BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

REBECCA FINN, Claimant, vs. NORDSTROM, INC., Employer, Self-Insured, Defendant.	FILE NO: 1657239.01 ARBITRATION DECISION Head Note No: 1402.30, 1803, 2701, 3003

STATEMENT OF THE CASE

Claimant, Rebecca Finn, filed a petition in arbitration seeking workers' compensation benefits from Nordstrom, Inc., self-insured employer. This matter was heard in Des Moines, Iowa, on October 19, 2020, with a final submission date of November 16, 2020.

The record in this case consists of Joint Exhibits 1-10, Claimant's Exhibits 1-4, Defendant's Exhibits A-B, and the testimony of claimant.

The parties filed a hearing report at the commencement of the arbitration hearing. On the hearing report, the parties entered into various stipulations. All of those stipulations were accepted and are hereby incorporated into this arbitration decision and no factual or legal issues relative to the parties' stipulations will be raised or discussed in this decision. The parties are now bound by their stipulations.

ISSUES

1. Whether claimant sustained an injury to the upper extremity arising out of and in the course of employment on September 14, 2018.

2. Whether the injury is a cause of permanent disability, and if so;

3. The extent of claimant's entitlement to permanent partial disability benefits.

4. Commencement date of benefits.

5. Rate.

6. Whether claimant is due reimbursement for an independent medical evaluation (IME) under Iowa Code section 85.39.

7. Whether claimant is entitled to alternate medical care under Iowa Code section 85.27.

8. Costs.

FINDINGS OF FACT

Claimant began at Nordstrom on March 30, 2018. Claimant worked in returns and inspections. Claimant said 80-90 percent of her time was on this job. Claimant said the other 10-20 percent of her time was working as a customer returns processor. Claimant testified this job required she take boxes of clothes from a pallet, open the boxes and take out clothes. Claimant then put the clothes into a tote. (TR pp. 18-19)

Claimant's prior medical history is relevant. In 2004 claimant had a right carpal tunnel release. (Ex 2, p. 4, JE 2)

In 2013, claimant treated for right arm numbness and tingling. Claimant wore a right wrist splint for much of that time. (Ex 2, p. 4)

In September 2014 claimant received treatment for a fractured right wrist. Claimant used her right wrist splint for September and October, 2014. (Ex. 2, pp. 4-5)

In December 2014, claimant was given an injection for pain on the right dorsal ulnar wrist. (Ex. 2, p. 5)

At the time of injury to her thumb, claimant was working in customer returns. Claimant testified she used a utility knife to cut through boxes to open them. Claimant said it took a lot of force to use the knife. Claimant said she cut approximately 115-120 boxes per shift. (TR pp. 17-21)

Claimant testified that on September 14, 2018, she was opening boxes and began experiencing pain in the right hand and thumb. Claimant said she initially treated with an in-house therapist at Nordstrom. Claimant said at that time she was given hot packs, massage and stretching exercises. (TR p. 24, JE 4)

On October 2, 2018, claimant was evaluated by James Milani, D.O., for a right thumb injury. Claimant was assessed as having a right trigger finger. Claimant was given a trigger finger injection in the right thumb. (JE 5, pp. 12-14)

On October 12, 2018, claimant returned to Dr. Milani. Claimant's right thumb was still triggering. Claimant was referred to a hand specialist. (JE 5, pp. 15-16)

On October 25, 2018, claimant was evaluated by Brian Wills, M.D., at Steindler Clinic. Dr. Wills is an orthopedic surgeon specializing in hands. Claimant was

assessed as having a triggering right thumb. Surgery was discussed and chosen as a treatment option. (JE 6, pp. 22-24)

On November 21, 2018, claimant underwent surgery consisting of a right thumb A-1 pulley release. Surgery was performed by Dr. Wills. (JE 7, p.59)

Claimant returned to Steindler Clinic on December 7, 2018. Claimant was initially doing well until December 6, 2018, when she began having increased right thumb pain. Claimant was told to elevate the thumb and compress with ice. (JE 6, p. 29)

