

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

JUANA CERDA,

Claimant,

vs.

PAE,

Employer,

and

NEW HAMPSHIRE INS. CO.,

Insurance Carrier,
Defendants.

FILED

JAN 10 2018

WORKERS' COMPENSATION

File No. 5048854

A P P E A L

D E C I S I O N

Head Note Nos: 1402.40, 1803, 2502,
2701, 2907, 5-9998

Claimant Juana Cerda appeals from an arbitration decision filed on June 21, 2016. Defendants PAE, employer, and its insurer, New Hampshire Ins. Co., respond to the appeal. The case was heard on March 29, 2016, and it was considered fully submitted in front of the deputy workers' compensation commissioner on April 22, 2016.

In the arbitration decision, the deputy commissioner found claimant sustained ten percent industrial disability as a result of the stipulated injury which arose out of and in the course of claimant's employment with defendant-employer on September 11, 2013, which entitles claimant to 50 weeks of permanent partial disability (PPD) benefits commencing September 12, 2013. The deputy commissioner found claimant is not entitled to alternate medical care for the work injury. The deputy commissioner found claimant is entitled to payment from defendants for the cost of an independent medical evaluation (IME) performed by John D. Kuhnlein, D.O., on December 17, 2015. The deputy commissioner ordered defendants to pay claimant's costs of the arbitration proceeding in the amount of \$420.00. The deputy commissioner found claimant is not entitled to payment by defendants for the cost of a functional capacity evaluation (FCE) performed by Todd Schemper, PT, on January 11, 2016, and the deputy commissioner found claimant is not entitled to payment by defendants for the cost of a copy of the transcript of claimant's deposition, and for additional requested costs.

Claimant asserts on appeal that the award of industrial disability should be substantially increased. Claimant asserts the deputy commissioner erred in finding claimant is not entitled to alternate medical care for the work injury. Claimant also asserts the deputy commissioner erred in finding claimant is not entitled to payment by

defendants for the cost of Mr. Schemper's FCE, for the cost of a copy of the transcript of claimant's deposition, and for the additional requested costs.

Defendants assert 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 June 21, 2016, 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 findings of fact and conclusions of law pertaining to those issues. I affirm the deputy commissioner's finding that claimant sustained ten percent industrial disability as a result of the work injury, which entitles claimant to 50 weeks of PPD benefits commencing September 12, 2013. I affirm the deputy commissioner's finding that claimant is not entitled to alternate medical care for the work injury. I affirm the deputy commissioner's finding that claimant is entitled to payment from defendants for the cost of Dr. Kuhnlein's IME. I affirm the deputy commissioner's order that defendants pay claimant's costs of the arbitration proceeding in the amount of \$420.00. I affirm the deputy commissioner's finding that claimant is not entitled to payment by defendants for the cost of Mr. Schemper's FCE and I affirm the deputy commissioner's finding that claimant is not entitled to payment by defendants for the cost of a copy of the transcript of claimant's deposition, and for the additional requested costs. I affirm the deputy commissioner's findings, conclusions and analysis regarding all of those issues.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on June 21, 2016, is affirmed in its entirety.

Defendants shall pay claimant fifty (50) weeks of permanent partial disability benefits at the weekly rate of three hundred seventy and 55/100 dollars (\$370.55) commencing on September 12, 2013.

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

Defendants shall reimburse claimant for the cost of Dr. Kuhnlein's IME.

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration proceeding in the amount of \$420.00, 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 this 10th day of January, 2018.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

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