

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

RANDY A. SANDS,	:	
	:	File No. 5050047
Claimant,	:	
	:	
vs.	:	A P P E A L
	:	
CITY OF SIOUX CITY,	:	D E C I S I O N
	:	
Employer,	:	
Self-Insured,	:	
Defendant.	:	Head Note Nos.: 3303.20; 5-9998

Defendant City of Sioux City, self-insured employer, appeals from a partial commutation decision filed on August 7, 2018. Claimant Randy Sands responds to the appeal. The case was heard on May 29, 2018, and it was considered fully submitted in front of the deputy workers' compensation commissioner on July 3, 2018.

In the partial commutation decision, the deputy commissioner found claimant carried his burden of proof that a partial commutation of his December 20, 2016, permanent total disability award for the work injuries sustained on October 4, 2013, is in claimant's best interest.

Defendant asserts on appeal that the deputy commissioner erred in finding claimant carried his burden of proof that the partial commutation is in claimant's best interest. Defendant also asserts the deputy commissioner erred in utilizing the life expectancy table contained in rule 876 IAC 6.3 as opposed to the 2001 C.S.O Mortality Tables contained in the Iowa Code. Defendant further asserts the deputy commissioner erred in failing to limit the term benefits of the partial commutation to claimant's work-life expectancy as opposed to his life expectancy. Lastly, defendant asserts the order for commutation violates Article III, Section 31 of the Iowa Constitution.

Claimant asserts on appeal that the partial commutation 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 partial commutation decision filed on August 7, 2018, which relate to the issues properly raised on intra-agency appeal.

I find the deputy commissioner provided a well-reasoned analysis of all issues raised in the partial commutation 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 that the partial commutation is in claimant's best interest. I affirm the deputy commissioner's finding that the appropriate life expectancy table to be utilized in partial commutation decisions is the life expectancy table contained in rule 876 IAC 6.3. I affirm the deputy commissioner's findings, conclusions and analysis regarding those issues. I provide the following additional analysis for my decision:

On appeal, defendant asserts the term of benefits commuted should be limited to claimant's work-life expectancy, as opposed to his actual life expectancy, to avoid unjust enrichment. While appellant treats this issue as one relating to the partial commutation order, the issue is more appropriately governed by the underlying arbitration decision fixing the extent and duration of claimant's disability benefits. Defendant did not appeal the underlying arbitration decision awarding claimant permanent total disability benefits. The payments which were ordered at that time were payable "during the period of the employee's disability," as provided in Iowa Code section 85.34(3)(a). The length of that period of disability is a determinative factor in computing the proper amount of the lump sum commutation award. See, e.g., Diamond v. Parsons Co., 129 N.W.2d 608 (Iowa 1964). The extent of claimant's entitlement to benefits under section 85.34(3), if he had not sought a partial commutation, establishes the period of the employee's disability for purposes of effecting a lump sum commutation.

It is well established that permanent total disability benefits are payable for life and are not limited to claimant's work-life expectancy. See Sidles Distributing Co. v. Heath, 366 N.W.2d 1, 3 (Iowa 1985). Further, the Iowa Supreme Court declined to adopt the concept of "work-life expectancy" by judicial decision in Sidles Distributing Co. v. Heath, 366 N.W.2d at 5. Therefore, I reject defendant's argument and affirm the deputy commissioner's order that defendants shall pay a lump sum of the commuted benefits for all of claimant's remaining lifetime benefits, except for the final week of his life expectancy, utilizing rule 876 IAC 6.3.

Lastly, defendant asserts the order for commutation violates Article III, Section 31 of the Iowa Constitution as the commutation, "would most probably result in [...] the expenditure of public funds for a private purpose." According to defendant, if the commutation is affirmed, there is a possibility that public funds would be used by claimant to ensure the financial security of his spouse. Defendant cites to no legal authority in support of its contention.

This agency lacks authority to make constitutional determinations. As such, I make no finding regarding whether an order for commutation, under the facts of this case, violates Article III, Section 31 of the Iowa Constitution. I do note, however, that the indirect benefit defendant seeks to prevent can occur regardless of whether claimant's permanent total disability benefits are paid weekly or in a lump sum. Defendant's fear is only realized to a greater extent if claimant were to pass away well before his projected life expectancy. As for the findings of this agency, I find nothing in Iowa Workers' Compensation Act, or agency precedent, to suggest municipalities are insulated against partial commutations. Under the Iowa Workers' Compensation Act, the definition of employer includes not only private employers but also the State of Iowa, counties, and cities. Iowa Code section 85.61(2)(a).

ORDER

IT IS THEREFORE ORDERED that the partial commutation decision filed on August 7, 2018, is affirmed in its entirety.

Claimant's petition for partial commutation is granted.

Defendant shall pay claimant a lump sum payment of future weekly benefits for all of claimant's remaining life expectancy, except for the last week, utilizing rule 876 IAC 6.3, discounted to the present value based on the number of weeks to be commuted and the interest rate for determining the discount as of the date of this decision.

Benefits shall be commuted using the weekly benefit rate of five hundred ninety-one and 18/100 dollars (\$591.18).

Defendant shall be entitled to a discount rate on the commuted benefits pursuant to Iowa Code section 85.47 and Iowa Code section 535.3.

The parties shall cooperate to calculate the applicable value of the commuted benefits.

If the parties cannot reach an agreement on the commuted value, they should file a request for appointment of a financial expert to calculate the value of the partial commutation with the expense of that financial expert to be assessed as a cost against whichever party(ies) presented inaccurate calculations of the commuted value.

Claimant shall remain entitled to causally related medical expenses pursuant to Iowa Code section 85.27.

Pursuant to rule 876 IAC 4.33, defendant shall pay the costs of the appeal, including the cost of the hearing transcript.

Pursuant to rule 876 IAC 3.1(2), defendant shall file subsequent reports of injury as required by this agency.

Signed and filed this 17th day of January, 2020.

Joseph S. Cortese II

JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

Dennis J. Mahr Via WCES

Connie E. Anstey Via WCES