Claimant testified that after her surgery her hand and her arm began to swell. Claimant went to Mercy Hospital in Cedar Rapids. Claimant was told she had cellulitis. Claimant drove to Mercy Hospital in Iowa City. (TR pp. 28-30)

Claimant was evaluated at Mercy Hospital in Iowa City on December 8, 2018. Claimant was assessed as having right hand and forearm cellulitis. Claimant was admitted to Mercy Hospital in Iowa City on December 8, 2018. She was discharged from care on December 11, 2018. (JE 8)

Claimant returned to Dr. Wills on January 3, 2019. Claimant was found to be improving. Claimant was told to continue physical therapy. She was advised to take 15 minutes off every 2 hours to ice her hand and wrist. (JE 6, pp. 33-35)

Claimant returned to Dr. Wills on February 4, 2019. Claimant complained of swelling in the hand and forearm. Claimant was recommended to have treatment with a certified hand therapist. (JE 6, pp. 36-39)

On March 14, 2019, claimant returned to Dr. Wills. Claimant was noted to have significant improvement in her symptoms. Claimant was recommended to continue to work with a certified hand therapist. (JE 6, pp. 42-44)

On March 28, 2019, claimant was given an injection in the right wrist carpal tunnel. (JE 6, p. 46)

Claimant returned to Dr. Wills on April 25, 2019. Claimant did not note improvement in her symptoms following the injection. Claimant noted her hand swelling was down and her function had improved. (JE 6, pp. 52-55)

On April 26, 2019, Dr. Wills made a request to defendant insurer to authorize right wrist carpal tunnel surgery for claimant. (JE 6, p. 56)

On May 2, 2019, defendants wrote to Dr. Wills asking for a causation opinion regarding claimant's work injury and the need for carpal tunnel surgery. (JE 6, p. 57). Dr. Wills did not respond to that request. (JE 6, pp. 57-58)

On June 14, 2019, claimant was evaluated by Lynne Portnoy, M.D. Claimant had numbness in digits 3 and 4 of the right hand. Claimant had been assessed as having carpal tunnel syndrome. Dr. Portnoy recommended an IME to determine causation of the carpal tunnel syndrome. (JE 5, pp. 18-19)

In an August 21, 2019, report, Robert Broghammer, M.D., gave his opinions of claimant's condition following an IME. Claimant had numbness and tingling in the right index, long and ring finger. Claimant also had pain in the forearm. Claimant was assessed as having recurrent right carpal tunnel syndrome and right trigger thumb post release. Claimant also was assessed as having right hand cellulitis related to the right thumb release. (Ex. A, pp. 2-10)

Dr. Broghammer did not believe claimant's carpal tunnel syndrome was related to her work. He opined her work at Nordstrom did not cause claimant's carpal tunnel syndrome, and claimant's recurrent carpal tunnel syndrome was noted to be due to personal and genetic factors. Dr. Broghammer also opined that claimant had no permanent impairment following her successful trigger thumb release. (Ex. A, pp. 2-10)

In an August 29, 2019, note, Dr. Broghammer noted he had reviewed Dr. Wills' February 2019 medical records. Dr. Broghammer indicated that review of these records did not change his opinions expressed in his August 21, 2019, report. (Ex. A, p. 12)

On October 15, 2019, claimant was evaluated by Meiying Kuo, M.D., orthopedic specialist. Claimant was assessed as having carpal tunnel syndrome, right upper limb/recurrent right carpal tunnel syndrome. Dr. Kuo indicated that claimant had recurrent right carpal tunnel symptoms after developing cellulitis in the right arm. Dr. Kuo believed that claimant's current carpal tunnel syndrome was indirectly related to her work since she did not have a recurrence of symptoms until after developing cellulitis. (JE 1, p. 4) Dr. Kuo recommended claimant undergo a carpal tunnel release. (JE 1, pp. 3-4)

In a January 31, 2020, report, Dr. Broghammer again gave his opinions regarding claimant's condition following a records review. Dr. Broghammer opined that claimant's cellulitis was causally related to her thumb surgery. He did not believe that the claimant's carpal tunnel syndrome was caused by the cellulitis. He again opined that claimant's need for a carpal tunnel revision surgery was more likely due to non-occupational factors including obesity, age and prior history of carpal tunnel syndrome. (Ex. A, pp. 18-19)

