

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

JILL BENNETT,

Claimant,

vs.

PROGRESSIVE PROCESSING, INC.,

Employer,
Self-Insured,
Defendant.

File No. 5055697

A P P E A L

D E C I S I O N

Head Notes: 1402.40; 1801, 1803; 1803.1;
2501; 4000.2; 5-9998

Claimant Jill Bennett appeals from an arbitration decision filed on May 17, 2018. Defendant Progressive Processing, Inc., self-insured employer, responds to the appeal. The case was heard on December 15, 2017, and it was considered fully submitted in front of the deputy workers' compensation commissioner on February 12, 2018.

The deputy commissioner found claimant sustained a temporary exacerbation of her pre-existing mental condition as a result of the stipulated March 4, 2015, work-related injury. With respect to her physical injury, the deputy commissioner found claimant's injury was limited to the left lower extremity and did not extend into claimant's body as a whole. The deputy commissioner accepted the impairment rating of David Field, M.D., which was four to six percent of the lower extremity. Relying on this range, the deputy commissioner found claimant sustained five percent scheduled member functional permanent impairment of her left lower extremity, which entitles claimant to receive eleven weeks of permanent partial disability (PPD) benefits. The deputy commissioner found claimant is entitled to receive penalty benefits in the amount of \$1,490.00 for an unreasonable delay by defendant in the payment of PPD benefits. The deputy commissioner found claimant failed to carry her burden to prove she is entitled to receive additional healing period benefits. The deputy commissioner found defendant is obligated to pay for the requested past medical expenses and medical mileage sought by claimant and the deputy commissioner ordered defendant to authorize treatment of claimant with Dr. Maiers at Mercy Pain Clinic. The deputy commissioner ordered defendant to pay claimant's costs of the arbitration proceeding in the amount of \$172.50.

Claimant asserts on appeal that the deputy commissioner erred in failing to award running healing period benefits from November 6, 2015, forward. Claimant alternatively asserts that any permanent disability should be industrial in nature and not limited to a scheduled member and claimant asserts the award of PPD benefits should be increased substantially.

Defendant asserts 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.

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 17, 2018, which relate to the issues properly raised on intra-agency appeal.

I find the deputy commissioner provided a well-reasoned analysis of all 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 the March 4, 2015, work injury caused only a temporary exacerbation of claimant's pre-existing mental condition. I affirm the deputy commissioner's finding that claimant's permanent disability resulting from the work injury is confined to claimant's left lower extremity and does not extend into claimant's body as a whole. I affirm the deputy commissioner's finding that claimant sustained five percent scheduled member functional permanent impairment of the left lower extremity as a result of the work injury, which entitles claimant to receive eleven weeks of permanent partial disability benefits. I affirm the deputy commissioner's finding that claimant is entitled to receive penalty benefits for an unreasonable delay by defendant in the payment of PPD benefits. I affirm the deputy commissioner's finding that claimant failed to carry her burden to prove she is entitled to receive any additional healing period benefits. I affirm the deputy commissioner's finding that defendant is obligated to pay for the requested past medical expenses and medical mileage sought by claimant and I affirm the deputy commissioner's order that defendants authorize treatment of claimant with Dr. Maiers. I affirm the deputy commissioner's order that defendant pay claimant's costs of the arbitration proceeding.

I affirm the deputy commissioner's findings, conclusions and analysis regarding those issues.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on May 17, 2018, is affirmed in its entirety.

Defendant shall pay claimant eleven (11) weeks of permanent partial disability benefits at the stipulated weekly rate of four hundred fifty-one and 84/100 dollars (\$451.84), commencing on the stipulated commencement date of March 5, 2015.

Defendant shall receive a credit for all benefits paid to date.

Defendant 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 (1) 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).

Defendant shall pay penalty benefits to claimant in the amount of one thousand four hundred ninety and 00/100 dollars (\$1,490.00), which is approximately thirty (30) percent of the amount of weekly benefits unreasonably delayed.

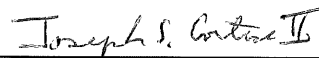
Defendant shall reimburse claimant for his out-of-pocket medical expenses set forth in the attachment to the hearing report, including mileage, and defendant shall pay, reimburse, and/or otherwise satisfy all remaining medical expenses contained therein.

Defendant shall promptly authorize and pay for medical care for claimant by Dr. Maiers at the Mercy Pain Clinic.

Pursuant to rule 876 IAC 4.33, defendant shall pay the costs of the arbitration proceeding in the amount of one hundred seventy-two and 50/100 dollars (\$172.50), and claimant shall pay the costs of the appeal, including the cost of the hearing transcript.

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

Signed and filed on this 19th day of November, 2019.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

Mark J. Sullivan (Via WCES)

Edward J. Rose (Via WCES)