

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

ALLEN NIELAND,

Claimant,

vs.

NEAL STATION ENVIRONMENTAL  
PARTNERS,

Employer,

and

AMERICAN ZURICH INSURANCE  
COMPANY,

Insurance Carrier,  
Defendants.

**FILED**

**JUN 7 2017**

**WORKERS' COMPENSATION**

File No. 5043877

**A P P E A L**

**D E C I S I O N**

Head Note No: 1803

Defendants Neal Station Environmental Partners, employer, and its insurer, American Zurich Insurance Company, appeal from an arbitration decision filed on December 22, 2015. Claimant Allen Nieland responds to the appeal. The case was heard on July 27, 2015, and it was considered fully submitted in front of the deputy workers' compensation commissioner on August 28, 2015.

In the arbitration decision, the deputy commissioner found the stipulated work injury, which arose out of and in the course of claimant's employment with defendant-employer on March 15, 2012, caused permanent injuries to claimant's right knee and low back. The deputy commissioner awarded claimant 70 percent industrial disability, which entitles claimant to 350 weeks of permanent partial disability (PPD) benefits. The deputy commissioner found the proper commencement date for PPD benefits is March 15, 2012. The deputy commissioner ordered defendants to pay claimant's requested prior medical expenses. The deputy commissioner ordered defendants to pay future medical expenses for claimant's right knee and low back necessitated by the work injury. The deputy commissioner also ordered defendants to pay claimant's costs of the arbitration proceeding.

Defendants assert on appeal that the deputy commissioner erred in finding the work injury caused permanent injuries to claimant's low back. Defendants assert the deputy commissioner erred in awarding claimant 70 percent industrial disability. Defendants assert the deputy commissioner erred in ordering defendants to pay claimant's requested prior medical expenses. Defendants also assert the deputy commissioner erred in ordering defendants to pay future medical expenses for claimant's low back.

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 December 22, 2015, which relate to the issues properly raised on intra-agency appeal.

I find the deputy commissioner provided sufficient analysis of the issues raised in the arbitration proceeding. I affirm the deputy commissioner's finding that the work injury of March 15, 2012, caused permanent injuries to claimant's right knee and low back. I affirm the deputy commissioner's award of 70 percent industrial disability, which entitles claimant to 350 weeks of PPD benefits. I affirm the deputy commissioner's finding that the correct date for the commencement of PPD benefits is March 15, 2012. I affirm the deputy commissioner's order that defendants pay claimant's requested prior medical expenses. I affirm the deputy commissioner's order that defendants pay future medical expenses for claimant's low back necessitated by the work injury. I also affirm the deputy commissioner's order taxing defendants with 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 December 22, 2015, is affirmed in its entirety.

Defendants shall pay claimant three hundred fifty (350) weeks of permanent partial disability benefits at the rate of eight hundred forty-three and 03/100 dollars (\$843.03) per week from March 15, 2012.

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

Defendants shall receive credit for all benefits paid to date.

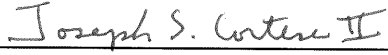
Defendants shall pay claimant's prior medical expenses submitted by claimant at the arbitration hearing.

Defendants shall pay future medical expenses for claimant's right knee and low back necessitated by the work injury.

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration proceeding, 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 this 7<sup>th</sup> day of June, 2017.

  
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JOSEPH S. CORTESE II  
WORKERS' COMPENSATION  
COMMISSIONER

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