Dr. Broghammer indicated claimant's cellulitis, unless it was untreated, would not extend to the tendons of the forearm or the carpal tunnel. Dr. Broghammer opined that claimant's carpal tunnel syndrome and her cellulitis were separate issues and were unrelated. (Ex. A. pp. 18-19)

In an August 27, 2020, report, Farid Manshadi, M.D., gave his opinions of claimant's condition following an IME. Dr. Manshadi opined claimant had carpal tunnel

syndrome as a consequence of her September 14, 2018, injury. (Ex. 2, p. 21) Dr. Manshadi opined claimant was at maximal medical improvement (MMI) for the trigger finger. He found that claimant had a 20 percent permanent impairment to the right thumb based on table 16-29 of the AMA Guides to the Evaluation of Permanent Impairment, 5th edition. This resulted in an 8 percent permanent impairment of the right hand. (Ex. 2, p. 21)

Dr. Manshadi did not find claimant at MMI for the carpal tunnel syndrome. He opined if no further treatment was provided to claimant, claimant would have a 14 percent permanent impairment to the right upper extremity for the carpal tunnel syndrome. (Ex. 2, pp. 21-22) Dr. Manshadi recommended claimant avoid repetitive pushing or pulling or sustained gripping. (Ex. 2, p. 22)

Claimant testified she was paid hourly. (TR p. 61) Claimant's earnings for the 13 weeks before her injury are as follows:

PAY PERIOD ENDING	RATE OF PAY	HOURS	WAGES+BONUS
6-15-18	$13.50	100.23	$1353.11
6-30-18	$13.50	88	$1226.25
7-15-18	$13.50	93.22	$1258.47
7-31-18	$13.50	108.55	$1465.43
8-15-18	$13.50	92.02	$1269.27
8-31-18	$13.50	83.87	$1159.25
		TOTAL	$7731.77

CONCLUSION OF LAW

The first issue to be determined is whether claimant's carpal tunnel syndrome arose out of and in the course of her employment. Defendants stipulated that claimant had a compensable right trigger thumb injury that arose out of and in the course of employment on December 14, 2018. Defendants dispute claimant's right carpal tunnel syndrome was causally connected to that injury.

The party who would suffer loss if an issue were not established has the burden of proving that issue by a preponderance of the evidence. Iowa R. App. P. 6.904(3).

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 Elec. 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.

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).

An employer may be liable for a sequela of an original work injury if the employee sustained a compensable injury and later sustained further disability that is a proximate result of the original injury. Mallory v. Mercy Medical Center, File No. 5029834 (Appeal February 15, 2012).

The Iowa Supreme Court noted "where an accident occurs to an employee in the usual course of his employment, the employer is liable for all consequences that naturally and proximately flow from the accident." Oldham v. Scofield & Welch, 222 Iowa 764, 266 N.W. 480 (1936). The Court explained:

> If an employee suffers a compensable injury and thereafter suffers further disability which is the proximate result of the original injury, such further disability is compensable. Where an employee suffers a compensable injury and thereafter returns to work and, as a result thereof, his first injury is aggravated and accelerated so that he is greater disabled than before, the entire disability may be compensated for." Id. at 481.

A sequela can be an after effect or secondary effect of an injury. Lewis v. Dee Zee Manufacturing, File No. 797154, (Arb. September 11, 1989). A sequela can take the form of a secondary effect on the claimant's body stemming

from the original injury. For example, where a leg injury causing shortening of the leg in turn alters the claimant's gait, causing mechanical back pain, the back condition can be found to be a sequela of the leg injury. Fridlington v. 3M, File No. 788758, (Arb. November 15, 1991).

A sequela can also take the form of a later injury that is caused by the original injury. For example, where a leg injury leads to the claimant's knee giving out in a grocery store, the resulting fall is compensable as a sequela of the leg injury. Taylor v. Oscar Mayer & Co., 3 Iowa Ind. Comm. Rep. 257, 258 (1982).

