

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

SENADA COVIC,

Claimant,

vs.

ADVANCED DRAINAGE SYSTEMS,
INC. d/b/a GREEN LINE POLYMERS,

Employer,

and

TRAVELERS INDEMNITY CO. OF CT.,

Insurance Carrier,
Defendants.

FILED

OCT 6 2017

WORKERS' COMPENSATION

File No. 5051643

A P P E A L

D E C I S I O N

: Head Note Nos: 1402.30, 1402.40, 1801,
: 2501, 2502, 4000.2,
: 5-9998

Claimant Senada Covic appeals from an arbitration decision filed on March 25, 2016. Defendants Advanced Drainage Systems, Inc., d/b/a Green Line Polymers, employer, and its insurer, Travelers Indemnity Co. of CT, respond to the appeal. The case was heard on December 8, 2015, and it was considered fully submitted in front of the deputy workers' compensation commissioner on January 18, 2016.

The deputy commissioner found claimant failed to carry her burden of proof that she sustained any permanent disability as a result of the stipulated injury which arose out of and in the course of claimant's employment with defendant-employer on June 7, 2013. The deputy commissioner found claimant is entitled to nothing in the way of permanent disability benefits for the work injury. The deputy commissioner found the work injury caused claimant to sustain only a temporary respiratory injury. The deputy commissioner found claimant is entitled to receive temporary total disability (TTD) benefits from June 7, 2013, through July 9, 2013, for the temporary respiratory injury. The deputy commissioner found claimant is not entitled to receive additional TTD benefits from July 10, 2013, through June 2, 2015, as alleged. The deputy commissioner found the work injury did not cause either a temporary injury or a permanent injury to claimant's back as alleged, and the deputy commissioner awarded claimant nothing for the alleged back injury. The deputy commissioner awarded claimant \$360.93 in penalty benefits for defendants' unreasonable failure to pay TTD benefits for the 12-day period from June 7, 2013, through June 18, 2013. The deputy commissioner found claimant is not entitled to receive additional penalty benefits as alleged. The deputy commissioner found claimant is entitled to payment by defendants

for medical expenses, including any medical mileage, related to treatment of claimant's temporary respiratory injury. The deputy commissioner found claimant is not entitled to payment by defendants for expenses for medical treatment for claimant's back. The deputy commissioner found that pursuant to Iowa Code section 85.39, claimant is entitled to reimbursement from defendants for the cost of the independent medical evaluation (IME) performed by Farid Manshadi, M.D., on July 21, 2015. The deputy commissioner also ordered defendants to pay claimant's costs of the arbitration proceeding.

Claimant asserts on appeal that the deputy commissioner erred in finding claimant failed to carry her burden of proof that she sustained any permanent disability as a result of the work injury. Claimant asserts the deputy commissioner erred in failing to award either substantial industrial disability benefits or, in the alternative, in failing to award odd-lot permanent total disability benefits for the work injury. Claimant asserts the deputy commissioner erred in finding claimant sustained only a temporary respiratory injury as a result of the work injury. Claimant asserts the deputy commissioner erred in finding the work injury did not cause claimant to sustain a permanent respiratory injury as alleged. Claimant asserts the deputy commissioner erred in finding the work injury did not cause either a temporary injury or a permanent injury to claimant's back as alleged, and claimant asserts the deputy commissioner erred in awarding claimant nothing for the alleged back injury. Claimant asserts the deputy commissioner erred in finding claimant is entitled to receive TTD benefits only from June 7, 2013, through July 9, 2013, and in failing to award additional TTD benefits from July 10, 2013, through June 2, 2015. Claimant asserts the deputy commissioner erred in failing to award substantially more than \$360.93 in penalty benefits. Claimant asserts the deputy commissioner erred in finding claimant is not entitled to payment by defendants for charges for medical treatment for claimant's back condition.

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 March 25, 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 finding that claimant failed to carry her burden of proof that she sustained any permanent disability as a result of the June 7, 2013, work injury. I affirm the deputy commissioner's finding that

claimant is not entitled to receive either industrial disability benefits or odd-lot permanent total disability benefits for the work injury. I affirm the deputy commissioner's finding that the work injury caused claimant to sustain only a temporary respiratory injury. I affirm the deputy commissioner's finding that the work injury did not cause claimant to sustain either a temporary injury or a permanent injury to claimant's back as alleged, and I affirm the deputy commissioner's finding that claimant is entitled to receive nothing for the alleged back injury. I affirm the deputy commissioner's finding that claimant is entitled to receive TTD benefits from June 7, 2013, through July 9, 2013, for the temporary respiratory injury, and I affirm the deputy commissioner's finding that claimant is not entitled to receive additional TTD benefits from July 10, 2013, through June 2, 2015, as alleged. I affirm the deputy commissioner's finding that claimant is entitled to receive \$360.93 in penalty benefits for defendants' unreasonable failure to pay TTD benefits for the 12-day period from June 7, 2013, through June 18, 2013, and I affirm the deputy commissioner's finding that claimant is entitled to receive nothing more in the way of penalty benefits. I affirm the deputy commissioner's finding that claimant is entitled to payment by defendants for medical expenses, including any medical mileage, related to treatment of claimant's temporary respiratory injury. I affirm the deputy commissioner's finding that claimant is not entitled to payment by defendants for medical charges for treatment for claimant's back condition. I affirm the deputy commissioner's finding that pursuant to Iowa Code section 85.39, claimant is entitled to reimbursement from defendants for Dr. Manshadi's IME. I also affirm the deputy commissioner's order that defendants pay 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 March 25, 2016, is affirmed in its entirety.

Defendants shall pay claimant temporary total disability benefits from June 7, 2013, through July 9, 2013, at the rate of three hundred sixty and 93/100 dollars (\$360.93) per week.

Defendants shall be entitled to a 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 three hundred sixty and 93/100 dollars (\$360.93) in penalty benefits for defendants' unreasonable failure to pay TTD benefits for the 12-day period from June 7, 2013, through June 18, 2013.

Defendants shall pay medical expenses, including any medical mileage, related to the treatment of claimant's temporary respiratory injury, as detailed in the arbitration decision.

Defendants shall reimburse claimant 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, 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 6th day of October, 2017.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

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