

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

SUSAN PEYTON,

Claimant,

vs.

PEPSI BEVERAGES COMPANY, f/k/a
PEPSI AMERICA,

Employer,

and

OLD REPUBLIC INSURANCE,

Insurance Carrier,
Defendants.

FILED

JAN 12 2017

WORKERS' COMPENSATION

File No. 5018230

A P P E A L

D E C I S I O N

Head Note Nos: 2905, 1803, 5-9998

Defendants Pepsi Beverages Company, f/k/a Pepsi America, employer, and its insurer, Old Republic Insurance, appeal from a review-reopening decision filed on August 10, 2015. Claimant Susan Peyton responds to the appeal. The case was heard on April 29, 2015, and it was considered fully submitted in front of the deputy workers' compensation commissioner on May 13, 2015.

The deputy commissioner found claimant is entitled to review-reopening in this matter because claimant carried her burden of proof that she sustained a physical change of condition following an arbitration decision which was filed in this matter on March 21, 2011, for an injury which occurred on October 4, 2002, which arose out of and in the course of claimant's employment with defendant-employer. In the arbitration decision, which was not appealed, claimant was awarded 25 percent industrial disability benefits, which entitled claimant to 125 weeks of permanent partial disability (PPD) benefits, commencing August 20, 2007. Based on the finding of a change of physical condition in the review-reopening decision, the deputy commissioner awarded claimant an additional 20 percent industrial disability, which entitles claimant to an additional 100 weeks of permanent partial disability (PPD) benefits, commencing on January 11, 2011. The deputy commissioner ordered defendants to pay for claimant's prior medical expenses submitted by claimant at the hearing. The deputy commissioner ordered defendants to pay for future medical treatment for claimant's injury. The deputy

commissioner also ordered defendants to pay claimant's costs of the review-reopening proceeding.

Defendants assert on appeal that the deputy commissioner erred in finding claimant is entitled to review-reopening in this matter because defendants assert the deputy commissioner erred in finding claimant carried her burden of proof that she sustained a physical change of condition following the March 21, 2011, arbitration decision. Defendants assert the deputy commissioner erred in awarding claimant an additional 20 percent 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 17A.5 and 86.24, I affirm and adopt as the final agency decision those portions of the proposed review-reopening decision filed on August 10, 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 review-reopening 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 is entitled to review-reopening in this matter because I affirm the deputy commissioner's finding that claimant carried her burden of proof that she sustained a physical change of condition following the March 21, 2011, arbitration decision. I affirm the deputy commissioner's award of an additional 20 percent industrial disability, which entitles claimant to an additional 100 weeks of PPD benefits, commencing on January 11, 2011. I affirm the deputy commissioner's findings, conclusions and analysis regarding those issues.

ORDER

IT IS THEREFORE ORDERED that the review-reopening decision filed on August 10, 2015, is affirmed in its entirety.

Defendants shall pay claimant one hundred (100) additional weeks of permanent partial disability benefits at the rate of three hundred fifty-four and 96/100 dollars (\$354.96) per week commencing on January 11, 2011.

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

Defendants shall be given credit for benefits previously paid.

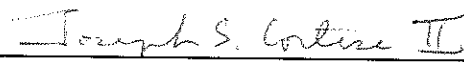
Defendants shall pay claimant's prior medical expenses submitted by claimant at the arbitration hearing.

Defendants shall pay claimant's future medical expenses necessitated by the work injury.

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 as required by this agency pursuant to rule 876 IAC 3.1(2).

Signed and filed this 12th day of January, 2017.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

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