

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

LESLIE MOORE,

Claimant,

vs.

CONAGRA FOODS, INC.,

Employer,

and

OLD REPUBLIC INSURANCE
COMPANY,

Insurance Carrier,
Defendants.

File No. 5063847

A P P E A L

D E C I S I O N

: Head Notes: 1108; 1402.30; 1403.40; 1803;
: 2501; 2701; 2907; 5-9998

Defendants ConAgra Foods, Inc., employer, and its insurer, Old Republic Insurance Company, appeal from an arbitration decision filed on September 18, 2019. Claimant Leslie Moore responds to the appeal. The case was heard on May 22, 2019, and it was considered fully submitted in front of the deputy workers' compensation commissioner on June 21, 2019.

In the arbitration decision, the deputy commissioner found claimant carried his burden of proof to establish he sustained permanent disability as a result of the stipulated work injury which occurred on June 1, 2016. The deputy commissioner found claimant sustained 40 percent industrial disability as a result of the work injury, which entitles claimant to receive 200 weeks of permanent partial disability benefits commencing on June 2, 2016. The deputy commissioner found defendants are responsible for payment of all causally related past medical expenses and past medical mileage itemized in Exhibits 6 and 7. The deputy commissioner found defendants are responsible for payment of all causally related future medical expenses for the work injury. The deputy commissioner found claimant is not entitled to alternate medical care. The deputy commissioner found claimant is not entitled to receive penalty benefits from defendants. The deputy commissioner ordered defendants to pay claimant's costs of the arbitration proceeding in the amount of \$620.20.

On appeal, defendants assert the deputy commissioner erred in finding claimant proved he sustained permanent disability as a result of the work injury. In the alternative, defendants assert if it is found on appeal that claimant's condition is work-

related, it should be found the award of 40 percent industrial disability is excessive and the award should either be reversed entirely or reduced substantially. Defendants assert the deputy commissioner erred in finding claimant is entitled to payment by defendants for future medical care for claimant's condition.

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.

I performed a de novo review of the evidentiary record and the detailed arguments of the parties. 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 September 18, 2019, 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.

I affirm the deputy commissioner's finding that claimant carried his burden of proof to establish he sustained permanent disability as a result of the work injury. I affirm the deputy commissioner's finding that claimant sustained 40 percent industrial disability as a result of the work injury. I affirm the deputy commissioner's finding that defendants are responsible for payment of all causally-related past medical expenses and past medical mileage itemized in Exhibits 6 and 7. I affirm the deputy commissioner's finding that defendants are responsible for all causally-related future medical care for claimant's condition. I affirm the deputy commissioner's finding that claimant is not entitled to alternate medical care. I affirm the deputy commissioner's finding that claimant is not entitled to receive penalty benefits. I affirm the deputy commissioner's order that defendants pay claimant's costs of the arbitration proceeding in the amount of \$620.20.

I affirm the deputy commissioner's findings, conclusions and analysis regarding those issues.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on September 18, 2019, is affirmed in its entirety.

Defendants shall pay claimant two hundred (200) weeks of permanent partial disability benefits at the stipulated weekly rate of eight hundred fourteen and 62/100 dollars (\$814.62), commencing on the stipulated commencement date of June 2, 2016.

Defendants shall pay accrued weekly benefits in a lump sum together with interest at the rate of ten percent for all weekly benefits payable and not paid when due which accrued before July 1, 2017, and all interest on past due weekly compensation benefits accruing on or after July 1, 2017, shall be payable 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 of the date of injury, plus two percent. See Gamble v. AG Leader Technology, File No. 5054686 (App. Apr. 24, 2018).

Defendants are responsible for all causally-related past medical expenses and past medical mileage itemized in Exhibits 6 and 7.

Defendants are responsible for all causally-related future medical care for claimant's work-related condition.

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration proceeding in the amount of six hundred twenty and 20/100 dollars (\$620.20), 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 9th day of June, 2020.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

Charles Showalter Via WCES

Kent Smith Via WCES