

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

CHEICKNA CAMARA,

Claimant,

vs.

MANPOWER TEMPORARY
SERVICES,

Employer,

and

NEW HAMPSHIRE INSURANCE
COMPANY,

Insurance Carrier,
Defendants.

FILED

OCT 18 2016

WORKERS' COMPENSATION

File No. 5046676

A P P E A L

D E C I S I O N

Head Note Nos.: 1801, 1803, 2500,
2501, 2700

Defendants Manpower Temporary Services, employer, and its insurer, New Hampshire Insurance Company, appeal from an arbitration decision filed on May 13, 2015. Claimant Cheickna Camara responds to the appeal. The case was heard on April 2, 2015, and it was considered fully submitted in front of the deputy workers' compensation commissioner on April 17, 2015.

The deputy commissioner awarded claimant running healing period benefits from November 1, 2014, until claimant reaches maximum medical improvement (MMI) for the stipulated work-related injury which occurred on December 12, 2012. The deputy commissioner found that the medical treatment received by claimant from Robert Blommer, M.D., and from Bradley Scott, D.O., was authorized by defendants because claimant followed the verbal instructions of Wesley Smidt, M.D., orthopedic surgeon authorized by defendants, when claimant presented to Dr. Blommer, who then referred claimant to Dr. Scott. The deputy commissioner ordered defendants to pay and/or hold claimant harmless for the medical, prescription medication and mileage expenses for the treatment received by claimant from Dr. Scott as set out in Exhibits 8 and 9. 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 awarding claimant running healing period benefits. Defendants assert the deputy commissioner erred in finding the medical treatment received by claimant from Dr. Blommer and from

Dr. Scott to be authorized and in ordering defendants to pay for the medical, prescription medication and mileage expenses for Dr. Block's treatment.

Claimant asserts on appeal that the arbitration decision should be affirmed in its entirety. Claimant also argues in his appeal brief that he should be awarded penalty benefits pursuant to Iowa Code section 86.13. However, because claimant did not assert entitlement to penalty benefits as an issue at the arbitration hearing, and because claimant did not cross-appeal on the issue of penalty benefits, claimant's argument for penalty benefits is disregarded in this appeal.

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 May 13, 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 findings of fact and conclusions of law pertaining to those issues. I affirm the deputy commissioner's award of running healing period benefits from November 1, 2014, until claimant reaches MMI for the stipulated work-related injury of December 12, 2012. I affirm the deputy commissioner's finding that the medical treatment received by claimant from Dr. Blommer and from Dr. Scott was authorized by defendants because claimant followed the verbal instructions of Dr. Smidt, orthopedic surgeon authorized by defendants, when claimant presented to Dr. Blommer, who then referred claimant to Dr. Scott. I also affirm the deputy commissioner's order for defendants to pay and/or hold claimant harmless for the medical, prescription medication and mileage expenses for the treatment received by claimant from Dr. Scott as set out in Exhibits 8 and 9. I affirm the deputy commissioner's findings, conclusions and analysis regarding those issues.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision of May 13, 2015, is affirmed in its entirety.

Defendants shall pay claimant running healing period benefits at the weekly benefit rate of four hundred twenty and 45/100 dollars (\$420.45) from November 1, 2014, until such time as claimant reaches MMI for the work-related injury of December 12, 2012.

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

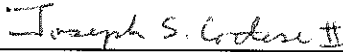
Defendants shall pay and/or hold claimant harmless for the medical, prescription medication and mileage expenses for the treatment received by claimant from Dr. Scott as set out in Exhibits 8 and 9, and the Iowa Department of Human Services/Iowa Care shall be reimbursed for all payments the department has made on claimant's behalf for those charges.

Defendants remain liable for all reasonable, necessary and causally related medical care for claimant's work-related bilateral upper extremity condition into the future, with that treatment to be provided by Dr. Smidt or by Dr. Block or by any other qualified orthopedic surgeon agreed to by the parties.

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.

Defendants shall file subsequent reports of injury (SROI) as required by this agency pursuant to rules 876 IAC 3.1 (2) and 876 IAC 11.7.

Signed and filed this 18th day of October, 2016.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

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