

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

STEPHANIE L. YOUNG f/k/a
STEPHANIE L. MOORE,

Claimant,

vs.

BRIDGESTONE/FIRESTONE,

Employer,

and

OLD REPUBLIC INSURANCE
COMPANY,

Insurance Carrier,

and

SECOND INJURY FUND OF IOWA,

Defendants.

: Head Note Nos: 1803; 3200; 4000.2; 5-9998

FILED

DEC 29 2017

File Nos. 5035165, 5052462,
5052463, 5060059
WORKERS' COMPENSATION

A P P E A L

D E C I S I O N

Defendants Bridgestone/Firestone, employer, and its insurer, Old Republic Insurance Company, appeal from a combined arbitration/review-reopening decision filed on May 20, 2016. Claimant Stephanie L. Young, f/k/a Stephanie L. Moore, cross-appeals. Defendant Second Injury Fund of Iowa responds to the appeal. The case was heard on March 30, 2016, and it was considered fully submitted in front of the deputy workers' compensation commissioner on April 22, 2016.

In File No. 5035165, the deputy commissioner found claimant is entitled to review-reopening because claimant carried her burden of proof that she sustained a physical change of condition of her left upper extremity following an agreement for settlement for an injury which occurred on July 26, 2010, which arose out of and in the course of claimant's employment with defendant-employer. Pursuant to the agreement for settlement, claimant received 15 percent scheduled member functional disability, which entitled claimant to 37.5 weeks of permanent partial disability (PPD) benefits. Based on the finding of a change of physical condition in the review-reopening decision, the deputy commissioner awarded claimant an additional 30 percent scheduled member functional disability, which entitles claimant to an additional 87.5 weeks of PPD benefits, from September 18, 2014. The deputy commissioner found claimant is entitled to additional healing period benefits from August 25, 2014, through September 17, 2014. The deputy commissioner found claimant is entitled to receive penalty benefits in the

amount of \$22,603.79 for defendants' unreasonable delay/denial of weekly benefits. The deputy commissioner found claimant is entitled to receive payment by defendants in the amount of \$550.00 for requested past medical expenses from Jerrold Flatt, D.O. The deputy commissioner ordered defendants to pay claimant's costs of the arbitration proceeding in the amount of \$173.24.

In File Nos. 5052462, 5060059 and 5052463, the deputy commissioner found claimant failed to prove she sustained any additional work-related injuries which would entitle claimant to receive additional weekly benefits from defendants employer and insurer. The deputy commissioner also found claimant failed to prove she sustained any qualifying first or second injuries which would entitle claimant to receive benefits from the Second Injury Fund of Iowa.

On appeal in File No. 5035165, defendants employer and insurer assert the deputy commissioner erred in finding claimant is entitled to review-reopening. Defendants employer and insurer assert the deputy commissioner erred in awarding additional healing period benefits and in awarding additional PPD benefits. Defendants employer and insurer also assert the deputy commissioner erred in awarding penalty benefits.

On cross-appeal in File Nos. 5052462, 5060059 and 5052463, claimant asserts the deputy commissioner erred in finding claimant failed to prove she sustained any additional work-related injuries which would entitle claimant to receive additional weekly benefits from defendants employer and insurer. Claimant also asserts the deputy commissioner erred in failing to find claimant sustained any qualifying first or second injuries which would entitle claimant to receive benefits from the Second Injury Fund of Iowa.

The Second Injury Fund of Iowa asserts on appeal that the combined arbitration/review-reopening 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 combined arbitration/review-reopening decision filed on May 20, 2016, 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/review-reopening proceeding. I affirm the deputy commissioner's findings of fact and conclusions of law pertaining to those issues.

In File No. 5035165, I affirm the deputy commissioner's finding that claimant is entitled to review-reopening because I affirm the deputy commissioner's finding that claimant carried her burden of proof that she sustained a physical change of condition of her left upper extremity following the agreement for settlement for the July 20, 2010, injury. I affirm the deputy commissioner's award of an additional 30 percent scheduled member functional disability, which entitles claimant to an additional 87.5 weeks of PPD benefits, from September 18, 2014. I affirm the deputy commissioner's finding that claimant is entitled to additional healing period benefits from August 25, 2014, through September 17, 2014. I affirm the deputy commissioner's finding that claimant is entitled to receive penalty benefits in the amount of \$22,603.79 for defendants' unreasonable delay/denial of weekly benefits. I affirm the deputy commissioner's finding that claimant is entitled to receive payment by defendants in the amount of \$550.00 for requested past medical expenses from Dr. Flatt. I affirm the deputy commissioner's order that defendants pay claimant's costs of the arbitration proceeding in the amount of \$173.24.

In File Nos. 5052462, 5060059 and 5052463, I affirm the deputy commissioner's finding that claimant failed to prove she sustained any additional work-related injuries which would entitle claimant to receive additional weekly benefits from defendants employer and insurer. I also affirm the deputy commissioner's finding that claimant failed to prove she sustained any qualifying first or second injuries which would entitle claimant to receive benefits from the Second Injury Fund of Iowa.

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

ORDER

IT IS THEREFORE ORDERED that the combined arbitration/review-reopening decision filed on May 20, 2016, is affirmed in its entirety.

Regarding File No. 5035165, injury date of July 26, 2010:

Defendants Bridgestone/Firestone and Old Republic Insurance Co., shall pay claimant eighty-seven point five (87.5) additional weeks of permanent partial disability benefits at the stipulated rate of four hundred ninety-seven and 18/100 dollars (\$497.18) per week from September 18, 2014.

Defendants Bridgestone/Firestone and Old Republic Insurance Company shall pay claimant healing period benefits from August 25, 2014, through September 17, 2014, at the stipulated rate of four hundred ninety-seven and 18/100 dollars (\$497.18) per week.

Defendants Bridgestone/Firestone and Old Republic Insurance Company shall pay claimant a penalty of twenty-two thousand six hundred three and 79/100 dollars (\$22,603.79) for their unreasonable delay/denial of weekly benefits.

Defendants Bridgestone/Firestone and Old Republic Insurance Company shall pay accrued weekly benefits in a lump sum together with interest pursuant to Iowa Code section 85.30.

Defendants Bridgestone/Firestone and Old Republic Insurance Company shall be given credit for benefits previously paid.

Defendants Bridgestone/Firestone and Old Republic Insurance Company shall pay Dr. Flatt's medical expenses in the amount of five hundred fifty and 00/100 dollars (\$550.00). Defendants shall reimburse claimant for any portion she has personally paid of these expenses and hold claimant harmless from the remainder.


Pursuant to rule 876 IAC 4.33, defendants Bridgestone/Firestone and Old Republic Insurance Company shall pay claimant's costs of the arbitration proceeding in the amount of \$173.24, and defendants Bridgestone/Firestone and Old Republic Insurance Company and claimant shall split the costs of the appeal, including the cost of the hearing transcript.

Pursuant to rule 876 IAC 3.1(2), defendants Bridgestone/Firestone and Old Republic Insurance Company shall file subsequent reports of injury as required by this agency.

Regarding File Nos. 5052462, 5060059, 5052463, alleged injury dates of May 31, 2013, August 29, 2013, and August 25, 2014:

Claimant shall take nothing from defendants Bridgestone/Firestone and Old Republic Insurance Company or from defendant Second Injury Fund of Iowa.

Signed and filed this 29th day of December, 2017.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

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