

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

JACQUES P. COALE,

Claimant,

vs.

BARR-NUNN TRANSPORTATION,
INC.,

Employer,

and

YORK RISK SERVICES GROUP,

Insurance Carrier,
Defendants.

File No. 5064468

A P P E A L

D E C I S I O N

: Head Notes: 1402.30; 1402.40; 1802; 1803;
: 2501; 2502; 5-9998

Defendants Barr-Nunn Transportation, Inc., employer, and its insurer, York Risk Services Group, appeal from an arbitration decision filed on November 18, 2020. Claimant Jacques Coale responds to the appeal. The case was heard on July 20, 2020, and it was considered fully submitted in front of the deputy workers' compensation commissioner on September 1, 2020.

In the arbitration decision, the deputy commissioner found claimant carried his burden of proof to establish he sustained a work-related injury to his left foot on February 28, 2018, as alleged. The deputy commissioner found claimant reached maximum medical improvement (MMI) for the work injury on January 29, 2019. The deputy commissioner found claimant is entitled to receive healing period benefits for the work injury from March 7, 2018, through January 21, 2019. The deputy commissioner found claimant sustained 15 percent permanent functional scheduled member disability of the left foot as a result of the work injury, which entitles claimant to receive 22.5 weeks of permanent partial disability benefits commencing on January 29, 2019. The deputy commissioner found claimant is entitled to payment by defendants for the requested past medical expenses from Eaton Regional Medical Center, Foremost Podiatry, Capitol Infectious Disease Associates, McLaren Greater Lansing, Medistar Ambulance, and Hayes Green Beach Memorial Hospital, itemized in Claimant's Exhibit 5. The deputy commissioner found claimant is not entitled to payment by defendants for the requested past medical expenses from Michigan Post-Acute Medical, Michigan State University, and Affina Health, itemized in Claimant's Exhibit 5. The deputy

commissioner found that pursuant to Iowa Code section 85.39, claimant is not entitled to reimbursement from defendants for the cost of the independent medical evaluation (IME) of claimant performed by Sunil Bansal, M.D. on April 19, 2019.

Defendants assert on appeal that the deputy commissioner erred in finding claimant proved he sustained a work-related injury as alleged. Defendants assert the deputy commissioner erred in finding claimant is entitled to receive healing period benefits and permanent partial disability benefits. Defendants assert the deputy commissioner erred in finding claimant is entitled to payment by defendants for any of the requested past 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.

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 November 18, 2020, 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 proved he sustained a work-related injury to his left foot on February 28, 2018, as alleged. I affirm the deputy commissioner finding that claimant reached MMI for the work injury on January 29, 2019. I affirm the deputy commissioner's finding that claimant is entitled to receive healing period benefits for the work injury from March 7, 2018, through January 21, 2019. I affirm the deputy commissioner's finding that claimant sustained 15 percent permanent functional scheduled member disability of the left foot as a result of the work injury. I affirm the deputy commissioner's finding that the correct date for the commencement of permanent partial disability benefits is January 29, 2019. I affirm the deputy commissioner's finding that claimant is entitled to payment by defendants for the requested past medical expenses from Eaton Regional Medical Center, Foremost Podiatry, Capitol Infectious Disease Associates, McLaren Greater Lansing, Medistar Ambulance, and Hayes Green Beach Memorial Hospital, itemized in Claimant's Exhibit 5. I affirm the deputy commissioner's finding that claimant is not entitled to payment by defendants for the requested past medical expenses from Michigan Post-Acute Medical, Michigan State University, and Affina Health, itemized in Claimant's Exhibit 5. I affirm

the deputy commissioner's finding that pursuant to Iowa Code section 85.39, claimant is not entitled to reimbursement from defendants for the cost of 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 November 18, 2020, is affirmed in its entirety.

All weekly benefits shall be payable at the stipulated weekly rate of eight hundred eight and 96/100 dollars (\$808.96) per week.

Defendants shall pay claimant healing period benefits from March 7, 2018, through January 21, 2019.

Defendants shall pay claimant twenty-two point five (22.5) weeks of permanent partial disability benefits commencing on January 29, 2019.

The employer and insurance carrier shall pay accrued weekly benefits in a lump sum together with interest 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).

Defendants shall pay medical providers, reimburse claimant, or reimburse a third-party payor for all requested past medical expenses from Eaton Regional Medical Center, Foremost Podiatry, Capitol Infectious Disease Associates, McLaren Greater Lansing, Medistar Ambulance, and Hayes Green Beach Memorial Hospital, itemized in Claimant's Exhibit 5.

Pursuant to rule 876 IAC 4.33, 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 (SROI) as required by this agency.

Signed and filed on this 5th day of May, 2021.

Joseph S. Cortese II

JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

Nicholas Pothitakis (via WCES)

Chris Sheldrup (via WCES)