

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

DELVETA SMAJLOVIC,

Claimant,

vs.

CATHOLIC HEALTH INITIATIVES d/b/a  
MERCY MEDICAL CENTER,

Employer,

and

INDEMNITY INSURANCE COMPANY  
OF NORTH AMERICA,

Insurance Carrier,  
Defendants.

File Nos. 5043476, 5043477, 5043478

A P P E A L

D E C I S I O N

**FILED**

**JAN 8 2016**

**WORKERS' COMPENSATION**

Head Note Nos.: 1108.50, 1402.20

Claimant Delveta Smajlovic appeals from an arbitration decision filed on October 28, 2014. The case was heard on August 1, 2014, and it was considered fully submitted on September 17, 2014, in front of the deputy workers' compensation commissioner.

Claimant alleged three different injury dates: May 5, 2011, August 1, 2012, and October 25, 2012. The deputy commissioner found that claimant sustained minor injuries arising out of and in the course of her employment with Catholic Health Initiatives d/b/a Mercy Medical Center on May 5, 2011, and on August 1, 2012. However, the deputy commissioner found that claimant is not entitled to temporary or permanent disability benefits for the injuries of May 5, 2011, and August 1, 2012. The deputy commissioner found that claimant failed to carry her burden of proof that she sustained an injury arising out of and in the course of her employment on or about October 25, 2012. The deputy commissioner awarded claimant nothing in this matter. The deputy commissioner also determined claimant failed to carry her burden of proof to show entitlement to reimbursement of medical expenses or ongoing medical care for all three alleged injuries.

Claimant asserts on appeal that the deputy commissioner erred in finding claimant is not entitled to temporary or permanent disability benefits for the injuries of May 5, 2011, and August 1, 2012. Claimant also asserts that the deputy commissioner erred in finding that claimant failed to carry her burden of proof that she sustained an injury arising out of and in the course of her employment on or about October 25, 2012.

Claimant also asserts that the deputy commissioner erred in finding claimant failed to carry her burden of proof to show entitlement to reimbursement of medical expenses or ongoing medical care for all three alleged injuries.

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.5, I affirm and adopt as the final agency decision those portions of the proposed arbitration decision filed on October 28, 2014, which relate to issues properly raised on intra-agency appeal with the following analysis:

The deputy commissioner provided sufficient analysis of all issues raised in the arbitration proceeding. I concur with the deputy commissioner's findings of fact and conclusions of law pertaining to all of these issues. I concur with the deputy commissioner's findings that claimant is not entitled to temporary or permanent disability benefits for the injuries of May 5, 2011, and August 1, 2012. I also concur with the deputy commissioner's finding that claimant failed to carry her burden of proof that she sustained an injury arising out of and in the course of her employment on or about October 25, 2012. I also concur with the deputy commissioner's finding that claimant failed to carry her burden of proof to show entitlement to reimbursement of medical expenses or ongoing medical care for all three alleged injuries. Therefore, I adopt the deputy commissioner's findings, conclusions and analyses regarding all of these issues.

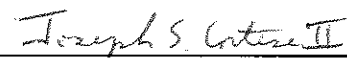
Some of the findings by the presiding deputy were based on the deputy's conclusion that claimant was lacking in credibility. While I performed a de novo review, I give considerable deference to findings of fact that are impacted by the credibility findings, expressly or impliedly, made by the deputy who presided at the hearing.

#### ORDER

IT IS THEREFORE ORDERED that the arbitration decision of October 28, 2014, is AFFIRMED in its entirety.

Claimant shall pay the costs of the appeal, including the preparation of the hearing transcript.

Signed and filed this 8<sup>th</sup> day of January, 2016.

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

Copies to:

James Neal  
Attorney at Law  
6611 University Ave., Ste. 200  
Des Moines, IA 50324-1655  
[jneal@smalaw.net](mailto:jneal@smalaw.net)

Kent M. Smith  
Attorney at Law  
1225 Jordan Creek Pkwy., Ste. 108  
West Des Moines, IA 50266  
[ksmith@scheldruplaw.com](mailto:ksmith@scheldruplaw.com)