

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

BRETT SULLIVAN,

Claimant,

vs.

WEST CENTRAL COOPERATIVE,

Employer,

and

FARMLAND MUTUAL INSURANCE CO.,

Insurance Carrier,  
Defendants.

**FILED**

JAN 10 2018

WORKERS' COMPENSATION

File No. 5050594

APPEAL DECISION

Joseph S. Cortese II, Iowa Workers' Compensation Commissioner, delegated authority to the undersigned to issue the final agency decision on the intra-agency appeal and cross appeal currently pending before this agency.

Pursuant to Iowa Code section 86.24 and 17A.15, I affirm and adopt as the final agency decision those portions of the proposed arbitration decision of December 21, 2015 filed in this matter that relate to issues properly raised on intra-agency appeal and cross appeal with the following additional analysis and modification:

On cross-appeal, defendants request clarification with respect to any entitlement to credit for permanent partial disability benefits paid. In the proposed arbitration decision, the presiding deputy commissioner issued the following order with respect to defendants' entitlement to credit for indemnity benefits paid:

Defendants shall take credit for all benefits previously paid, including any overpayments.

(Arbitration Decision p. 23)

By the hearing report, the parties stipulated claimant was entitled to healing period benefits for the periods of October 3, 2011 through November 19, 2011, January

19, 2012 through February 4, 2012, and August 10, 2012 through September 9, 2012.<sup>1</sup> On cross-appeal, defendants request an order specifically identifying that weekly indemnity benefits paid between these stipulated periods are properly considered permanent partial disability benefits. Claimant did not address this issue via his reply brief.

Evidence presented at hearing demonstrates defendants commenced payment of weekly indemnity benefits effective the day following claimant's stipulated work injury and further, that those weekly indemnity benefits continued as of the date of evidentiary hearing. The parties stipulated claimant was entitled to healing period benefits for the periods of October 3, 2011 through November 19, 2011, January 19, 2012 through February 4, 2012, and August 10, 2012 through September 9, 2012. It is therefore determined that any indemnity benefits paid outside these periods are properly considered permanent partial disability benefits. Defendants are, accordingly, entitled to credit for permanent partial disability benefits paid from November 20, 2011 through January 18, 2012, February 5, 2012 through August 9, 2012, and from September 10, 2012 onward.


It is concluded that the presiding deputy commissioner's findings are well-reasoned, supported by the greater weight of the evidence and are affirmed in all respects except for the assessment of credit which is affirmed, albeit with modification.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision of December 21, 2015 is AFFIRMED with the added analysis and modification in this appeal decision.

Claimant shall pay the costs of the appeal, including the preparation of the hearing transcript.

Signed and filed this 10th day of January, 2018.

  
ERICA J. FITCH  
DEPUTY WORKERS'  
COMPENSATION COMMISSIONER

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<sup>1</sup> The hearing report contains multiple handwritten notations made in blue ink. The undersigned recognizes the handwriting in question as that of the presiding deputy commissioner. It is not immediately clear when the notations were made and whether the parties possessed knowledge of the existence of the notations. Accordingly, the notation of "paid permanency intermittently" is not considered by the undersigned to reflect a stipulation entered into by the parties.

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