

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

CHRISTINE FUNK,

Claimant,

vs.

FAMILY DOLLAR,

Employer,

and

INDEMNITY INSURANCE COMPANY
OF AMERICA,

Insurance Carrier,
Defendants.

File No. 5065352

A P P E A L

D E C I S I O N

Head Notes: 1402.40; 1803; 2501; 2907;
5-9998

Defendants Family Dollar, employer, and its insurer, Indemnity Insurance Company of America, appeal from an arbitration decision filed on November 14, 2019. Claimant Christine Funk responds to the appeal. The case was heard on September 9, 2019, and it was considered fully submitted in front of the deputy workers' compensation commissioner at the conclusion of the arbitration hearing.

The deputy commissioner found claimant sustained 37 percent scheduled member functional disability of her left lower extremity as a result of the stipulated May 8, 2016, work injury, which entitles claimant to receive 81.4 weeks of permanent partial disability benefits commencing on October 17, 2017. The deputy commissioner found claimant is entitled to payment by defendants of the requested past medical expenses itemized in Exhibit 2. The deputy commissioner ordered defendants to pay claimant's costs of the arbitration proceeding.

On appeal, defendants assert the deputy commissioner erred in finding claimant sustained 37 percent disability of her left lower extremity. Defendants assert the award for permanent disability should be reduced to seven percent of the left lower extremity.

Claimant 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 November 14, 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 sustained 37 percent scheduled member functional disability of her left lower extremity as a result of the work injury. I affirm the award of the requested past medical expenses itemized in Exhibit 2. I affirm the deputy commissioner's order that defendants 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 November 14, 2019, is affirmed in its entirety.

Defendants shall pay claimant eighty-one point four (81.4) weeks of permanent partial disability benefits at the stipulated weekly rate of six hundred forty-four and 00/100 dollars (\$644.00) commencing on October 17, 2017.

Defendants shall receive credit for all benefits previously paid.

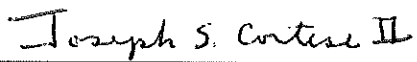
Defendants shall pay accrued weekly benefits in a lump sum together with interest at the rate of ten percent for all weekly benefits payable and not paid when due which accrued before July 1, 2017, and all interest on past due weekly compensation benefits accruing on or after July 1, 2017, shall be payable 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 pay directly to the medical providers, reimburse claimant for any out-of-pocket expenses, and hold claimant harmless for the past requested medical expenses itemized in Exhibit 2.

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration proceeding, 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 20th day of July, 2020.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

Jacob Peters (via WCES)

Kelsey Paumer (via WCES)