

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

CHAD UHLENHOPP,

Claimant,

vs.

IOWA DEPT. OF TRANSPORTATION,

Employer,

and

STATE OF IOWA,

Insurance Carrier,
Defendants.

File No. 5058838.01

A P P E A L

D E C I S I O N

: Head notes: 1402.40; 1802; 1803; 2502;
: 2905; 4000.2; 5-9998

Claimant Chad Uhlenhopp appeals from a review-reopening decision filed on January 6, 2023. Defendants Iowa Department of Transportation, employer, and State of Iowa, insurance carrier, respond to the appeal. The review-reopening hearing was held in this matter on August 4, 2022, and the case was considered fully submitted in front of the deputy workers' compensation commissioner on September 2, 2022.

On February 29, 2016, claimant sustained the work-related injury which is at issue in this matter. On October 16, 2018, the undersigned approved an agreement for settlement in this matter in which the parties agreed claimant sustained 24 percent industrial disability as result of the work injury, which entitled claimant to receive 120 weeks of permanent partial disability benefits.

On August 27, 2021, claimant filed a petition for review-reopening in this matter asserting that after the agreement for settlement was approved, claimant sustained a physical change of condition which entitles him to receive additional permanent partial disability benefits for the work injury. Claimant also asserted he is entitled to receive additional temporary disability and/or healing period benefits from November 16, 2018, through February 21, 2019, for the work injury. Claimant asserted he is entitled to receive penalty benefits for an unreasonable failure by defendants to pay weekly benefits from November 16, 2018, through February 21, 2019. Claimant asserted he is entitled under Iowa Code section 85.39 to receive reimbursement from defendants for the cost of an independent medical evaluation (IME) of claimant performed by Mark

Taylor, M.D. Claimant also asserted he is entitled to receive reimbursement from defendants for his costs of the review-reopening proceeding.

Defendants asserted claimant failed to prove he sustained a change of condition which would entitle him to receive additional permanent partial disability benefits for the work injury. Defendants asserted claimant failed to prove he is entitled to receive additional temporary disability and/or healing period benefits. Defendants asserted claimant failed to prove he is entitled to receive penalty benefits. Defendants asserted claimant failed to prove he is entitled to receive reimbursement from defendants for the cost of Dr. Taylor's IME. Defendants asserted claimant failed to prove he is entitled to receive reimbursement from defendants for claimant's costs of the review-reopening proceeding.

In the review-reopening decision filed in this matter on January 6, 2023, the deputy commissioner found claimant failed to prove he sustained a physical change of condition which would entitle claimant to receive additional permanent partial disability benefits for the work injury. The deputy commissioner found claimant failed to prove he is entitled to receive additional temporary disability and/or healing period benefits for the work injury. The deputy commissioner found claimant failed to prove he is entitled to receive penalty benefits. The deputy commissioner found claimant failed to prove he is entitled to receive reimbursement for the cost of Dr. Taylor's IME. The deputy commissioner found claimant failed to prove he is entitled to receive reimbursement for his costs of the review-reopening proceeding.

Claimant asserts on appeal that the deputy commissioner erred in finding claimant failed to prove he sustained a physical change of condition related to the work injury after the agreement for settlement was filed. Claimant asserts the deputy commissioner erred in finding claimant is not entitled to receive additional permanent partial disability benefits. Claimant asserts the deputy commissioner erred in finding claimant failed to prove he is entitled to receive additional temporary disability and/or healing period benefits from November 16, 2018, through February 21, 2019. Claimant asserts the deputy commissioner erred in finding claimant is not entitled to receive penalty benefits. Claimant asserts the deputy commissioner erred in finding claimant is not entitled to receive reimbursement from defendants for the cost of Dr. Taylor's IME. Claimant asserts the deputy commissioner erred in finding claimant is not entitled to receive reimbursement from defendants for claimant's costs of the review-reopening proceeding.

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 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 January 6, 2023, 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 review-reopening 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 physical change of condition related to the work injury after the agreement for settlement was filed. I affirm the deputy commissioner's finding that claimant is not entitled to receive additional permanent partial disability benefits. I affirm the deputy commissioner's finding that claimant failed to prove he is entitled to receive additional temporary disability and/or healing period benefits from November 16, 2018, through February 21, 2019. I affirm the deputy commissioner's finding that claimant is not entitled to receive penalty benefits. I affirm the deputy commissioner's finding that claimant is not entitled to receive reimbursement from defendants for the cost of Dr. Taylor's IME. I affirm the deputy commissioner's finding that claimant is not entitled to receive reimbursement from defendants for claimant's costs of the review-reopening proceeding.

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

ORDER

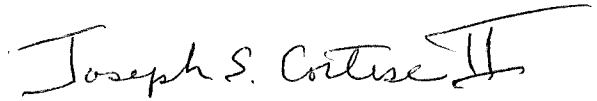
IT IS THEREFORE ORDERED that the review-reopening decision filed in this matter on January 6, 2023, is affirmed in its entirety.

Claimant shall take nothing further from these proceedings.

Pursuant to rule 876 IAC 4.33, the parties shall pay their own costs of the review-reopening 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 25th day of April, 2023.

A handwritten signature in black ink, reading "Joseph S. Cortese II". The signature is written in a cursive style with a large, stylized "I" at the end.

JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served, as follows:

Casey Steadman (via WCES)

Nate Willems (via WCES)

Sarah Timko (via WCES)