BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

TRISHA L. SLOAN,

Claimant,

vs.

OPTIMAE LIFESERVICES, INC.,

Employer,

and

UNITED HEARTLAND,

Insurance Carrier,
Defendants.

FILED

MAR 10 2015

WORKERS COMPENSATION

File No. 5043207

ARBITRATION DECISION

Head Note No.: 1803

STATEMENT OF THE CASE

Trisha Sloan, the claimant, seeks workers' compensation benefits from defendants, Optimae Life Services, Inc., the alleged employer, and its insurer, United Heartland, as a result of an alleged injury on August 9, 2012. Presiding in this matter is Larry P. Walshire, a deputy Iowa Workers' Compensation Commissioner. An oral evidentiary hearing commenced on February 17, 2015, but the matter was not fully submitted until the receipt of the parties' briefs and argument on February 24, 2015. Oral testimonies and written exhibits received into evidence at hearing are set forth in the hearing transcript.

Claimant's exhibits were marked numerically. Defendants' exhibits were marked alphabetically. The pages in claimant's exhibits are numbered in two ways. The pages of each exhibit are numbered separately from other exhibits such as "Claimant's Exhibit 6, page 2 of 3." However, the pages of the entire exhibit package are also numbered consecutively and this page number is large and appears on the bottom right corner. References in this decision to page numbers of an exhibit shall be made by citing the exhibit number or letter followed by a dash and then the large page number on the bottom right hand corner. For example, a citation to claimant's exhibit 1, pages 2 through 4 will be cited as, "Exhibit 1-2:4." References to a page of a transcript shall be to the actual page number of the original transcript, not to the page number of a copy containing multiple pages of the original transcript.

The parties agreed to the following matters in a written hearing report submitted at hearing:

1. An employee-employer relationship existed between claimant and defendant employer at the time of the alleged injury.

2. At the time of the alleged injury, claimant's gross rate of weekly compensation was $229.87. Also, at that time, she was single and entitled to 1 exemption for income tax purposes. Therefore, claimant's weekly rate of compensation is $181.19, according to the workers' compensation commissioner's published rate booklet for this date of injury.

3. Medical benefits are not in dispute.

## ISSUES

At hearing, the parties submitted the following issues for determination:

I. Whether claimant received an injury arising out of and in the course of employment;

II. The extent of claimant's entitlement to weekly temporary total or healing period benefits and permanent disability benefits; and,

III. The extent of claimant's entitlement to penalty benefits for an unreasonable delay or denial of weekly benefits pursuant to Iowa Code section 86.13.

## FINDINGS OF FACT

In these findings, I will refer to the claimant by her first name, Trisha, and to the defendant employer as Optimae.

Trisha worked for Optimae as a member of the community support staff from May 2011 until August 9, 2012. Optimae provides resident care for disabled persons. This job involves assisting residents of this facility, who are referred to as "consumers," to perform daily living activities. These activities involved not only personal hygiene and physical needs, but grocery shopping and leisure activities such as going to a park or attending events. The job required considerable physical effort to assist the physically impaired consumers to ambulate or to transfer them to and from their wheelchairs. Typically, heavy lifting tasks are performed by more than one staff member, and with the assistance of lifting devices. However, when traveling away from the facility, the lifting is entirely manual. Trisha worked about 20 hours a week for Optimae.

When she started at Optimae, Trisha held two other jobs. One job was a teacher's aide in the special education department of the Muscatine Community School District. She maintained this employment while working for Optimae and she continues

in this job today. She worked about 32 hours a week for the school district, but this has now been cut to 29. Trisha states that she is expected to physically assist disabled students at the school. She typically did not perform this job while the students were on the summer break.

Trisha also has worked off and on at a convenience store called "West Side Store" on a part-time basis for many years. This job involves cashier activity as well as stocking duties. She was working this job as well when she started at Optimae, but this ended in March 2012, when Trisha felt that three jobs were too demanding.

Trisha is diabetic. There is no evidence in this record that her diabetes restricts her work activity. She states that she had no left shoulder problem prior to June 2012. There is no evidence in this record to suggest otherwise.

