

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

CHERI BLAKE,	:	File No. 5059628
	:	
Claimant,	:	A P P E A L
	:	
vs.	:	D E C I S I O N
	:	
SECOND INJURY FUND OF IOWA,	:	
	:	Head Notes: 1402.40; 1702; 3200; 3202;
Defendant.	:	5-9998

Claimant Cheri Blake appeals from an arbitration decision filed on August 15, 2019. Defendant Second Injury Fund of Iowa (the Fund) responds to the appeal. The case was heard on November 14, 2018, and it was considered fully submitted in front of the deputy workers' compensation commissioner on December 21, 2018.

The deputy commissioner found claimant failed to carry her burden of proof to establish she sustained a first qualifying scheduled member injury to her right eye on January 1, 2000, for the purpose of receiving benefits from the Fund. The deputy commissioner found the alleged first qualifying injury was actually an injury to claimant's body as a whole with the result that claimant is not eligible to receive benefits from the Fund.

Claimant asserts on appeal that the deputy commissioner erred in finding claimant's alleged first qualifying injury is an injury to claimant's body as a whole. Claimant asserts it should be found on appeal that the alleged first qualifying injury is a scheduled member injury to claimant's right eye, and that injury, taken together with the alleged second qualifying scheduled member injury which occurred on September 12, 2016, entitle claimant to receive benefits from the Fund. Claimant asserts the deputy commissioner erred in failing to find claimant is entitled to receive industrial disability benefits from the Fund in the range of 15 percent to 25 percent industrial disability with appropriate credits for the first and second qualifying injuries.

The Fund 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 have 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.5 and 86.24, I affirm and adopt as the final agency decision those portions of the proposed arbitration decision filed on August 15, 2019, which relate to the issues properly raised on intra-agency appeal.

I find the deputy commissioner provided a well-reasoned analysis of all 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 finding that claimant failed to prove she sustained a first qualifying scheduled member injury to her right eye for the purpose of receiving benefits from the Fund. I affirm the deputy commissioner's finding that the alleged first qualifying injury was actually an injury to claimant's body as a whole with the result that claimant is not eligible to receive benefits from the Fund.

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

ORDER


IT IS THEREFORE ORDERED that the arbitration decision filed on August 15, 2019, is affirmed in its entirety.

Claimant shall take nothing from the Second Injury Fund of Iowa in these proceedings.

Pursuant to rule 876 IAC 4.33 the parties shall pay their own 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), the Fund shall file subsequent reports of injury as required by this agency.

Signed and filed on this 10th day of June, 2020.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

Andrew W. Bribriesco Via WCES

Amanda R. Rutherford Via WCES