

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

JACKIE STEWART,

Claimant,

vs.

KPI CONCEPTS, LLC,

Employer,

and

ACUITY INSURANCE,

Insurance Carrier,
Defendants.

File No. 19700279.01

A P P E A L

D E C I S I O N

Headnotes: 1402.40; 1402.60; 1803; 2501;
2701;

Claimant Jackie Stewart appeals from an arbitration decision filed on November 30, 2020, and from a ruling on motion to expand finding and reconsider claimant's rate filed on December 16, 2020. Defendants KPI Concepts, LLC, employer, and its insurer, Acuity Insurance, respond to the appeal. The case was heard on September 28, 2020, and it was considered fully submitted in front of the deputy workers' compensation commissioner on November 2, 2020.

In the arbitration decision, the deputy commissioner found claimant failed to prove he sustained any permanent disability as a result of the stipulated February 20, 2019, work-related injury. The deputy commissioner also found claimant failed to prove he is entitled to alternate medical care or reimbursement for costs. In the event permanent disability benefits are owed, the deputy commissioner found they should commence on July 11, 2019, at the weekly rate of \$374.88, and should be paid pursuant to Iowa Code section 85.34(2)(v).

In the ruling on motion to expand finding and reconsider claimant's rate, the deputy commissioner amended his rate calculation and found the proper weekly benefit rate for the work injury is \$402.85.

On appeal, claimant asserts the deputy commissioner erred in finding claimant did not sustain any permanent disability as a result of the work injury, and in finding claimant is not entitled to alternate medical care or reimbursement for costs. Claimant

also asserts the deputy commissioner erred in calculating claimant's weekly benefit rate.

I performed a de novo review of the evidentiary record and the detailed arguments of the parties. Pursuant to Iowa Code sections 86.24 and 17A.15, the arbitration decision filed on November 30, 2020, is affirmed with some brief additional analysis as set forth below.

I affirm the deputy commissioner's finding that claimant failed to prove he sustained any permanent disability as a result of the work injury. I affirm the deputy commissioner's findings, conclusions and analysis regarding that issue in their entirety.

Because I affirmed the deputy commissioner's determination that claimant is not entitled to any permanent disability benefits, I find claimant's weekly benefit rate to be a moot issue.

I also affirm the deputy commissioner's finding that claimant failed to prove he is entitled to alternate medical care with the following brief analysis: Claimant is seeking a referral to a spine specialist per the June 20, 2019, recommendation of Sarah Wingate, A.R.N.P. A review of the records, however, provides that this referral was for "disc disease." (Joint Exhibit 6, p. 19) While claimant takes issue with the investigation performed by defendants, the fact remains that Ms. Wingate never offered an affirmative opinion that claimant's disc disease is causally related to the work injury. Further, Ms. Wingate was specifically asked what additional care was necessary as a result of the work injury, and she made no recommendations. (JE 6, p. 22) Therefore, I find insufficient evidence that Ms. Wingate's referral to a spine specialist was causally related to the work injury. With this additional analysis, I affirm the deputy commissioner's finding that claimant failed to prove he is entitled to alternate medical care.

Lastly, I affirm the deputy commissioner's decision to decline a costs assessment in this case.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on November 30, 2020, is affirmed with the above-stated additional analysis.

Claimant shall take nothing in the way of permanent disability benefits.

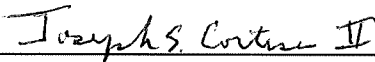
Claimant's request for alternate medical care is denied.

Defendants shall receive credit for all benefits previously paid, as stipulated.

Pursuant to rule 876 IAC 4.33, the parties shall pay their own costs of the arbitration proceeding, and 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 31st day of March, 2021.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

Eric Loney (via WCES)

Coreen Sweeney (via WCES)