

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

DEANNE HINZ,	:	
	:	
Claimant,	:	File No. 5052769
	:	
vs.	:	
	:	A P P E A L
UNITYPOINT HEALTH – ST. LUKE'S HOSPITAL,	:	
	:	D E C I S I O N
	:	
Employer, Self-Insured, Defendant.	:	Head Note Nos: 1402.40; 2902; 2905; 2907; 4000; 5-9998

Claimant DeAnne Hinz appeals from a review-reopening decision filed on June 27, 2018. Defendant UnityPoint Health – St. Luke’s Hospital, self-insured employer, responds to the appeal. The case was heard on May 24, 2018, and it was considered fully submitted in front of the deputy workers’ compensation commissioner on June 13, 2018.

The deputy commissioner found claimant is not entitled to review-reopening in this matter because the deputy commissioner found claimant failed to carry her burden of proof that she sustained either a physical change of condition or an economic change of condition following an agreement for settlement approved by this agency in this matter on March 23, 2017, for an injury which occurred on January 6, 2015, which arose out of and in the course of claimant’s employment with defendant.

In the agreement for settlement, the parties agreed claimant sustained 24 percent industrial disability as a result of the January 6, 2015, work injury, which entitled claimant to receive 120 weeks of permanent partial disability benefits, commencing August 5, 2016. Based on the finding in the review-reopening decision of no change in either claimant’s physical condition, or in claimant’s economic condition, the deputy commissioner found claimant is not entitled to receive any additional industrial disability benefits. The deputy commissioner found claimant is not entitled to receive penalty benefits from defendants for an alleged unreasonable failure to pay weekly benefits. The deputy commissioner found claimant is not entitled to receive reimbursement from defendant in the amount of \$982.50 for the unpaid balance of the charge for the independent medical evaluation (IME) of claimant performed by Sunil Bansal, M.D., on April 23, 2018. The deputy commissioner ordered the parties to pay their own costs of the review-reopening proceeding.

Claimant asserts on appeal that the deputy commissioner erred in finding claimant is not entitled to review-reopening and in finding claimant failed to prove she sustained either a physical change of condition or an economic change of condition following the agreement for settlement. Claimant asserts the deputy commissioner erred in finding claimant is not entitled to receive additional industrial disability benefits beyond what was provided for in the agreement for settlement. Claimant asserts the deputy commissioner erred in finding claimant is not entitled to receive penalty benefits. Claimant asserts the deputy commissioner erred in finding claimant is not entitled to receive reimbursement from defendant for the unpaid balance of Dr. Bansal’s IME charge. Claimant asserts the deputy commissioner erred in failing to tax defendants with claimant’s costs of the review-reopening proceeding.

Defendant asserts on appeal that the 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.

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 review-reopening decision filed on June 27, 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 review-reopening 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 is not entitled to review-reopening and that claimant failed to prove she sustained either a physical change of condition or an economic change of condition following the agreement for settlement. I affirm the deputy commissioner’s finding that claimant is not entitled to receive additional industrial disability benefits beyond what was provided for in the agreement for settlement. I affirm the deputy commissioner’s finding that claimant is not entitled to receive penalty benefits. I affirm the deputy commissioner’s finding that claimant is not entitled to receive reimbursement from defendant for the unpaid balance of Dr. Bansal’s IME charge. I affirm the deputy commissioner’s order that the parties pay their own costs of the review-reopening proceeding.

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

ORDER

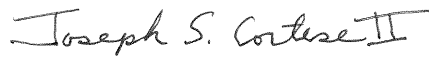
IT IS THEREFORE ORDERED that the review-reopening decision filed on June 27, 2018, is affirmed in its entirety.

Claimant shall take nothing from these proceedings.

Pursuant to rule 876 IAC 4.33, each party shall pay their own costs of the review-reopening proceeding, 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 5th day of November, 2019.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

Erin M. Tucker (Via WCES)

Robert E. Tucker (Via WCES)

Jennifer A. Clendenin (Via WCES)

Nicholas J. Pellegrin (Via WCES)