

## BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

CHARLES LUTZ,

Claimant,

vs.

CONSOLIDATED REFRIGERATED  
SERVICES,

Employer,

and

GREAT WEST CASUALTY,

Insurance Carrier,  
Defendants.

File No. 5066804

A P P E A L  
D E C I S I O NHead Notes: 1402.20; 1402.40; 1803  
1803.01; 1804; 2501; 2502;  
2701; 2907; 3001; 3002;  
5-9998

Claimant Charles Lutz appeals from an arbitration decision filed on August 2, 2021. Defendants Consolidated Refrigerated Services, employer, and its insurer, Great West Casualty, respond to the appeal. The case was heard on March 30, 2021, and it was considered fully submitted in front of the deputy workers' compensation commissioner on May 12, 2021.

In the arbitration decision, the deputy commissioner found claimant sustained two percent permanent functional disability of his left lower extremity as a result of the stipulated June 1, 2017, work injury, which entitles claimant to receive 4.4 weeks of permanent partial disability benefits commencing on August 17, 2017. The deputy commissioner found claimant failed to prove he sustained permanent disability of his lumbar spine as a result of the work injury. The deputy commissioner found claimant failed to prove he is permanently and totally disabled as a result of the work injury. The deputy commissioner found claimant's gross average weekly wage for the work injury is \$1,208.69, and the deputy commissioner found claimant's weekly benefit rate for the work injury is \$770.54. The deputy commissioner found defendants are entitled to a credit of seven weeks of compensation at the weekly rate of \$770.54. The deputy commissioner found that claimant is entitled to receive reimbursement from defendants in the amount of \$5,089.35 for requested past medical expenses for the work injury. The deputy commissioner found claimant is not entitled to payment by defendants for requested past medical expenses for claimant's lumbar spine condition, and the deputy commissioner found claimant is not entitled to alternate medical care for his lumbar spine condition. The deputy commissioner found that pursuant to Iowa Code section 85.39, claimant is entitled to receive reimbursement from defendants for the independent medical evaluation (IME) of claimant performed by Sunil Bansal, M.D.

Claimant asserts on appeal that the deputy commissioner erred in finding claimant failed to prove he sustained permanent disability of his lumbar spine as a result of the work injury. Claimant asserts the deputy commissioner erred in finding claimant failed to prove he is permanently and totally disabled as a result of the work injury. Claimant asserts the deputy commissioner erred in failing to find claimant's gross average weekly wage for the work injury is \$1,882.34, and in failing to find claimant's weekly benefit rate for the work injury is \$1,146.62. Claimant asserts the deputy commissioner erred in finding defendants are entitled to a credit of seven weeks of compensation at the weekly rate of \$770.54. Claimant asserts the deputy commissioner erred in finding claimant is not entitled to payment by defendants for the requested past medical expenses for claimant's lumbar spine condition, and claimant asserts the deputy commissioner erred in finding claimant is not entitled to alternate medical care for his lumbar spine condition.

Defendants assert 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 a part of this appeal decision.

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 August 2, 2021, 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 claimant sustained two percent permanent functional disability of his left lower extremity as a result of the work injury. I affirm the deputy commissioner's finding that claimant failed to prove he sustained permanent disability of his lumbar spine as a result of the work injury. I affirm the deputy commissioner's finding that claimant failed to prove he is permanently and totally disabled as a result of the work injury. I affirm the deputy commissioner's finding that claimant's gross average weekly wage for the work injury is \$1,208.69, and I affirm the deputy commissioner's finding that claimant's weekly benefit rate for the work injury is \$770.54. I affirm the deputy commissioner's finding that defendants are entitled to a credit of seven weeks of compensation at the weekly rate of \$770.54. I affirm the deputy commissioner's finding that claimant is entitled to receive reimbursement from defendants in the amount of \$5,089.35 for requested past medical expenses for the work injury. I affirm the deputy commissioner's finding that claimant is not entitled to payment by defendants for the requested past medical expenses for claimant's lumbar

spine condition, and I affirm the deputy commissioner's finding that claimant is not entitled to alternate medical care for his lumbar spine condition. I affirm the deputy commissioner's finding that pursuant to Iowa Code section 85.39, claimant is entitled to receive reimbursement from defendants for 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 August 2, 2021, is affirmed in its entirety.

Defendants shall pay claimant four point four (4.4) weeks of permanent partial disability benefits at the weekly rate of seven hundred seventy and 54/100 dollars (\$770.54) from August 17, 2017.

Defendants shall receive credit for seven weeks of compensation at the weekly rate of seven hundred seventy and 54/100 dollars (\$770.54).

Defendants shall reimburse claimant five thousand eighty-nine and 35/100 dollars (\$5,089.35) for requested past medical expenses for the work injury.

Claimant's request for alternate medical care is denied.

Defendants shall reimburse claimant two thousand seven hundred sixty-three and 00/100 dollars (\$2,763.00) for Dr. Bansal's IME.

Pursuant to rule 876 IAC 4.33, claimant 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 29<sup>th</sup> day of November, 2021.

*Joseph S. Cortese II*

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JOSEPH S. CORTESE II  
WORKERS' COMPENSATION  
COMMISSIONER

The parties have been served as follows:

Gary Mattson (via WCES)

Stephen Spencer (via WCES)

Christopher Spencer (via WCES)