

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

BETTY HOOVER,

Claimant,

vs.

JACOBSON TRANSPORTATION,

Employer,

and

ZURICH AMERICAN INSURANCE
COMPANY,

Insurance Carrier,
Defendants.

FILED

FEB 12 2018

WORKERS' COMPENSATION

File No. 5052323

A P P E A L

D E C I S I O N

Head Note Nos: 1108.50; 1402.30; 1803;
2501; 5-9998

Defendants Jacobson Transportation, employer, and its insurer, Zurich American Insurance Company, appeal from an arbitration decision filed on July 15, 2016. Claimant Betty Hoover responds to the appeal. The case was heard on April 14, 2016, and it was considered fully submitted in front of the deputy workers' compensation commissioner on May 16, 2016.

The deputy commissioner found claimant sustained permanent injuries to her neck, back and right knee as a result of the stipulated injury which arose out of and in the course of claimant's employment with defendant-employer on January 2, 2014. The deputy commissioner found claimant failed to carry her burden of proof that she also sustained a mental injury as a result of the work injury. The deputy commissioner found claimant sustained 30 percent industrial disability as a result of the work injury, which entitles claimant to receive 150 weeks of permanent partial disability (PPD) benefits. The deputy commissioner found the correct commencement date for PPD benefits is June 6, 2014. The deputy commissioner found claimant is entitled to receive reimbursement from defendants in the amount of \$2,152.75 for out-of-pocket medical expenses itemized in Exhibit 1, paid by claimant. The deputy commissioner found claimant's private health insurance carrier, Wellmark Blue Cross Blue Shield, is entitled to reimbursement from defendants in the amount of \$3,417.34 for medical expenses itemized in Exhibit 1, paid on behalf of claimant for the work injury. The deputy commissioner found defendants shall pay \$448.51 directly to Wayne County Hospital for unpaid medical charges itemized in Exhibit 1.

Defendants assert on appeal that the deputy commissioner erred in finding claimant's permanent injuries resulting from the work injury extend beyond claimant's right lower extremity into the body as a whole. Defendants assert the deputy commissioner erred in finding claimant is entitled to anything more than scheduled member functional disability benefits for the work injury. In the alternative, defendants assert if, on appeal, it is found claimant's permanent injuries extend into the body as a whole, the deputy commissioner erred in awarding claimant 30 percent industrial disability for the work injury. Defendants assert the award of industrial disability should be reduced by a substantial amount.

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.

Having performed a de novo review of the evidentiary record and the detailed arguments of the parties, 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 July 15, 2016, which relate to the issues properly raised on intra-agency appeal.

I find the deputy commissioner provided a well-reasoned analysis of the issues raised in the arbitration proceeding. I affirm the deputy commissioner's finding that claimant sustained permanent injuries to her neck, back and right knee as a result of the January 2, 2014, work injury. I affirm the deputy commissioner's finding that claimant failed to carry her burden of proof that she also sustained a mental injury as a result of the work injury. I affirm the deputy commissioner's finding that claimant sustained 30 percent industrial disability as a result of the work injury, which entitles claimant to receive 150 weeks of PPD benefits. I affirm the deputy commissioner's finding that the correct commencement date for PPD benefits is June 6, 2014. I affirm the deputy commissioner's finding that claimant is entitled to receive reimbursement from defendants in the amount of \$2,152.75 for out-of-pocket medical expenses itemized in Exhibit 1, paid by claimant. I affirm the deputy commissioner's finding that Wellmark Blue Cross Blue Shield is entitled to receive reimbursement from defendants in the amount of \$3,417.34 for the medical expenses itemized in Exhibit 1, paid on behalf of claimant for the work injury. I also affirm the deputy commissioner's finding that Defendants shall pay \$448.51 directly to Wayne County Hospital for unpaid medical charges itemized in Exhibit 1. I affirm the deputy commissioner's findings, conclusions and analysis regarding those issues.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on July 15, 2016, is affirmed in its entirety.

Defendants shall pay claimant one hundred fifty (150) weeks of permanent partial disability benefits at the stipulated weekly rate of nine hundred twenty-three and 22/100 dollars (\$923.22) commencing on June 6, 2014.

Defendants shall be given credit for all benefits previously paid.

Defendants shall pay accrued weekly benefits in a lump sum together with interest pursuant to Iowa Code section 85.30.

Defendants shall pay claimant the amount of two thousand one-hundred fifty-two and 75/100 dollars (\$2,152.75) for out-of-pocket medical expenses itemized in Exhibit 1, paid by claimant.

Defendants shall pay Wellmark Blue Cross Blue Shield three thousand four-hundred seventeen and 34/100 dollars (\$3,417.34) for medical expenses itemized in Exhibit 1, paid on behalf of claimant for the work injury.

Defendants shall pay four hundred forty-eight and 51/100 dollars (\$448.51) directly to Wayne County Hospital for unpaid medical charges itemized in Exhibit 1.

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 as required by this agency.

Signed and filed on this 12th day of February, 2018.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

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