

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

PENNY WILLIAMS,

Claimant,

vs.

COMMUNITY ACTION OF
SOUTHEAST IOWA,

Employer,

and

WEST BEND MUTUAL INS.,

Insurance Carrier,
Defendants.

File No. 19002053.01

A P P E A L

D E C I S I O N

: Head Notes: 1402.20; 1402.40; 1403.10;
: 1803; 1803.1; 2501; 2502;
: 2907; 5-9998

Defendants Community Action of Southeast Iowa, employer, and its insurer, West Bend Mutual Insurance Company, appeal from an arbitration decision filed on March 28, 2022. Claimant Penny Williams responds to the appeal. The case was heard on November 15, 2021, and it was considered fully submitted in front of the deputy workers' compensation commissioner on January 6, 2022.

In the arbitration decision, the deputy commissioner found claimant met her burden of proof to establish she sustained permanent impairment of her right hip as a result of the stipulated November 12, 2018, work injury. The deputy commissioner found claimant sustained 40 percent industrial disability because of the work injury, which entitles claimant to receive 200 weeks of permanent partial disability benefits commencing on the stipulated commencement date of January 6, 2020. The deputy commissioner found defendants are responsible for the medical expenses itemized in Exhibit 5. The deputy commissioner found that pursuant to Iowa Code section 85.39, claimant is entitled to reimbursement in the amount of \$3,637.00 for the cost of the independent medical evaluation (IME) of claimant performed by Sunil Bansal, M.D.

Defendants assert on appeal that the deputy commissioner erred in finding claimant sustained 40 percent industrial disability, and defendants assert claimant is entitled to recover only the functional loss cause by the work injury. Alternatively, defendants assert if it is found on appeal that claimant is entitled to recover industrial

disability benefits, the award for industrial disability should be reduced substantially. Defendants assert the deputy commissioner erred in finding defendants are responsible for the medical expenses itemized in Exhibit 5.

Claimant asserts 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 March 28, 2022, 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 proved she sustained permanent impairment of her right hip as a result of the work injury. I affirm the deputy commissioner's finding that claimant sustained 40 percent industrial disability because of the work injury. I affirm the deputy commissioner's finding that defendants are responsible for the medical expenses itemized in Exhibit 5. I affirm the deputy commissioner's finding that claimant is entitled to reimbursement from defendants for the cost of Dr. Bansal's IME.

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 March 28, 2022, is affirmed in its entirety.

Defendants shall pay claimant 200 weeks of permanent partial disability benefits at the stipulated weekly rate of four hundred ninety-five and 34/100 dollars (\$495.34), commencing on the stipulated commencement date of January 6, 2020.

Defendants shall receive credit for all benefits previously paid.

Defendants shall pay accrued weekly benefits in a lump sum together with interest at an annual rate equal to the one-year treasury constant maturity published by the federal reserve in the most recent H15 report settled as of the date of injury, plus two percent.

Defendants are responsible for the medical expenses itemized in Exhibit 5.

Pursuant to Iowa Code section 85.39, defendants shall reimburse claimant in the amount of three thousand six hundred thirty-seven and 00/100 dollars (\$3,637.00) for the cost of Dr. Bansal's IME.

Pursuant to rule 876 IAC 4.33, defendants shall pay the cost 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 10th day of August, 2022



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

Nicholas Pothitakis (via WCES)

Charles Blades (via WCES)