The alleged work injury involves the left shoulder. Trisha states that her primary assignment at the time of her work injury was to assist a particular consumer whom she refers to as Mar A. After Mar A's stroke, he was unable to assist her in transfers to and from his wheelchair. Trisha testified that her left shoulder began to hurt a day or two after she and a co-worker transferred Mar A from his wheelchair to a vehicle to travel home after attending a baseball game. Trisha testified at hearing that this event occurred in June 2012. She states that her shoulder gradually grew worse over the next few weeks, but she did not report this injury to Optimae until August 9, 2012. She states that she thought that problem would improve with time, but when her symptoms did not improve, she reported the injury and sought medical treatment. In her injury report to Optimae, Trisha stated that she did not know the date of injury and did not describe the incident with Mar A at the ballpark. (Exhibit 2-2 & Ex. C-1:2) On the same day as the injury report, Optimae referred Trisha to Richard Shaffer, D.O., to treat her shoulder. Dr. Shaffer diagnosed a left shoulder strain and imposed restrictions of no lifting, pushing or pulling over ten pounds and no use of the left hand. (Ex. 4-12) Apparently, Trisha returned to work at Optimae on August 9 and then finished her shift. However, August 9, 2012 was her last day at Optimae. Trisha states that she was not offered light duty. She has never returned to Optimae's employment since August 9. There is some confusion in the record as to whether the date of report was August 7 or August 9 as the records for this injury contain both dates. As claimant was seen by Dr. Shaffer on August 9, 2012, I find that the date of the report was August 9, 2012.

Trisha states that after her left shoulder problems developed, she asked Optimae management to assign her to someone other than Mar A because he was so problematic. She states that Optimae refused to do so because no one else wanted to work with the customer. Trisha asserts that because she still had to deal with Mar A, she submitted her resignation on July 31, 2012, before her injury report, stating that her last day would be August 12, 2012. (Ex. 1-1) She did not mention any shoulder problem in her letter of resignation. Trisha stated that she wanted to leave Optimae on good terms.

Optimae denied Trisha's claim for this work injury on September 6, 2012 on grounds that there was not enough evidence to support Trisha's claim of injury due to the delay in making the report of injury and her lack of providing a specific injury date or when she started to experience pain. (Ex. 5-14)

Tami Pardie, Trisha's supervisor at Optimae, testified that it was her understanding that Trisha resigned to return to the West Side convenience store because the store paid a higher hourly rate. Pardie states that she attended Trisha's first appointment with Dr. Shaffer and Trisha was told by her to stay within her restrictions when she returned to work. Pardie states that light duty work was available at Optimae had she stayed. Pardie states that she wanted Trisha to stay because she was a good employee. Pardie admits that Trisha asked to be relieved from working with Mar A before she left, but other staff complained about him as well.

Trisha, at hearing, agreed that higher wages at West Side was one of the reasons for her resignation, but another reason was her inability to care for Mar A. Trisha states that she planned to start at West Side after August 12, but was not able to do so because of the physician-imposed activity restrictions. However, she continued her job at the school district during her treatment because district management accommodated for these restrictions. Trisha's mother testified about her shoulder injury and told her to report it, but Trisha was reluctant to do so because she does not like to "make waves."

After her claim was denied, Trisha obtained treatment of her shoulder through IowaCare, a government insurance program for low income persons. She obtained an orthopedic evaluation from Carolyn Hettrich, M.D., at the University of Iowa Hospitals and Clinics (UIHC). She was diagnosed with frozen shoulder or adhesive capsulitis. After several injections and about a year of physical therapy, Trisha's condition significantly improved. Dr. Hettrich discharged Trisha from her care and released her to return to work with no restrictions on May 13, 2014.

Trisha testified that although she greatly improved after treatment by the university doctors and she no longer takes pain medication, her left shoulder is not 100 percent. She states that she continues to have difficulty with heavy lifting and lifting overhead. She does not believe she can return to the type of work she was doing at Optimae or to many of her past jobs that required heavy lifting.

