

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

CHRISTINE MAST (f/k/a MEYER),

Claimant,

vs.

AMERICAN BAPTIST HOMES OF THE
MIDWEST d/b/a CREST SERVICES,

Employer,

and

UNITED HEARTLAND,

Insurance Carrier,
Defendants.

File No. 5056664

A P P E A L

D E C I S I O N

Head Note Nos.: 1100; 1402.30; 1801
1803; 2500, 4000

FILED
JUN 19 2019
WORKERS' COMPENSATION

Defendants American Baptist Homes of the Midwest d/b/a Crest Services, employer, and United Heartland, insurer, appeal from an arbitration decision filed on January 18, 2018.

On June 10, 2019, the Iowa Workers' Compensation Commissioner delegated authority to the undersigned to enter a final agency decision in this matter. Therefore, this appeal decision is entered as final agency action pursuant to Iowa Code section 17A.15(3) and Iowa Code section 86.24.

In the arbitration decision, the presiding deputy commissioner determined claimant's pre-existing cervical condition was aggravated or lighted up by a work incident on January 7, 2016. As a result, the deputy commissioner found claimant sustained an injury that arose out of and in the course of her employment on that date. Based on the deputy commissioner's finding that claimant sustained a work-related injury, the deputy commissioner awarded claimant related medical treatment and temporary benefits for the period of time claimant was off work following surgery. The deputy commissioner also found claimant sustained a 30 percent industrial disability. Lastly, the deputy commissioner found claimant was entitled to penalty benefits because defendants' denial of temporary benefits was not based on the results of a reasonable investigation.

On appeal, defendants assert the deputy erred in finding claimant sustained a work-related injury on January 7, 2016 that caused permanent disability or the need for medical treatment. In the alternative, defendants argue the deputy erred in his assessment of claimant's industrial disability and in awarding penalty benefits.

I performed a de novo review of the evidentiary record before the presiding deputy workers' compensation commissioner and the detailed arguments of the parties. Pursuant to Iowa Code section 86.24 and 17A.15, those portions of the proposed arbitration decision filed on January 18, 2018 that relate to issues properly raised on intra-agency appeal and cross-appeal are affirmed in their entirety with additional analysis regarding penalty benefits:

The period during which claimant was entitled to but not paid temporary benefits was from her surgery on November 18, 2016 through her return to light duty work on January 9, 2017. (Hearing Report, p. 1) As of November 18, 2016, the only causation opinion in the record was from David Hatfield, M.D., the authorized treating physician, who opined on August 15, 2016 that claimant's symptoms were caused by the January 7, 2015 work incident "absent the same or similar symptoms prior to the" work incident. (Joint Exhibit 11, p. 106)

While defendants asserted medical causation was "under investigation" shortly after receipt of Dr. Hatfield's August 15, 2016 causation opinion, it was not until June 7, 2017, when defendants obtained the causation of William Boulden, M.D., that defendants had an opinion on which to support their denial. (See Defendants' Ex. H, pp. 1-2; Def. Ex. I) I agree with the deputy commissioner that the form and substance of any ongoing investigation in the interim between receipt Dr. Hatfield's opinion and Dr. Boulden's opinion is not clear.

Defendants in their brief argue Dr. Hatfield's causation opinion was not sufficient because "his response was a qualified one" and that claimant's surgery on November 17, 2016 made it "impossible to pursue independent evaluation." (Def. Appeal Brief, pp. 21-22) I do not find these arguments persuasive, however, because nothing prevented defendants from requesting a causation opinion based on a records review or seeking clarification from Dr. Hatfield. Instead, defendants waited until the spring of 2017 to seek a different causation opinion, and whether defendants pursued any ongoing investigation in the meantime is unknown. Thus, I agree with the deputy commissioner that defendants failed to establish that the result of a reasonable investigation was defendants' actual basis for their denial of temporary benefits.

With this additional analysis, the deputy commissioner's determination that defendants are responsible for a penalty in the amount of \$2,000.00 for their failure to pay temporary benefits is affirmed.

The deputy commissioner's remaining findings, conclusions, and rationale are affirmed without additional comment.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on January 18, 2018 is affirmed in its entirety with the above-stated additional analysis.

Defendants shall pay claimant healing period benefits from November 18, 2016 through January 9, 2017.

Defendants shall pay claimant one hundred fifty (150) weeks of permanent partial disability benefits beginning on the stipulated commencement date of January 10, 2017.

That all weekly benefits shall be paid at the stipulated rate of five hundred thirty nine and 08/100 dollars (\$539.08) per week.

Defendants shall pay accrued weekly benefits in a lump sum together with interest at the rate of ten (10) percent for all weekly benefits payable and not paid when due which accrued before July 1, 2017, and all interest on past due weekly compensation benefits accruing on or after July 1, 2017, shall be payable 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 (2) percent. See Gamble v. AG Leader Technology, File No. 5054686 (App. Apr. 24, 2018).

That defendants shall be entitled to credit for all weekly benefits paid to date, if any.

That defendants shall reimburse claimant for his out-of-pocket medical expenses set forth in Exhibit 13 and shall pay, reimburse, and or otherwise satisfy all remaining medical expenses contained therein.

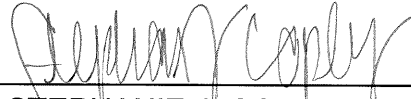
That defendants shall pay claimant penalty benefits of two thousand and 00/100 dollars (\$2,000.00) for the unreasonable denial of temporary benefits of four thousand four and 83/100 dollars (\$4,004.83).

That defendants shall pay costs of two thousand one hundred sixty three and 93/100 dollars (\$2,163.93) as set forth above.

That defendants shall file subsequent reports of injury (SROI) as required by this agency pursuant to rules 876 IAC 3.1(2) and 876 IAC 11.7.

Defendants shall bear the cost of this appeal, including the preparation of the hearing transcript.

Signed and filed this 19th day of June, 2019.



STEPHANIE J. COPLEY
DEPUTY WORKERS' COMPENSATION
COMMISSIONER

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