

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

GRACIELA DE MALDONADO,

Claimant,

vs.

WATERLOO COMMUNITY SCHOOL DISTRICT,

Employer,

and

UNITED WISCONSIN INSURANCE COMPANY

Insurance Carrier,
Defendants.

File No. 5059882

A P P E A L

D E C I S I O N

Head Notes: 1108.50; 1402.40; 1803;
1804; 2501; 2502; 2701;
2907; 4100; 5-9998

Defendants Waterloo Community School District, employer, and its insurer, United Wisconsin Insurance Company, appeal from an arbitration decision filed on December 27, 2019. Claimant Graciela de Maldonado cross-appeals. The case was heard on September 16, 2019, and it was considered fully submitted in front of the deputy workers' compensation commissioner on October 21, 2019.

The deputy commissioner found claimant carried her burden of proof to establish she is at maximum medical improvement (MMI) for the stipulated injury which arose out of and in the course of her employment with defendant-employer on June 14, 2017. The deputy commissioner found claimant reached MMI for the work injury on December 5, 2018. The deputy commissioner found claimant carried her burden of proof to establish that the permanent disability resulting from the work injury extends beyond her right lower extremity into her body as a whole. The deputy commissioner found claimant sustained 65 percent industrial disability as a result of the work injury, which entitles claimant to receive 325 weeks of permanent partial disability benefits commencing on December 5, 2018. The deputy commissioner found claimant failed to prove she is permanently and totally disabled as a result of the work injury under either the traditional industrial disability analysis or under the odd-lot analysis. The deputy commissioner found claimant is entitled to payment by defendants for the requested past medical expenses. The deputy commissioner found claimant is entitled to alternate medical care in the form of treatment as needed from Dr. Santhi Keeran for claimant's psychiatric condition. The deputy commissioner found defendants are

responsible for ongoing medical care as needed, to be selected by defendants, for claimant's bilateral knees, low back and left hip. The deputy commissioner found that pursuant to Iowa Code section 85.39 claimant is entitled to receive reimbursement from defendants in the amount of \$1,062.60 for the cost of the independent medical evaluation (IME) of claimant performed by Stanley Mathew, M.D., on November 30, 2018. The deputy commissioner ordered defendants to pay claimant's costs of the arbitration proceeding in the amount of \$481.52.

Defendants assert on appeal that the deputy commissioner erred in finding claimant's permanent disability resulting from the work injury extends beyond claimant's right lower extremity into her body as a whole. Defendants assert the deputy commissioner erred in finding claimant sustained 65 percent industrial disability as a result of the work injury. Defendants assert the deputy commissioner erred in finding claimant is entitled to payment by defendants for the requested past medical expenses. Defendants assert the deputy commissioner erred in finding claimant is entitled to alternate medical care in the form of ongoing treatment from Dr. Keeran for claimant's psychiatric condition. Defendants assert the deputy commissioner erred in finding defendants are responsible for ongoing medical care as needed for claimant's left knee, low back and left hip conditions.

Claimant asserts on cross-appeal that the deputy commissioner erred in finding claimant is at MMI for the work injury or, in the alternative, in failing to find claimant is permanently and totally disabled under either the traditional industrial disability analysis or under the odd-lot analysis.

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 December 27, 2019, 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 claimant proved she is at MMI for the work injury. I affirm the deputy commissioner's finding that claimant reached MMI for the work injury on December 5, 2018. I affirm the deputy commissioner's finding that claimant proved the permanent disability resulting from the work injury extends beyond her right lower extremity into her body as a whole. I affirm the deputy commissioner's finding that claimant sustained 65 percent industrial disability as a result of the work

injury. I affirm the deputy commissioner's finding that claimant failed to prove she is permanently and totally disabled as a result of the work injury under either the traditional industrial disability analysis or under the odd-lot analysis. I affirm the deputy commissioner's finding that claimant is entitled to payment by defendants for the requested past medical expenses. I affirm the deputy commissioner's finding that claimant is entitled to alternate medical care in the form of treatment as needed from Dr. Keeran for claimant's psychiatric condition. I affirm the deputy commissioner's finding that defendants are responsible for ongoing medical care as needed, to be selected by defendants, for claimant's bilateral knees, low back and left hip conditions. I affirm the deputy commissioner's finding that pursuant to Iowa Code section 85.39, claimant is entitled to receive reimbursement from defendants for the cost of Dr. Mathew's IME. I affirm the deputy commissioner's order that defendants pay claimant's costs of the arbitration proceeding in the amount of \$481.52.

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

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on December 27, 2019, is affirmed in its entirety.

Defendants shall pay three hundred twenty-five (325) weeks of permanent partial disability benefits at the stipulated weekly rate of five hundred seventy-eight and 46/100 dollars (\$578.46), commencing on the stipulated commencement date of December 5, 2018.

Defendants shall receive credit for all benefits paid to date.

Defendants shall pay accrued weekly benefits in a lump sum together with interest at the rate of ten 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 percent. See Gamble v. AG Leader Technology, File No. 5054686 (App. Apr. 24, 2018).

Defendants shall provide claimant with alternate medical care in the form of treatment as needed from Dr. Keeran for claimant's psychiatric condition.

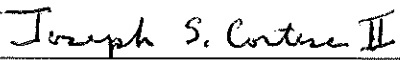
Defendants shall provide claimant with ongoing medical care as needed, to be selected by defendants, for claimant's bilateral knees, low back and left hip conditions.

Defendants shall reimburse claimant in the amount of one thousand sixty-two and 60/100 dollars (\$1,062.60) for the cost of Dr. Mathew's IME.

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration proceeding in the amount of \$481.52, and defendants shall pay the costs of the appeal, including the cost of the hearing transcript.

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

Signed and filed this 23rd day of July, 2020.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

Gary Nelson (via WCES)

Casey Steadman (via WCES)

Laura Ostrander (via WCES)