimant sustained in this matter on March 22, 2004, June 5, 2004, September 16, 2006, and March 5, 2007, which arose out of and in the course of claimant's employment with defendant-employer. The deputy commissioner ordered defendants to pay claimant's prior medical expenses submitted by claimant at the arbitration hearing. The deputy commissioner ordered defendants to pay all future medical expenses of claimant necessitated by the work injuries. The deputy commissioner found defendants are not entitled to alternate medical care under Iowa Code section 85.27. The deputy commissioner found Scott Eberly, M.D., is the authorized treating physician for claimant for the work injuries in question. The deputy commissioner found defendants are not entitled to reimbursement by claimant in the amount of \$400.00 for a missed medical appointment with Jeffrey Westpheling, M.D. The deputy commissioner found defendants are not entitled to reimbursement by claimant in the amount of \$2,400.00 for a missed medical appointment with Joseph Chen, M.D. The deputy commissioner also denied defendants' request for taxation of costs of the arbitration proceeding against

claimant and the deputy commissioner also ordered defendants to pay claimant's costs of the arbitration proceeding.

Defendants assert on appeal that the deputy commissioner erred in finding defendants are obligated to pay the medical expenses itemized in Exhibits 5, 6, 7, 8 and 11. Defendants assert the deputy commissioner erred in finding Dr. Eberly is the authorized treating physician for claimant for the work injuries in question. Defendants assert the deputy commissioner erred in finding defendants are not entitled to alternate medical care under Iowa Code section 85.27. Defendants assert the deputy commissioner erred in finding defendants are not entitled to reimbursement for the missed medical appointment fees charged by Dr. Westpheling and Dr. Chen. Defendants also assert the deputy commissioner erred in denying defendants request for taxation of costs of the arbitration proceeding against claimant and 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 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 86.24 and 17A.15, I affirm and adopt as the final agency decision those portions of the proposed arbitration decision filed in this matter on December 31, 2015, which relate to issues properly raised on intra-agency appeal.

I find the deputy commissioner provided sufficient analysis of the issues raised in the arbitration proceeding. I affirm the deputy commissioner's finding that defendants are obligated, pursuant to Iowa Code section 85.27, to pay the medical expenses itemized in Exhibits 5, 6, 7, 8 and 11. I affirm the deputy commissioner's finding that Dr. Eberly is the authorized treating physician for claimant for the work injuries in question. I affirm the deputy commissioner's finding that defendants are not entitled to alternate medical care under Iowa Code section 85.27. I affirm the deputy commissioner's finding that defendants are not entitled to reimbursement for the missed medical appointment fees charged by Dr. Westpheling and Dr. Chen. I affirm the deputy commissioner's denial of defendants request for taxation of costs of the arbitration proceeding against claimant and 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 those issues.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on December 31, 2015, is affirmed in its entirety.

Defendants shall, within thirty (30) days, pay the medical expenses itemized in exhibit 5.

If any medical expenses ordered herein have already been paid by claimant's health insurance provider, defendants shall repay those to the health insurance provider directly, or to claimant with notice of the payment to the health insurance provider so claimant can reimburse the provider. Defendants shall pay all expenses ordered in this decision to one party or the other, either claimant or the health insurance provider, and are not relieved of their payment obligation because the health insurance provider has preliminarily satisfied the obligation that should have been paid by defendants.

Defendants shall pay the medical expenses itemized in exhibits 6, 7, 8 and 11 as set forth in the arbitration decision.


Defendants shall pay claimant's prior medical expenses submitted by claimant at the arbitration hearing.

Defendants shall pay all future medical expenses of claimant necessitated by the work injuries for all treatment recommended by Dr. Eberly and for all providers and procedures recommended by Dr. Eberly.

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration proceeding, 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 this 14th day of July, 2017.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

Copies To:

Thomas J. Currie
Attorney at Law
1853 51st Street NE, Suite 1
Cedar Rapids, IA 52402
tcurrie@currieliabo.com

Stephen W. Spencer
Attorney at Law
6800 Lake Drive, Suite 125
West Des Moines, IA 50266
steve.spencer@peddicord-law.com