

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

BRENDA MORENO,

Claimant,

vs.

COOPERATIVE RESOURCES
INTERNATIONAL,

Employer,

and

LIBERTY MUTUAL INSURANCE,

Insurance Carrier,
Defendants.

File Nos. 5066116, 5066117

A M E N D E D

A P P E A L

D E C I S I O N

Head Notes: 1402.40, 1801, 1802, 1803;
2907

This Amended Appeal Decision is filed to remove the Right to Appeal language that was inadvertently included at the end of the original Appeal Decision. This Appeal Decision is otherwise unchanged.

Defendants Cooperative Resources International, employer, and its insurer, Liberty Mutual Insurance, appeal from an arbitration decision filed on November 15, 2019. Claimant Brenda Moreno responds to the appeal. The case was heard on September 26, 2019, and it was considered fully submitted in front of the deputy workers' compensation commissioner on November 1, 2019.

In the arbitration decision, the deputy commissioner found claimant met her burden of proof to establish she sustained permanent disability as a result of the stipulated work injury which occurred on June 4, 2018. After considering all relevant factors, the deputy commissioner determined claimant sustained 60 percent industrial disability as a result of the June 4, 2018, work injury, which entitles claimant to receive 300 weeks of permanent partial disability benefits commencing on February 15, 2019. The deputy commissioner found claimant is entitled to receive healing period benefits from June 5, 2018, through February 15, 2019. The deputy commissioner found claimant is entitled to receive reimbursement for the medical expenses itemized in Exhibit 3. The deputy commissioner ordered defendants to pay claimant's costs of the arbitration proceeding in the amount of \$100.00.

On appeal, defendants assert the deputy commissioner erred in finding claimant met her burden of proof to establish the June 4, 2018, work injury resulted in permanent disability to her back, thereby entitling her to receive additional healing period and medical benefits from June 4, 2018, through February 15, 2019. Alternatively, defendants assert the deputy commissioner erred in finding claimant sustained 60 percent industrial disability as a result of the June 4, 2018, work injury and defendants assert the award for industrial disability should be reduced significantly.

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 performed a de novo review of the evidentiary record and the detailed arguments of the parties. Pursuant to Iowa Code sections 17A.15 and 86.24, I affirm and adopt as the final agency decision those portions of the proposed arbitration decision filed on November 15, 2019, 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 met her burden of proof to establish she sustained permanent disability as a result of the June 4, 2018, stipulated work injury. I affirm the deputy commissioner's finding that claimant sustained 60 percent industrial disability as a result of the June 4, 2018, work injury. I affirm the deputy commissioner's finding that claimant is entitled to receive healing period benefits from June 5, 2018, through February 15, 2019. I affirm the deputy commissioner's finding that claimant is entitled to receive reimbursement for the medical expenses itemized in Exhibit 3. I affirm the deputy commissioner's order that defendants pay claimant's costs of the arbitration proceeding.

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 15, 2019, is affirmed in its entirety.

Defendants shall pay claimant healing period benefits from June 5, 2018, through February 15, 2019, at the stipulated weekly rate of two hundred seventeen and 99/100 dollars (\$217.99).

Defendants shall pay claimant three hundred (300) weeks of permanent partial disability benefits commencing on February 16, 2019, at the stipulated weekly rate of two hundred seventeen and 99/100 dollars (\$217.99).

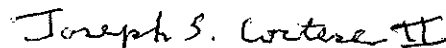
Defendants shall pay accrued weekly benefits in a lump sum together with interest at an annual rate equal to the one-year treasury constant maturity published by the federal reserve in the most recent H15 report settled as of the date of injury, plus two percent.

Defendants shall pay directly to the medical provider, reimburse claimant for any out-of-pocket expenses, and hold claimant harmless for all medical expenses itemized in Exhibit 3.

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration proceeding in the amount of one hundred and no/100 dollars (\$100.00), 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 on this 4th day of August, 2020.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

Gary Mattson (via WCES)

Christine Westberg Dorn (via WCES)