At the request of defendants, Trisha was evaluated by Rick Garrels, M.D., an occupational medicine physician, on May 29, 2013. He opines that Trisha's shoulder problems are due to her diabetes, not her work at Optimae. Dr. Garrels also opines that Trisha has no impairment or restrictions on the use of her shoulder. (Ex. B-2:3)

At the request of her attorney, Trisha was evaluated by Richard Neiman, M.D., a neurologist. Dr. Neiman opines that Trisha's injury is not due to diabetes because diabetes does not cause adhesive capsulitis or shoulder problems. He states that due

to lost range of motion of the left shoulder, Trisha has suffered a six percent permanent partial impairment to the whole person pursuant to the AMA Guides to the Evaluation of Permanent Impairment, Fifth Edition. He also recommends restrictions to avoid use of the left arm at shoulder level and excessive flexion/extension, abduction/adduction, and internal/external rotation of the left shoulder. (Ex. 10-49)

I find that Trisha suffered an injury to her left shoulder from cumulative trauma from her work at Optimae beginning in June 2012 and culminating on August 9, 2012 when she reported her injury and sought medical treatment. August 9, 2012 is the proper manifestation date or injury date for this gradual or cumulative trauma injury. Trisha's testimony on how her injury developed is consistent with the history provided by Trisha to Dr. Shaffer on August 9, 2012 in which he reports as follows:

> HISTORY OF PRESENT ILLNESS: This patient's date of injury is listed as today, but it is really the date of first treatment. She stated she injured her shoulder a couple of months ago.

(Ex. 3-5)

I further find that she left the employ of Optimae of her own volition at a time when Optimae was offering work suitable to her physician imposed restrictions. It appears that she returned to work on August 9 and apparently worked light duty on her shift, but did not return to Optimae after that day. It has not been shown that Optimae refused to allow her to return to light duty work. The United Heartland form completed by Dr. Shaffer to set forth his work restrictions specifically states that light duty is available. (Ex. 3-3) I do not find the opinion of Dr. Garrels convincing as there is little evidence that any of the treating doctors attributed the shoulder problems to diabetes. The MRI at the UIHC demonstrated a significant rotator cuff tendinosis. (Ex. 7-19, Ex. 8-24)

Although the treating doctor released Trisha without restrictions, I find convincing the views of Dr. Neiman as to lost range of motion and use of her left arm at or above shoulder level. This is the most recent evaluation of Trisha's shoulder condition.

Therefore, I find the work injury of August 9, 2012 is a cause of a six percent permanent impairment to the body as a whole and the restrictions recommended by Dr. Neiman.

I find that Trisha reached maximum medical improvement from her work injury on May 13, 2014.

Trisha's medical condition before the work injury was good and she had no functional impairments or ascertainable disabilities. She was able to fully perform physical tasks involving heavy lifting in her many jobs prior to the injury in this case. Trisha stated that she could not return to many of her past jobs because she cannot

perform any heavy lifting. However, Dr. Neiman's only lifting restriction was at or above shoulder level with her left arm. Such a restriction likely would impact the ability to stock shelves in her convenience store job. But apparently, she is compensating for this problem using her other extremity.

Trisha is 45 years of age. She has a high school education and 3 years of schooling at a community college. She continues to work for the school district and at the convenience store. Her past jobs were sales clerk, customer service clerk, lay away clerk, and human resource management with Walmart. Most of these jobs are still available to Trisha as they do not appear to require a lot of heavy lifting or over shoulder activity. Her ability to assist disabled persons is now restricted, but her employers are accommodating for her disability.

From examination of all of the factors of industrial disability, it is found that the work injury of August 9, 2012 is a cause of a 20 percent loss of earning capacity.

## CONCLUSIONS OF LAW

I. The claimant has the burden of proving by a preponderance of the evidence that the alleged injury actually occurred and that it both arose out of and in the course of the employment. Quaker Oats Co. v. Ciha, 552 N.W.2d 143 (Iowa 1996); Miedema v. Dial Corp., 551 N.W.2d 309 (Iowa 1996). The words "arising out of" referred to the cause or source of the injury. The words "in the course of" refer to the time, place, and circumstances of the injury. 2800 Corp. v. Fernandez, 528 N.W.2d 124 (Iowa 1995). An injury arises out of the employment when a causal relationship exists between the injury and the employment. Miedema, 551 N.W.2d 309. The injury must be a rational consequence of a hazard connected with the employment and not merely incidental to the employment. Koehler Electric v. Wills, 608 N.W.2d 1 (Iowa 2000); Miedema, 551 N.W.2d 309. An injury occurs "in the course of" employment when it happens within a period of employment at a place where the employee reasonably may be when performing employment duties and while the employee is fulfilling those duties or doing an activity incidental to them. Ciha, 552 N.W.2d 143.

