

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

LINDA JOHNSON,

Claimant,

vs.

HEARTLAND SPECIALTY FOODS,

Employer,

and

ALLIED GROUP INSURANCE,

Insurance Carrier,
Defendants.

FILED

MAY 31 2017

WORKERS' COMPENSATION

File No. 5048608

A P P E A L

D E C I S I O N

Head Note No: 2500

Defendants Heartland Specialty Foods, employer, and its insurer, Allied Group Insurance, appeal from an arbitration decision filed on December 11, 2015. Claimant Linda Johnson appeals. The case was heard on May 13, 2015, and it was considered fully submitted in front of the deputy workers' compensation commissioner on June 24, 2015.

In the arbitration decision, the deputy commissioner found defendants are obligated to pay the medical expenses set forth in Exhibits 3 and 4. The deputy commissioner found those medical expenses are causally related to the injury claimant sustained in this matter on June 6, 1995, which arose out of and in the course of claimant's employment with defendant-employer. The deputy commissioner also ordered defendants to pay claimant's costs of the arbitration proceeding totaling \$105.32.

Defendants assert on appeal that the deputy commissioner erred in finding the medical expenses set forth in Exhibits 3 and 4 are causally related to the work injury. Defendants assert the deputy commissioner erred in finding defendants are obligated to pay those medical expenses.

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 December 11, 2015, which relate to the 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 findings of fact and conclusions of law pertaining to those issues. I affirm the deputy commissioner's finding that the medical expenses set forth in Exhibits 3 and 4, are causally related to claimant's work injury of June 6, 1995. I affirm the deputy commissioner's order that defendants pay claimant's costs of the arbitration proceeding in the amount of \$105.32. I affirm the deputy commissioner's findings, conclusions and analysis regarding those issues with the following additional analysis:

I find the causation opinion of Sang Lee, M.D., (Exhibit 2) claimant's authorized treating psychiatrist, to be more convincing than the causation opinion of defendant's independent medical evaluation physician Scott Jennisch, M.D., (Ex. G) for the following reasons:

1. Dr. Lee has consistently treated claimant since 1995, he treats claimant on a regular basis, and he has repeatedly affirmed his opinion that claimant's medical treatment continues to be related to the work injury. (Ex. 2)
2. Dr. Jennisch never evaluated claimant and he never treated claimant. Dr. Jennisch only performed a record review 19 years after claimant's injury.
3. Dr. Lee's opinions are consistent with all of the other medical evidence in this matter, including the opinions of Michael Taylor, M.D., (Ex. B) and James Gallagher, M.D., (Ex. C), both of whom evaluated claimant at the request of defendants.
4. Dr. Jennisch opined that claimant's psychiatric symptoms are no longer causally related to the work injury relying in large part on the fact claimant had pre-existing mental issues before the work injury occurred in 1995. Dr. Jennisch also relies on the fact that other family stressors are in play. The pre-existing medical history and the other family stressors were well-known at the time claimant was adjudicated to be permanently and totally disabled. (See remand decision filed May 24, 2005)

ORDER

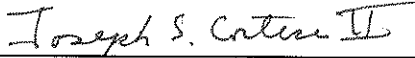
IT IS THEREFORE ORDERED that the arbitration decision filed on December 11, 2015, is affirmed in its entirety.

Defendants shall pay the medical costs listed in Exhibits 3 and 4.

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration proceeding in the amount of \$105.32, 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 31st day of May, 2017.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

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