

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

NICHOLE FOLSOM-RUGGLES,

Claimant,

vs.

SENIOR HOUSING HEALTH CARE INC.,

Employer,

and

BERKSHIRE HATHAWAY HOMESTATE
COMPANY,

Insurance Carrier,
Defendants.

FILED

JUL 28 2017

WORKERS' COMPENSATION

File No. 5048981

A P P E A L

D E C I S I O N

Head Note Nos: 1803, 4000.2, 5-9998

Defendants Senior Housing Health Care, Inc., employer, and its insurer, Berkshire Hathaway Homestate Company, appeal from an arbitration decision filed on February 12, 2016. Claimant Nichole Folsom-Ruggles responds to the appeal. The case was heard on October 27, 2015, and it was considered fully submitted in front of the deputy workers' compensation commissioner on November 10, 2015.

The deputy commissioner found claimant carried her burden of proof that the stipulated injury which arose out of and in the course of claimant's employment with defendant-employer on May 13, 2014, caused claimant to sustain permanent disability to her right shoulder. The deputy commissioner awarded claimant 20 percent industrial disability, which entitles claimant to 100 weeks of permanent partial disability (PPD) benefits commencing on May 14, 2014. The deputy commissioner found defendants are entitled to a credit for ten weeks of PPD benefits voluntarily paid prior to the arbitration hearing. The deputy commissioner found claimant is not entitled to penalty benefits pursuant to Iowa Code section 86.13. The deputy commissioner 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 claimant to sustain permanent disability to her right shoulder. Defendants assert the deputy commissioner erred in awarding claimant any industrial disability.

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 86.24 and 17A.15, I affirm and adopt as the final agency decision those portions of the proposed arbitration decision filed in this matter on February 12, 2016, which relate to 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 claimant carried her burden of proof that the May 13, 2014, work injury caused claimant to sustain permanent disability to her right shoulder. I affirm the deputy commissioner's award of 20 percent industrial disability which entitles claimant to 100 weeks of PPD benefits commencing on May 14, 2014. I affirm the deputy commissioner's finding that defendants are entitled to a credit for ten weeks of PPD benefits voluntarily paid prior to the arbitration hearing. I affirm the deputy commissioner's finding that claimant is not entitled to penalty benefits. 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 February 12, 2016, is affirmed in its entirety.

Defendants shall pay claimant one hundred (100) weeks of permanent partial disability benefits commencing on May 14, 2014, payable at the weekly rate of two hundred ten and 26/100 dollars (\$210.26).


Defendants shall take credit for ten (10) weeks of permanent partial disability benefits previously paid at the weekly rate of two hundred ten and 26/100 dollars (\$210.26).

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

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 on this 28th day of July, 2017.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

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