When the injury develops gradually over time, the cumulative injury rule applies. The date of injury for cumulative injury purposes is the date on which the disability manifests. Manifestation is best characterized as that date on which both the fact of injury and the causal relationship of the injury to the claimant's employment would be plainly apparent to a reasonable person. The date of manifestation inherently is a fact based determination. The fact-finder is entitled to substantial latitude in making this determination and may consider a variety of factors, none of which is necessarily dispositive in establishing a manifestation date. Among others, the factors may include missing work when the condition prevents performing the job, or receiving significant medical care for the condition. For time limitation purposes, the discovery rule then becomes pertinent so the statute of limitations does not begin to run until the employee, as a reasonable person, knows or should know, that the cumulative injury condition is

serious enough to have a permanent, adverse impact on his or her employment. Herrera v. IBP, Inc., 633 N.W.2d 284 (Iowa 2001); Oscar Mayer Foods Corp. v. Tasler, 483 N.W.2d 824 (Iowa 1992); McKeever Custom Cabinets v. Smith, 379 N.W.2d 368 (Iowa 1985).

In the case sub judice, I found that claimant carried the burden of proof and demonstrated by the greater weight of the evidence that she suffered a cumulative trauma or gradual injury on August 9, 2012, arising out of and in the course of employment with the defendant employer.

II. The claimant has the burden of proving by a preponderance of the evidence that the injury is a proximate cause of the disability on which the claim is based. A cause is proximate if it is a substantial factor in bringing about the result; it need not be the only cause. A preponderance of the evidence exists when the causal connection is probable rather than merely possible. George A. Hormel & Co. v. Jordan, 569 N.W.2d 148 (Iowa 1997); Frye v. Smith-Doyle Contractors, 569 N.W.2d 154 (Iowa App. 1997); Sanchez v. Blue Bird Midwest, 554 N.W.2d 283 (Iowa App. 1996).

The question of causal connection is essentially within the domain of expert testimony. The expert medical evidence must be considered with all other evidence introduced bearing on the causal connection between the injury and the disability. Supportive lay testimony may be used to buttress the expert testimony and, therefore, is also relevant and material to the causation question. The weight to be given to an expert opinion is determined by the finder of fact and may be affected by the accuracy of the facts the expert relied upon as well as other surrounding circumstances. The expert opinion may be accepted or rejected, in whole or in part. St. Luke's Hosp. v. Gray, 604 N.W.2d 646 (Iowa 2000); IBP, Inc. v. Harpole, 621 N.W.2d 410 (Iowa 2001); Dunlavey v. Economy Fire and Cas. Co., 526 N.W.2d 845 (Iowa 1995). Miller v. Lauridsen Foods, Inc., 525 N.W.2d 417 (Iowa 1994). Unrebutted expert medical testimony cannot be summarily rejected. Poula v. Siouxland Wall & Ceiling, Inc., 516 N.W.2d 910 (Iowa App. 1994).

A treating physician's opinions are not to be given more weight than a physician who examines the claimant in anticipation of litigation as a matter of law. Gilleland v. Armstrong Rubber Co., 524 N.W.2d 404, 408 (Iowa 1994); Rockwell Graphic Systems, Inc. v. Prince, 366 N.W.2d 187, 192 (Iowa 1985).

The extent of claimant's entitlement to permanent disability benefits is determined by one of two methods. If it is found that the permanent physical impairment or loss of use is limited to a body member specifically listed in schedules set forth in one of the subsections of Iowa Code section 85.34(2)(a-t), the disability is considered a scheduled member disability and measured functionally. If it is found that the permanent physical impairment or loss of use is to the body as a whole, the disability is unscheduled and measured industrially under Iowa Code subsection 85.34(2)(u). Graves v. Eagle Iron Works, 331 N.W.2d 116 (Iowa 1983);

Simbro v. DeLong's Sportswear, 332 N.W.2d 886, 887 (Iowa 1983); Martin v. Skelly Oil Co., 252 Iowa 128, 133; 106 N.W.2d 95, 98 (1960).

