

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

PETER HJELLE,

Claimant,

vs.

ASSA ABLOY (CURRIES),

Employer,

and

TRAVELERS INDEMNITY CO. OF CT,

Insurance Carrier,

and

SECOND INJURY FUND OF IOWA,

Defendants.

File No. 5052266

A P P E A L
D E C I S I O N

FILED

SEP 26 2017

WORKERS' COMPENSATION

Head Note Nos: 1803; 2501; 3203

Defendants Assa Abloy (Curries) employer, and its insurer, Travelers Indemnity Co. of Ct., (hereinafter defendants) appeal from an arbitration decision filed on April 25, 2016. Defendant Second Injury Fund of Iowa (hereinafter the Fund) also appealed from the arbitration decision, but the Fund dismissed its appeal on June 23, 2016. Claimant Peter Hjelle responds to the appeal. The case was heard on March 24, 2016, and it was considered fully submitted in front of the deputy workers' compensation commissioner at the conclusion of the hearing.

The deputy commissioner found claimant carried his burden of proof that he sustained a permanent material aggravation of his pre-existing left knee condition as a result of an injury which arose out of and in the course of claimant's employment with defendant-employer on July 26, 2013. The deputy commissioner found claimant sustained functional scheduled member impairment of nine percent of the left lower extremity as a result of the July 26, 2013, work injury, which entitles claimant to receive 19.8 weeks of permanent partial disability (PPD) benefits from defendants commencing on November 6, 2013. The deputy commissioner determined that pursuant to Iowa Code section 85.64, claimant is entitled to receive 30 percent industrial disability from the Fund, with appropriate credits for the Fund, because claimant had a first qualifying right upper extremity injury on May 2, 2001, and because the July 26, 2013, work injury is a second qualifying injury, thus entitling claimant to receive benefits from the Fund. The deputy commissioner found the Fund is entitled to a total credit of 53.283 weeks of PPD benefits against the Fund's liability with the result that claimant is entitled to

receive 96.717 weeks of PPD benefits in new money from the Fund. The deputy commissioner found claimant is entitled to payment by defendants of all requested past medical expenses itemized in Exhibit 10, pages 38 through 40. The deputy commissioner also found claimant is entitled to payment by defendants for future medical treatment necessitated by the aggravation of claimant's pre-existing left knee condition caused by the work injury. The deputy commissioner also ordered defendants to pay the costs of the arbitration proceeding.

Defendants asserts on appeal that the deputy commissioner erred in finding claimant carried his burden of proof that he sustained a permanent material aggravation of his pre-existing left knee condition as a result of the July 26, 2013, work injury. Defendants assert the deputy commissioner erred in finding claimant sustained functional scheduled member impairment of nine percent of the left lower extremity as a result of the work injury. Defendants assert the deputy commissioner erred in finding claimant is entitled to payment by defendants of all requested past medical expenses itemized in Exhibit 10, pages 38 through 40. Defendants also assert the deputy commissioner erred in finding claimant is entitled to payment by defendants for future medical treatment necessitated by the aggravation of claimant's pre-existing left knee 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.

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 86.24 and 17A.15, I affirm and adopt as the final agency decision those portions of the proposed arbitration decision filed in this matter on April 5, 2016, which relate to issues properly raised on intra-agency appeal.

I find the deputy commissioner provided sufficient analysis of the issues raised in the arbitration proceeding. I affirm the deputy commissioner's finding that claimant carried his burden of proof that he sustained a permanent material aggravation of his pre-existing left knee condition as a result of the July 26, 2013, work injury. I affirm the deputy commissioner's finding that claimant sustained functional scheduled member impairment of nine percent of the left lower extremity as a result of the work injury, which entitles claimant to receive 19.8 weeks of PPD benefits from defendants. I affirm the deputy commissioner's finding that pursuant to Iowa Code section 85.64, claimant is entitled to receive 30 percent industrial disability from the Fund, with appropriate credits for the Fund, because claimant had a first qualifying right upper extremity injury on May 2, 2001, and because the July 26, 2013, work injury is a second qualifying injury, thus entitling claimant to receive benefits from the Fund. I affirm the deputy commissioner's

finding that the Fund is entitled to a total credit of 53.283 weeks of PPD benefits against the Fund's liability with the result that claimant is entitled to receive 96.717 weeks of PPD benefits in new money from the Fund. I affirm the deputy commissioner's finding that claimant is entitled to payment by defendants of all requested past medical expenses itemized in Exhibit 10, pages 38 through 40. I affirm the deputy commissioner's finding that claimant is entitled to payment by defendants for future medical treatment necessitated by the aggravation of claimant's pre-existing left knee condition caused by the work injury. I also affirm the deputy commissioner's order that defendants pay the costs of the arbitration proceeding. I affirm the deputy commissioner's findings, conclusions and analysis regarding those issues.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on April 25, 2016, is affirmed in its entirety.

Defendants shall pay claimant nineteen point eight (19.8) weeks of permanent partial disability benefits for the left lower extremity, less a credit for four point four (4.4) weeks of permanent partial disability benefits previously paid, for a total amount owed to claimant of fifteen point four (15.4) weeks of permanent partial disability benefits in new money, commencing November 6, 2013.

Defendants shall pay accrued weekly benefits in a lump sum together with interest pursuant to Iowa Code section 85.30.

The Second Injury Fund of Iowa shall pay claimant one hundred fifty (150) weeks of permanent partial disability benefits, less a total credit for fifty-three point two eight three (53.283) weeks of permanent partial disability benefits attributed to the first and second injuries, for a total amount owed to claimant of ninety-six point seven one seven (96.717) weeks of permanent partial disability benefits, commencing at the expiration of the benefits to be paid by defendants above. Accrued benefits shall be paid in a lump sum and interest on accrued benefits owed by the Second Injury Fund shall commence on the date of this decision.

All weekly benefits shall be paid at the stipulated weekly rate of six hundred thirty seven and 50/100 dollars (\$637.50).

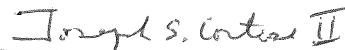
Defendants shall pay, reimburse, hold harmless or otherwise satisfy all medical expenses itemized in Exhibit 10, pages 38 through 40.

Defendants shall authorize and pay for all future medical treatment necessitated by the aggravation of claimant's pre-existing left knee condition. Defendants shall designate an authorized medical provider for treatment promptly and without undue inconvenience to claimant.

Pursuant to rule 876 IAC 4.33, defendants shall pay the costs of the arbitration proceeding, 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 26th day of September, 2017.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

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