

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

CATALINA AGUILAR,

Claimant,

vs.

FOUNTAIN WEST HEALTH CENTER,

Employer,

and

UNITED HEARTLAND,

Insurance Carrier,
Defendants.

File No.: 5047732

FILED

FEB 16 2018

APPEAL
DECISION

WORKERS' COMPENSATION

Defendants Fountain West Health Center ("Fountain West") and United Heartland Insurance Company ("United Heartland") appeal from an arbitration decision filed on March 18, 2016. Claimant Catalina Aguilar responds to the appeal.

On October 24, 2017, Iowa Workers' Compensation Commissioner Joseph S. Cortese II delegated the authority to the undersigned to issue the final agency decision on the intra-agency appeal currently pending before this agency. The decision in this matter shall be the final agency action.

An arbitration hearing was held on August 6, 2015, at the Division of Workers' Compensation, in Des Moines, Iowa. The parties filed post-hearing briefs. The matter was deemed fully submitted on September 25, 2015. The deputy workers' compensation commissioner issued the arbitration decision on March 18, 2016, awarding Aguilar 125 weeks of permanent partial disability benefits, after issuing a credit for an injury Aguilar sustained while working for Fountain West in 2007, at the stipulated rate of \$311.62 per week, commencing on February 11, 2014, awarding Aguilar medical expenses, and assessing costs, including the cost of an independent medical examination, to Fountain West and United Heartland.

On March 31, 2016, Fountain West and United Heartland filed a notice of appeal. On May 20, 2016, Fountain West and United Heartland filed an appeal brief, asserting the deputy commissioner erred in finding Aguilar sustained an injury arising out of and in the course of her employment with Fountain West on December 3, 2013, and alternatively, even if Aguilar has sustained a compensable injury, the deputy

commissioner erred in awarding Aguilar industrial disability benefits. Aguilar filed an appeal brief on July 8, 2016. Fountain West and United Heartland filed a reply brief on August 1, 2016.

Those portions of the proposed agency decision pertaining to issues not raised on appeal are adopted as 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 arbitration decision filed on March 18, 2016, which relate to the issues properly raised on intra-agency appeal. I find the deputy commissioner provided a well-reasoned analysis 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 Aguilar sustained an injury arising out of and in the course of her employment with Fountain West, and award of 125 weeks of permanent partial disability benefits, after issuing a credit for an injury Aguilar sustained while working for Fountain West in 2007, at the stipulated rate of \$311.62 per week, commencing on February 11, 2014.

ORDER

IT IS THEREFORE ORDERED, that the arbitration decision filed on March 18, 2016, is affirmed in its entirety.

Defendants shall pay the claimant one hundred twenty-five (125) weeks of permanent partial disability benefits at the rate of three hundred eleven and 62/100 dollars (\$311.62) per week commencing on February 11, 2014.

Defendants shall pay the claimant costs of one hundred thirteen and 38/100 dollars (\$113.38).

Defendants shall pay the medical expense of five hundred sixteen dollars and 00/100 dollars (\$516.00).

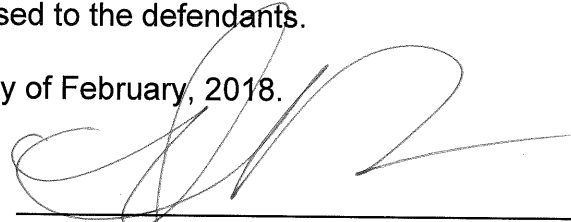
Defendants shall pay the claimant the two thousand four hundred five and 00/100 dollars (\$2,405.00) cost of the independent medical examination.

Defendants shall pay any past due amounts in a lump sum with interest as provided by law.

Defendants shall file subsequent reports of injury as required by this agency pursuant to rules 876 IAC 3.1 (2) and 876 IAC 11.7.

Costs of the appeal are assessed to the defendants.

Signed and filed this 16th day of February, 2018.



HEATHER L. PALMER
DEPUTY WORKERS' COMPENSATION
COMMISSIONER

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