Industrial disability was defined in Diederich v. Tri-City R. Co., 219 Iowa 587, 593; 258 N.W. 899 (1935) as follows: "It is therefore plain that the legislature intended the term 'disability' to mean 'industrial disability' or loss of earning capacity and not a mere 'functional disability' to be computed in the terms of percentages of the total physical and mental ability of a normal man." Functional impairment is an element to be considered in determining industrial disability, which is the reduction of earning capacity. However, consideration must also be given to the injured worker's medical condition before the injury, immediately after the injury and presently; the situs of the injury, its severity, and the length of healing period; the work experience of the injured worker prior to the injury, after the injury, and potential for rehabilitation; the injured worker's qualifications intellectually, emotionally and physically; the worker's earnings before and after the injury; the willingness of the employer to re-employ the injured worker after the injury; the worker's age, education, and motivation; and, finally the inability because of the injury to engage in employment for which the worker is best fitted, Thilges v. Snap-On Tools Corp., 528 N.W.2d 614, 616 (Iowa 1995); McSpadden v. Big Ben Coal Co., 288 N.W.2d 181 (Iowa 1980); Olson v. Goodyear Service Stores, 255 Iowa 1112, 125 N.W.2d 251 (1963); Barton v. Nevada Poultry Co., 253 Iowa 285, 110 N.W.2d 660 (1961).

I found in this case that the work injury is a cause of permanent impairment to the body as a whole, a nonscheduled loss of use. Consequently, this agency must measure claimant's loss of earning capacity as a result of this impairment.

A showing that claimant had no loss of his job or actual earnings does not preclude a finding of industrial disability. Loss of access to the labor market is often of paramount importance in determining loss of earning capacity, although income from continued employment should not be overlooked in assessing overall disability. Ellingson v. Fleetguard, Inc., 599 N.W.2d 440 (Iowa 1999); Bearce v. FMC Corp., 465 N.W.2d 531 (Iowa 1991); Collier v. Sioux City Community School District, File No. 953453 (App. February 25, 1994); Michael v. Harrison County, Thirty-fourth Biennial Rep. of the Industrial Comm'r, 218, 220 (App. January 30, 1979).

Although claimant is closer to a normal retirement age than younger workers, proximity to retirement cannot be considered in assessing the extent of industrial disability. Second Injury Fund of Iowa v. Nelson, 544 N.W.2d 258 (Iowa 1995). However, this agency does consider voluntary retirement or withdrawal from the work force unrelated to the injury. Copeland v. Boones Book and Bible Store, File No. 1059319 (App. November 6, 1997). Loss of earning capacity due to voluntary choice or lack of motivation is not compensable. Id.

A release to return to full duty work by a physician is not always evidence that an injured worker has no permanent industrial disability, especially if that physician has

also opined that the worker has permanent impairment under the AMA Guides. Such a rating means that the worker is limited in the activities of daily living. See AMA Guides to Permanent Impairment, Fifth Edition, Chapter 1.2, page 2. Work activity is commonly an activity of daily living. This agency has seen countless examples where physicians have returned a worker to full duty, even when the evidence is clear that the worker continues to have physical or mental symptoms that limit work activity, *e.g.* the worker in a particular job will not be engaging in a type of activity that would cause additional problems, or risk further injury; the physician may be reluctant to endanger the workers' future livelihood, especially if the worker strongly desires a return to work and where the risk of re-injury is low; or, a physician, who has been retained by the employer, has succumbed to pressure by the employer to return an injured worker to work. Consequently, the impact of a release to full duty must be determined by the facts of each case.

Assessments of industrial disability involve a viewing of loss of earning capacity in terms of the injured workers' present ability to earn in the competitive labor market without regard to any accommodation furnished by one's present employer. Quaker Oats Co. v. Ciha, 552 N.W.2d 143, 158 (Iowa 1996); Thilges v. Snap-On Tools Corp., 528 N.W.2d 614, 617 (Iowa 1995). Ending a prior accommodation is not a change of condition warranting a review-reopening of a past settlement or award. U.S. West v. Overholser, 566 N.W.2d 873 (Iowa 1997). However, an employer's special accommodation for an injured worker can be factored into an award determination to the limited extent the work in the newly created job discloses that the worker has a discerned earning capacity. To qualify as discernible, employers must show that the new job is not just "make work" but is also available to the injured worker in the competitive market. Murillo v. Blackhawk Foundry, 571 N.W.2d 16 (Iowa 1997).

