

## BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

ROSE MORAN,

Claimant,

vs.

PRAIRIE VIEW MANAGEMENT, INC.,

Employer,

and

ACCIDENT FUND GENERAL INS. CO.,

Insurance Carrier,  
Defendants.

File No. 20700374.01

A P P E A L

D E C I S I O N

: Head Notes: 1402.20; 1402.40; 1801; 1803;  
: 1803.1; 2502; 2907; 3002;  
: 4000.0 5-9998

Defendants Prairie View Management, Inc., employer, and its insurer, Accident Fund General Insurance Company, appeal from an arbitration decision filed on January 21, 2022. Claimant Rose Moran responds to the appeal. The case was heard on August 9, 2021, and it was considered fully submitted in front of the deputy workers' compensation commissioner on September 7, 2021.

In the arbitration decision, the deputy commissioner found claimant did not refuse an offer of light duty from defendant-employer following the stipulated December 9, 2019, work injury. The deputy commissioner found that because claimant did not refuse such an offer, claimant is entitled to receive temporary total disability (TTD) benefits from defendants from December 21, 2019, through September 23, 2020, and from November 19, 2020, through December 19, 2020. The deputy commissioner found claimant sustained permanent scheduled member functional disability of 14 percent of the right upper extremity as a result of the work injury, which entitles claimant to receive 35 weeks of permanent partial disability (PPD) benefits commencing on February 17, 2021. The deputy commissioner found claimant's correct weekly benefit rate for the injury is \$412.40. The deputy commissioner found claimant is entitled to receive penalty benefits from defendants in the amount of 25 percent of all unpaid and underpaid benefits. The deputy commissioner found that pursuant to Iowa Code section 85.39, claimant is entitled to reimbursement from defendants in the amount of \$1,800.00 for the cost of the independent medical evaluation (IME) of claimant performed by Farid Manshadi, M.D. The deputy commissioner found Dr. Manshadi's \$1,800.00 IME charge to be reasonable. The deputy commissioner ordered defendants to pay claimant's costs of the arbitration proceeding in the amount of \$113.80.

Defendants assert on appeal that the deputy commissioner erred in finding claimant did not refuse an offer of light duty after the work injury and in finding claimant is entitled to receive TTD benefits. Defendants assert the deputy commissioner erred in finding claimant sustained permanent disability as a result of the work injury and in finding claimant is entitled to receive PPD benefits. Defendants assert the deputy commissioner erred in finding claimant is entitled to receive penalty benefits. Defendants assert the deputy commissioner erred in finding claimant's correct weekly benefit rate for the injury is \$412.40. Defendants assert it should be found that claimant's correct weekly benefit rate is \$402.16. Defendants assert the deputy commissioner erred in finding Dr. Manshadi's IME charge is reasonable, and defendants assert the amount of the reimbursement to claimant for Dr. Manshadi's IME should be reduced substantially.

Claimant asserts on appeal that the arbitration decision should be affirmed in its entirety, with the exception that the percentage of the penalty should be increased from 25 percent of all unpaid and underpaid benefits to 50 percent of all unpaid and underpaid benefits.

Those portions of the proposed arbitration decision pertaining to issues not raised on appeal are adopted as a 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 arbitration decision filed on January 21, 2022, 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 did not refuse an offer of light duty from defendant-employer following the work injury. I affirm the deputy commissioner's finding that because claimant did not refuse such an offer, claimant is entitled to receive TTD benefits from defendants from December 21, 2019, through September 23, 2020, and from November 19, 2020, through December 19, 2020. I affirm the deputy commissioner's finding that claimant sustained permanent scheduled member functional disability of 14 percent of the right upper extremity as a result of the work injury. I affirm the deputy commissioner's finding that claimant's correct weekly benefit rate for the injury is \$412.40. I affirm the deputy commissioner's finding that claimant is entitled to receive penalty benefits from defendants in the amount of 25 percent of all unpaid and underpaid benefits. I affirm the deputy commissioner's finding that pursuant to Iowa Code section 85.39, claimant is entitled to reimbursement from defendants for the cost of Dr. Manshadi's IME. I affirm the deputy commissioner's finding that Dr. Manshadi's \$1,800.00 charge for the IME is reasonable. I affirm the

deputy commissioner's order that defendants pay claimant's costs of the arbitration proceeding in the amount of \$113.80.

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

### ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on January 21, 2022, is affirmed in its entirety.

Defendants shall pay claimant temporary total disability benefits from December 21, 2019, through September 23, 2020, and from November 19, 2020, through December 19, 2020, at the weekly rate of four hundred twelve and 40/100 dollars (\$412.40).

Defendants shall pay claimant thirty-five (35) weeks of permanent partial disability benefits commencing on February 17, 2021, at the weekly rate of four hundred twelve and 40/100 dollars (\$412.40).

Defendants shall receive credit for all benefits previously paid, and defendants shall pay the underpayment of the previously paid weekly benefits.

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.

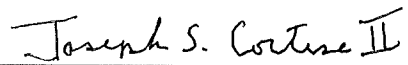
Defendants shall pay penalty benefits in the amount of 25 percent of all unpaid and underpaid benefits

Pursuant to Iowa Code section 85.39, defendants shall reimburse claimant in the amount of one thousand eight hundred and 00/100 dollars (\$1,800.00) for the cost of Dr. Manshadi's IME.

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration proceeding in the amount of one hundred thirteen and 80/100 dollars (\$113.80), and the parties shall split 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 22<sup>nd</sup> day of April, 2022.



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JOSEPH S. CORTESE II  
WORKERS' COMPENSATION  
COMMISSIONER

The parties have been served as follows:

Gary Nelson (via WCES)

Laura Ostrander (via WCES)