

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

JOSHUA AKERS,

File No. 20700548.02

Claimant,

A P P E A L

vs.

D E C I S I O N

ARCONIC,

Employer,

and

INDEMNITY INS. CO. OF N.A.,

Insurance Carrier,
Defendants.Head Notes: 1402.20; 1402.30; 1402.40;
1403.10; 1802; 1803; 2501;
2502; 2907; 5-9998

Defendants Arconic, employer, and its insurer, Indemnity Insurance Company of North America, appeal from an arbitration decision filed on November 21, 2022. Claimant Joshua Akers responds to the appeal. The case was heard on July 21, 2022, and it was considered fully submitted in front of the deputy workers' compensation commissioner on October 7, 2022.

In the arbitration decision, the deputy commissioner found claimant was a credible witness. The deputy commissioner found claimant met his burden of proof to establish he sustained an injury to his right lower extremity on March 26, 2020, which arose out of and in the course of claimant's employment with defendant-employer. The deputy commissioner found claimant sustained 17 percent right lower extremity impairment, which entitles claimant to receive 37.4 weeks of permanent partial disability benefits, commencing on February 1, 2021. The deputy commissioner found claimant is entitled to healing period benefits for the periods of April 28, 2020, through May 17, 2020, and from November 4, 2020, through February 1, 2021, for a total of \$13,340.09, reduced by the \$7,432.72 claimant received in short-term disability benefits, for a total of \$5,907.37. The deputy commissioner found defendants are responsible for reimbursing claimant's health insurer \$17,590.61 for medical bills causally related to the work injury. The deputy commissioner found defendants should reimburse claimant \$1,791.38 for claimant's out-of-pocket medical bills and \$545.07 for medical mileage causally related to the work injury. The deputy commissioner found that pursuant to Iowa Code section 85.39, claimant is entitled to reimbursement from defendants in the amount of \$1,000.00 for the cost of the independent medical examination (IME) of claimant conducted by Richard Kreiter, M.D. The deputy commissioner ordered

defendants to pay claimant's costs of the arbitration proceeding in the amount of \$103.00.

Defendants assert on appeal that the deputy commissioner erred in finding claimant proved he sustained a work-related injury to his right lower extremity on March 26, 2020. Defendants assert the deputy commissioner erred in finding claimant is entitled to healing period benefits and permanent partial disability benefits. Defendants assert the deputy commissioner erred in finding defendants should reimburse claimant for his out-of-pocket medical bills and medical mileage, and defendants asserts the deputy commissioner erred in finding defendants should reimburse claimant's health insurer for medical bills. Defendants assert the deputy commissioner erred in finding claimant is entitled to reimbursement from defendants for the cost of Dr. Kreiter's IME. Defendants assert the deputy commissioner erred in ordering defendants to pay claimant's costs of the arbitration proceeding.

Claimant asserts on appeal that the arbitration decision should be affirmed in its entirety.

Those portions of the proposed arbitration decision pertaining to issues not raised on appeal are adopted as part of this appeal decision.

I 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.15 and 86.24, I affirm and adopt as the final agency decision those portions of the proposed arbitration decision filed on November 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.

Some of the findings by the deputy commissioner in the arbitration decision were based on the deputy commissioner's findings regarding claimant's credibility. The deputy commissioner found claimant was a credible witness. I find the deputy commissioner correctly assessed claimant's credibility. While I performed a de novo review on appeal, I give considerable deference to the findings of fact which are impacted by the credibility findings, expressly or impliedly made, regarding claimant by the deputy commissioner who presided at the arbitration hearing. I find nothing in the record in this matter which would cause me to reverse the deputy commissioner's findings regarding claimant's credibility.

I affirm the deputy commissioner's finding that claimant proved he sustained a work-related injury to his right lower extremity on March 26, 2020. I affirm the deputy commissioner's finding that claimant sustained 17 percent right lower extremity

impairment as a result of the work injury. I affirm the deputy commissioner's finding that claimant is entitled to receive healing period benefits for the periods of April 28, 2020, through May 17, 2020, and from November 4, 2020, through February 1, 2021, totaling \$13,340.09, reduced by the \$7,432.72 claimant received in short-term disability benefits, for a total of \$5,907.37. I affirm the deputy commissioner's finding that defendants are responsible for reimbursing claimant's health insurer \$17,590.61 for medical bills causally related to the work injury. I affirm the deputy commissioner's finding that defendants should reimburse claimant \$1,791.38 for his out-of-pocket medical bills, and \$545.07 for medical mileage causally related to the work injury. 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. Kreiter's IME. I affirm the deputy commissioner's order that defendants pay claimant's costs of the arbitration proceeding in the amount of \$103.00.

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 November 21, 2022, is affirmed in its entirety.

Defendants shall pay claimant five thousand nine hundred seven and 37/100 dollars (\$5,907.37) in healing period benefits.

Defendant shall pay claimant 37.4 weeks of permanent partial disability benefits at the stipulated weekly rate of eight hundred forty-eight and 93/100 dollars (\$848.93), commencing on February 1, 2021.

Defendants shall pay accrued benefits in a lump sum 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 the date of injury, plus two percent.

Defendants shall reimburse claimant's insurer seventeen thousand five hundred ninety and 61/100 dollars (\$17,590.61) for medical expenses under Iowa Code section 85.27.

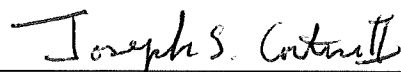
Defendants shall reimburse claimant one thousand seven hundred ninety-one and 38/100 dollars (\$1,791.38) for medical expenses and five hundred forty-five and 07/100 dollars (\$545.07) for medical mileage under Iowa Code section 85.27.

Pursuant to Iowa Code section 85.39, defendants shall reimburse claimant in the amount of one thousand and 00/100 dollars (\$1,000.00) for the cost of Dr. Kreiter'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 three and 00/100 dollars (\$103.00) 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 21st day of June, 2023.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

M. Leanne Tyler (via WCES)

Troy Howell (via WCES)