In the case sub judice, I found that claimant suffered a 20 percent loss of her earning capacity as a result of the work injury. Such a finding entitles claimant to 100 weeks of permanent partial disability benefits as a matter of law under Iowa Code section 85.34(2)(u), which is 20 percent of 500 weeks, the maximum allowable number of weeks for an injury to the body as a whole in that subsection.

Although claimant was unable to start her employment at the convenience store on August 12 as she had planned due to physician imposed restrictions during her treatment, she typically would be eligible for temporary partial disability until she returned to the convenience store because she continued working for the school district. However, I found claimant voluntarily left the employ of Optimae while being provided accommodated work. A refusal to accept suitable work prohibits claimant from receiving temporary partial, temporary total or healing period weekly benefits. Iowa Code section 85.33(3). Therefore, claimant is not entitled to weekly benefits during her treatment.

III. Claimant seeks additional weekly benefits under Iowa Code section 86.13(4). That provision states that if a delay in commencement or termination of

benefits occurs without reasonable or probable cause or excuse, the industrial commissioner shall award extra weekly benefits in an amount not to exceed 50 percent of the amount of benefits that were unreasonably delayed or denied if the employee demonstrates a denial or delay in payment or termination of benefits and the employer has failed to prove a reasonable or probably cause or excuse for the denial, delay or termination of benefits. (Iowa Code section 86.13(4)(b)). A reasonable or probably cause or excuse must satisfy the following requirements:

> 1. The excuse was preceded by a reasonable investigation and evaluation by the employer or insurance carrier into whether benefits were owed to the employee;
>
> 2. The results of the reasonable investigation and evaluation were the actual basis upon which the employer or insurance carrier contemporaneously relied to deny, delay payment of, or terminate benefits;
>
> 3. The employer or insurance carrier contemporaneously conveyed the basis of the denial, delay in payment, or termination of benefits to the employee at the time of the denial, delay or termination of benefits.

(Iowa Code section 86.13(4)(c)).

In this case, defendants did not make a sufficient investigation of this injury claim. Claimant's supervisor stated at hearing that she attended the first appointment with Dr. Shaffer who reports that he was told that the injury occurred two months earlier. Also, a failure to provide a specific date of injury is not sufficient grounds to deny a claim for a cumulative injury. Defendants do have Dr. Garrels' opinion that the shoulder problems are not work related, but defendants did not obtain that opinion until late May 2013. Also, claimant refused light duty work and this would have been reasonable grounds to deny healing period benefits. However, that was not the reason provided to claimant for the denial of the claim. Consequently, defendants failed to provide a valid reason for denial of the claim contemporaneously in violation of Iowa Code section 86.13(4)(c).

Given defendants' unreasonable denial, the penalty is up to 50 percent of claimant's entitlement to weekly benefits prior to May 29, 2013. In this case, claimant's treatment did not end until May 2014. The only possible weekly benefit entitlement between August 9, 2012 and May 29, 2013 would have been temporary partial disability benefits since she was still working for the school district. However, as previously held, claimant is not entitled to such benefits because of her refusal to perform suitable work for Optimae. Therefore, there can be no penalty.

ORDER

1. Defendants shall pay to claimant one-hundred (100) weeks of permanent partial disability benefits at the stipulated weekly rate of one hundred eighty-one and 19/100 dollars ($181.19) per week from May 13, 2014.

2. Defendants shall pay accrued weekly benefits in a lump sum.

3. Defendants shall pay interest on unpaid weekly benefits awarded herein pursuant to Iowa Code section 85.30.

4. Defendants shall pay the costs of this action pursuant to administrative rule 876 IAC 4.33, including reimbursement to claimant for any filing fee paid in this matter.

5. Defendants shall file subsequent reports of injury as required by this agency pursuant to rule 876 IAC 3.1(2).

Signed and filed this 10th day of March, 2015.

LARRY WALSHIRE
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

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**Right to Appeal:** This decision shall become final unless you or another interested party appeals within 20 days from the date above, pursuant to rule 876 4.27 (17A, 86) of the Iowa Administrative Code. The notice of appeal must be in writing and received by the commissioner's office within 20 days from the date of the decision. The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday. The notice of appeal must be filed at the following address: Workers' Compensation Commissioner, Iowa Division of Workers' Compensation, 1000 E. Grand Avenue, Des Moines, Iowa 50319-0209.