

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

MICHAEL PETERSON,

Claimant,

vs.

EMPLOYMENT PLUS,

Employer,

and

DALLAS NATIONAL INSURANCE  
COMPANY,

Insurance Carrier,  
Defendants.

**FILED**

SEP 15 2016

WORKERS' COMPENSATION

File No. 5041079

A P P E A L

D E C I S I O N

Head Note Nos.: 1108; 1108.20; 1400;  
1402; 1800; 1801; 1803; 2700

Claimant Michael Peterson appeals from an arbitration decision filed on April 17, 2015. Defendants Employment Plus, employer, and Dallas National Insurance Company, its insurer, respond to the appeal. The case was heard on March 13, 2014, and it was considered fully submitted in front of the deputy workers' compensation commissioner on May 14, 2014.

The deputy commissioner found claimant failed to carry his burden of proof that he sustained permanent physical disability as alleged resulting from a stipulated injury which arose out of and in the course of claimant's employment on March 11, 2012. The deputy commissioner also found claimant failed to carry his burden of proof that he sustained either a temporary or a permanent mental injury as a result of the March 11, 2012, work-related injury. The deputy commissioner awarded claimant nothing in the way of permanency benefits for the physical injury and the deputy commissioner awarded claimant nothing in the way of temporary benefits or permanency benefits for the alleged mental injury. The deputy commissioner found defendants are liable for claimant's medical expenses, including medical mileage, for claimant's physical injury incurred through November 20, 2012, the date of maximum medical improvement (MMI) for the work-related injury of March 11, 2012. The deputy commissioner ordered defendants to reimburse claimant for the expense of the independent medical evaluation (IME) performed by Farid Manshadi, M.D., on March 6, 2013. 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 failed to carry his burden of proof that he sustained permanent physical disability resulting from the March 11, 2012, work-related injury. Claimant asserts the deputy commissioner erred in finding claimant failed to carry his burden of proof that he sustained either a temporary or a permanent mental injury as a result of the March 11, 2012, work-related injury. Claimant asserts the deputy commissioner erred in failing to award claimant either permanent total disability benefits or, in the alternative, in failing to award claimant running healing period benefits for the March 11, 2012, work-related injury. Claimant also asserts he is entitled to reimbursement for the cost of the hearing transcript.

Defendants assert 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 17A.5 and 86.24, I affirm and adopt as the final agency decision those portions of the proposed arbitration decision filed on April 17, 2015, which relate to the 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 findings of fact and conclusions of law pertaining to those issues. I affirm the deputy commissioner's finding that claimant failed to carry his burden of proof that he sustained permanent physical disability resulting from the March 11, 2012, work-related injury. I affirm the deputy commissioner's finding that claimant failed to carry his burden of proof that he sustained either a temporary or a permanent mental injury as a result of the March 11, 2012, work-related injury. I affirm the deputy commissioner's finding that claimant is not entitled to permanency benefits for the physical injury that occurred on March 11, 2012. I affirm the deputy commissioner's finding that claimant is not entitled to either temporary or permanency benefits for the alleged mental injury. I affirm the deputy commissioner's finding that claimant is not entitled to either permanent total disability benefits or running healing period benefits for the work-related injury of March 11, 2012. 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 those issues.

Some of the findings by the deputy commissioner in the arbitration decision were based on the deputy's findings regarding claimant's credibility. While I performed a de novo review, I give considerable deference to findings of fact that are impacted by the

credibility findings expressly or impliedly made regarding claimant by the deputy commissioner who presided at the arbitration hearing.

Claimant also asserts on appeal that he is entitled to reimbursement for the cost of the hearing transcript. Pursuant to Iowa Code section 86.40, all costs are taxed in the discretion of the commissioner. Because the hearing transcript is necessary for the appeal in this matter, and because claimant has not prevailed on any issue raised on appeal, in my discretion I tax the cost of the hearing transcript to claimant.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision of April 17, 2015, is affirmed in its entirety.

Claimant shall take nothing additional from these proceedings in the form of weekly benefits.

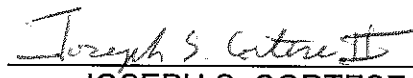
Defendants are liable for all causally connected medical expenses necessary to treat claimant's low back, left leg and buttocks, including medical mileage, incurred through November 20, 2012.

Pursuant to Iowa Code section 85.39, defendants are liable in the amount of three hundred and no/100 dollars (\$300.00) for the IME performed by Dr. Manshadi on March 6, 2013.

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.

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

Signed and filed this 15<sup>th</sup> day of September, 2016.

  
\_\_\_\_\_  
JOSEPH S. CORTESE II  
WORKERS' COMPENSATION  
COMMISSIONER

Copies To:

Benjamin R. Roth  
Attorney at Law  
PO Box 2634  
Waterloo, IA 50704  
[broth@fmalaw.net](mailto:broth@fmalaw.net)

Stephen W. Spencer  
Attorney at Law  
6800 Lake Drive, Suite 125  
West Des Moines, IA 50266  
[steve.spencer@peddicord-law.com](mailto:steve.spencer@peddicord-law.com)