

## BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

JEFF SEMELROTH,

Claimant,

vs.

GENERAL MILLS,

Employer,

and

OLD REPUBLIC INSURANCE CO.,

Insurance Carrier,  
Defendants.

File No. 5058406.01

A P P E A L

D E C I S I O N

Head Notes: 1402.40; 1803; 2502; 2905;  
2907; 5-9998

Claimant Jeffrey Semelroth appeals from a review-reopening decision filed on February 18, 2022. Defendants General Mills, employer, and its insurer, Old Republic Insurance Company, respond to the appeal. The case was heard on December 14, 2021, and it was considered fully submitted in front of the deputy workers' compensation commissioner on January 21, 2022.

In the review-reopening decision, the deputy commissioner found claimant failed to meet his burden of proof to establish he sustained a change of condition related to the original July 18, 2015, work injury after the agreement for settlement was made. The deputy commissioner found claimant is not entitled to receive any additional permanent disability benefits. The deputy commissioner found that pursuant to Iowa Code section 85.39, claimant is not entitled to recover the cost of the independent medical examination (IME) of claimant performed by Mark Taylor, M.D. The deputy commissioner ordered the parties to pay their own costs of the review-reopening proceeding and split the cost of the hearing transcript.

Claimant asserts on appeal that the deputy commissioner erred in finding claimant failed to prove he sustained a change of condition related to the work injury after the agreement for settlement was made. Claimant asserts the deputy commissioner erred in finding claimant is not entitled to receive any additional permanent disability benefits. Claimant asserts the deputy commissioner erred in finding claimant is not entitled to recover his costs of the arbitration proceeding, including the cost of Dr. Taylor's IME report.

Defendants assert on appeal that the review-reopening decision should be affirmed in its entirety.

Those portions of the proposed review-reopening 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 review-reopening decision filed on February 18, 2022, which relate to the issues properly raised on intra-agency appeal.

I find the deputy commissioner provided a well-reasoned analysis of all 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 failed to prove he sustained a change of condition related to the work injury after the agreement for settlement was made. I affirm the deputy commissioner's finding that claimant is not entitled to receive any additional permanent disability benefits. I affirm the deputy commissioner's finding that claimant is not entitled to recover the cost of Dr. Taylor's IME under Iowa Code section 85.39. I affirm the deputy commissioner's order that the parties pay their own costs of the review-reopening proceeding and split the cost of the hearing transcript.

I affirm the deputy commissioner's findings, conclusions, and analysis regarding the above-stated issues.

#### ORDER

IT IS THEREFORE ORDERED that the review-reopening decision filed on February 18, 2022, is affirmed in its entirety.

Claimant shall take nothing from these proceedings

Pursuant to rule 876 IAC 4.33, the parties shall pay their own costs of the review-reopening proceeding and split the cost of the hearing transcript, and claimant shall pay the costs of the appeal, if any.

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 3<sup>rd</sup> day of August, 2022.



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JOSEPH S. CORTESE II  
WORKERS' COMPENSATION  
COMMISSIONER

The parties have been served as follows:

Emily Anderson      (via WCES)

Dillon Besser        (via WCES)

Peter Thill            (via WCES)