

## BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

MARIA ALVAREZ,

Claimant,

vs.

DAYBREAK FOODS, INC.,

Employer,

and

ACCIDENT FUND NATIONAL  
INSURANCE CO.,Insurance Carrier,  
Defendants.

File No. 19700501.01

A P P E A L

D E C I S I O N

Head Notes: 1402.20; 1402.30; 1402.40;  
1803; 2501; 2502; 2907;  
5-9998

Claimant Maria Alvarez appeals from an arbitration decision filed on September 24, 2021. Defendants Daybreak Foods, Inc., employer, and its insurer, Accident Fund National Insurance Company, respond to the appeal. The case was heard on November 17, 2020, and it was considered fully submitted in front of the deputy workers' compensation commissioner on December 18, 2020.

In the arbitration decision, the deputy commissioner found Claimant sustained temporary injuries only to her left shoulder and her right hip as a result of the stipulated work injury which occurred on May 28, 2019. The deputy commissioner found claimant sustained no injuries to her neck and her back as a result of the work injury. The deputy commissioner found claimant sustained no permanent disability whatsoever as a result of the work injury, and the deputy commissioner found claimant is not entitled to receive any permanent disability benefits for the work injury. The deputy commissioner found defendants are responsible for the requested past medical expenses from William Jacobson, M.D., itemized in claimant's Exhibit 3. The deputy commissioner found that pursuant to Iowa Code section 85.39, claimant is entitled to reimbursement from defendants in the amount of \$3,540.50 for the independent medical evaluation (IME) of claimant performed by John D. Kuhnlein, D.O. The deputy commissioner ordered the parties to pay their own costs of the arbitration proceeding.

Claimant asserts on appeal that the deputy commissioner erred in finding claimant sustained no injuries to her neck and her back as a result of the work injury. Claimant asserts the deputy commissioner erred in finding claimant sustained no permanent disability to her neck, her back, her left shoulder and her right hip as a result of the work injury, and claimant asserts the deputy commissioner erred in finding claimant is not entitled to receive any permanent disability benefits for the work injury. Claimant asserts the deputy commissioner erred in failing to tax defendants with claimant's costs of the arbitration proceeding.

Defendants assert on appeal that the arbitration decision should be affirmed in its entirety.

Those portions of the proposed arbitration 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 September 24, 2021, which relate to the issues properly raised on intra-agency appeal.

I find the deputy commissioner provided a well-reasoned analysis of all 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 sustained temporary injuries only to her left shoulder and her right hip as a result of the work injury. I affirm the deputy commissioner's finding that claimant sustained no injuries to her neck and her back as a result of the work injury. I affirm the deputy commissioner's finding that claimant sustained no permanent disability whatsoever as a result of the work injury, and I affirm the deputy commissioner's finding that claimant is not entitled to receive any permanent disability benefits for the work injury. I affirm the deputy commissioner's finding that defendants are responsible for the requested past medical expenses from Dr. Jacobson. I affirm the deputy commissioner's finding that pursuant to Iowa Code section 85.39, claimant is entitled to reimbursement from defendants in the amount of \$3,540.50 for Dr. Kuhnlein's IME. I affirm the deputy commissioner's order that the parties pay their own costs of the arbitration proceeding.

I affirm the deputy commissioner's findings, conclusions and analysis regarding the above-stated issues.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on September 24, 2021, is affirmed in its entirety.

Claimant shall take nothing from these proceedings with respect to permanent partial disability benefits.

Pursuant to Iowa Code section 85.39, defendants shall reimburse claimant three thousand five hundred forty and 50/100 dollars (\$3,540.50) for the cost of Dr. Kuhnlein's IME.

Defendants are responsible for the requested past medical expenses from Dr. Jacobson itemized in claimant's Exhibit 3.

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), defendants shall file subsequent reports of injury as required by this agency.

Signed and filed on this 13<sup>th</sup> day of January, 2022.



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JOSEPH S. CORTESE II  
WORKERS' COMPENSATION  
COMMISSIONER

The parties have been served as follows:

Nick Platt (via WCES)

Laura Ostrander (via WCES)