

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

ZLATKO ODOBASIC,

Claimant,

vs.

AREA RESIDENTIAL CARE, INC.

Employer,

and

WEST BEND MUTUAL INS. CO.,

Insurance Carrier,
Defendants.

File No. 1645232.02

A P P E A L

D E C I S I O N

: Head Notes: 1402.20; 1402.40; 1403.10;
: 1803; 2204; 2206; 2501; 2502;
: 2701; 2907; 5-9998

Claimant Zlatko Odobasic appeals from an arbitration decision filed on May 20, 2022. Defendants Area Residential Care, Inc., employer, and its insurer, West Bend Mutual Ins. Co., respond to the appeal. The case was heard on March 9, 2022, and it was considered fully submitted in front of the deputy workers' compensation commissioner on April 8, 2022.

In the arbitration decision, the deputy commissioner found claimant carried his burden of proof to establish he sustained permanent disability of his cervical spine caused by the stipulated work injury which occurred on February 25, 2018. The deputy commissioner found claimant sustained permanent functional impairment of seven percent of his body as a whole as a result of the injury to his cervical spine, which entitles claimant to receive 35 weeks of permanent partial disability (PPD) benefits commencing on the stipulated commencement date of March 11, 2018.

The deputy commissioner found claimant failed to prove the work injury caused permanent disability based upon alleged cognitive issues. The deputy commissioner found claimant failed to prove the work injury caused permanent disability based upon migraines or facial pain. The deputy commissioner found claimant failed to prove the work injury caused permanent disability based upon emotional lability or depression issues. The deputy commissioner found claimant failed to prove the work injury caused permanent disability based upon vestibular dysfunction or dizziness. The deputy commissioner found claimant failed to prove the work injury caused permanent disability

based upon hearing loss or tinnitus. The deputy commissioner found claimant failed to prove he sustained any permanent disability as a result of the eye injuries caused by the work incident. The deputy commissioner found claimant failed to prove the work injury caused permanent disability based upon alleged arousal or sleep disorders. The deputy commissioner found claimant failed to prove the work injury caused permanent disability of his bilateral shoulders. The deputy commissioner found claimant failed to prove the work injury caused permanent disability of his left elbow. The deputy commissioner found claimant failed to prove the work injury caused permanent disability of his left wrist. The deputy commissioner found claimant failed to prove the work injury caused permanent disability of his left hip.

The deputy commissioner found claimant is not entitled to alternate medical care for the work injury.

The deputy commissioner found that pursuant to Iowa Code section 85.39, claimant is entitled to reimbursement from defendants in the amount of \$4,750.00 for the independent medical evaluation (IME) of claimant performed by David Segal, M.D.

The deputy commissioner ordered defendants to pay claimant's costs of the arbitration proceeding in the amount of \$100.00.

Claimant asserts on appeal that the deputy commissioner erred in failing to find claimant sustained permanent functional impairment of 51 percent of his body as a whole, which would entitle claimant to receive 255 weeks of PPD benefits, based on the impairment rating of Dr. Segal.

Claimant asserts the deputy commissioner erred in finding claimant failed to prove the work injury caused permanent disability based upon cognitive issues. Claimant asserts the deputy commissioner erred in finding claimant failed to prove the work injury caused permanent disability based upon migraines and facial pain. Claimant asserts the deputy commissioner erred in finding claimant failed to prove the work injury caused permanent disability based upon emotional lability and depression issues. Claimant asserts the deputy commissioner erred in finding claimant failed to prove the work injury caused permanent disability based upon vestibular dysfunction and dizziness. Claimant asserts the deputy commissioner erred in finding claimant failed to prove the work injury caused permanent disability based upon hearing loss and tinnitus. Claimant asserts the deputy commissioner erred in finding claimant failed to prove he sustained any permanent disability as a result of the eye injuries caused by the work incident. Claimant asserts the deputy commissioner erred in finding claimant failed to prove the work injury caused permanent disability based upon arousal and sleep disorders. Claimant asserts the deputy commissioner erred in finding claimant failed to prove the work injury caused permanent disability of his bilateral shoulders. Claimant asserts the deputy commissioner erred in finding claimant failed to prove the work injury caused permanent disability of his left elbow. Claimant asserts the deputy commissioner erred in finding claimant failed to prove the work injury caused permanent

disability of his left wrist. Claimant asserts the deputy commissioner erred in finding claimant failed to prove the work injury caused permanent disability of his left hip.

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 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 May 20, 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 he sustained permanent disability of his cervical spine caused by the work injury. I affirm the deputy commissioner's finding that claimant sustained permanent functional impairment of seven percent of his body as a whole as a result of the injury to his cervical spine.

I affirm the deputy commissioner's finding that claimant failed to prove the work injury caused permanent disability based upon alleged cognitive issues. I affirm the deputy commissioner's finding that claimant failed to prove the work injury caused permanent disability based upon migraines or facial pain. I affirm the deputy commissioner's finding that claimant failed to prove the work injury caused permanent disability based upon emotional lability or depression issues. I affirm the deputy commissioner's finding that claimant failed to prove the work injury caused permanent disability based upon vestibular dysfunction or dizziness. I affirm the deputy commissioner's finding that claimant failed to prove the work injury caused permanent disability based upon hearing loss or tinnitus. I affirm the deputy commissioner's finding that claimant failed to prove he sustained any permanent disability as a result of the eye injuries caused by the work incident. I affirm the deputy commissioner's finding that claimant failed to prove the work injury caused permanent disability based upon alleged arousal or sleep disorders. I affirm the deputy commissioner's finding that claimant failed to prove the work injury caused permanent disability of his bilateral shoulders. I affirm the deputy commissioner's finding that claimant failed to prove the work injury caused permanent disability of his left elbow. I affirm the deputy commissioner's finding that claimant failed to prove the work injury caused permanent disability of his left wrist. I affirm the deputy commissioner's finding that claimant failed to prove the work injury caused permanent disability of his left hip.

I affirm the deputy commissioner's finding that claimant is not entitled to alternate medical care for the work injury.

I affirm the deputy commissioner's finding that pursuant to Iowa Code section 85.39, claimant is entitled to reimbursement from defendants for the cost of Dr. Segal's IME.

I affirm the deputy commissioner's order that defendants pay claimant's costs of the arbitration proceeding in the amount of \$100.00.

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 May 20, 2022, is affirmed in its entirety.

Defendants shall pay claimant thirty-five (35) weeks of permanent partial disability benefits at the weekly rate of four hundred seventy-one and 35/100 dollars (\$471.35) commencing on the stipulated commencement date of March 11, 2018.

Defendants shall receive credit as stipulated.

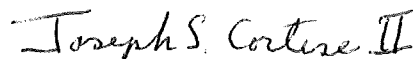
Defendants shall pay accrued weekly benefits in a lump sum together with interest on past due weekly compensation benefits at an annual rate equal to the one-year treasury constant maturity published by the federal reserve in the most recent H15 report settled as of the date of injury, plus two percent. See Gamble v. AG Leader Technology, File No. 5054686 (App. Apr. 24, 2018).

Defendants shall reimburse claimant in the amount of four thousand seven hundred fifty and 00/100 dollars (\$4,750.00) for the cost of Dr. Segal's IME.

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration proceeding in the amount of one hundred and 00/100 dollars (\$100.00), 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 9th day of September, 2022.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

Mark Sullivan (via WCES)

Edward Rose (via WCES)