Claimant has a history of at least 2, if not 3, carpal tunnel surgeries. (Ex. 2, p. 4, JE 2)

There is no evidence claimant had any carpal tunnel symptoms until after she developed cellulitis following her right thumb surgery.

Dr. Kuo and Dr. Wills actively treated claimant. Both are orthopedic surgeons. Both Dr. Kuo and Dr. Wills opine that claimant's carpal tunnel syndrome was a result of her cellulitis following thumb surgery. (JE 1, p. 4, JE 6, p. 35) Their opinion is corroborated by Dr. Manshadi, who also found that claimant's carpal tunnel syndrome was causally related to her cellulitis and claimant's injury. (Ex. 2, p. 21)

Only Dr. Broghammer opined that claimant's carpal tunnel syndrome was not causally connected to the right thumb surgery or the cellulitis.

I respect Dr. Broghammer's opinions. However, Dr. Broghammer is not an orthopedic surgeon. Dr. Broghammer did not actively treat claimant. As detailed, both Dr. Kuo and Dr. Wills actively treated claimant and are orthopedic specialists. Second, Dr. Wills appears to opine that because of claimant's multiple carpal tunnel surgeries, even minor trauma could cause a recurrent carpal tunnel syndrome. Dr. Broghammer offers no opinion contrary to this rationale for causation. Given this record, it is found that the opinions of Dr. Broghammer regarding causation are found not convincing.

There is no evidence that claimant had carpal tunnel symptoms before her cellulitis. Dr. Kuo and Dr. Wills are orthopedic specialists and actively treated claimant. Both opine that claimant's cellulitis caused her carpal tunnel syndrome. That opinion is bolstered by the opinions of Dr. Manshadi. Dr. Broghammer's opinions regarding causation are found not convincing. Given this record, claimant has carried her burden of proof that her carpal tunnel syndrome arose out of and in the course of her employment.

The next issue to be determined is whether claimant's thumb injury resulted in a permanent disability. The record is clear that claimant is not at MMI for her carpal

tunnel syndrome. As a result, claimant's carpal tunnel syndrome is not considered, at this time, in determining if claimant's injury resulted in a permanent disability.

Claimant was assessed by Dr. Broghammer for an IME. Because claimant's surgery was successful, Dr. Broghammer found that claimant had no permanent impairment for her thumb injury. (Ex. A, p. 10)

Claimant testified at hearing that she no longer has triggering symptoms or locking of her right thumb. (TR pp. 53-54)

Dr. Manshadi found that claimant had a permanent impairment to the right thumb based upon mild thumb triggering. (Ex. 2, p. 21)

Dr. Manshadi opined that claimant had a permanent impairment to the thumb based upon mild thumb triggering. Claimant testified at hearing that her thumb no longer triggered or locked. Dr. Broghammer opined that claimant had no permanent impairment following her successful thumb surgery. Based on this record, the opinions of Dr. Manshadi regarding permanent impairment are found not convincing. Given this record, claimant has failed to carry her burden of proof she has a permanent impairment regarding her right thumb injury.

At the time of hearing, claimant was not at MMI for her carpal tunnel syndrome. Claimant failed to carry her burden of proof that she has a permanent impairment regarding her right thumb. Given this record, the issues regarding extent and commencement of benefits is found moot.

The next issue to be determined is rate.

Section 85.36 states the basis of compensation is the weekly earnings of the employee at the time of the injury. The section defines weekly earnings as the gross salary, wages, or earnings to which an employee would have been entitled had the employee worked the customary hours for the full pay period in which the employee was injured as the employer regularly required for the work or employment. The various subsections of section 85.36 set forth methods of computing weekly earnings depending upon the type of earnings and employment.

If the employee is paid on a daily or hourly basis or by output, weekly earnings are computed by dividing by 13 the earnings over the 13-week period immediately preceding the injury. Any week that does not fairly reflect the employee's customary earnings is excluded, however. Section 85.36(6).

Both parties appear to agree to the total wages claimant earned between June 1, 2018, and August 31, 2018. (Ex. B and Ex. 3) Claimant was paid hourly, and therefore, Iowa Code section 85.36(6) is applicable. Claimant earned $7731.77 for the 13 weeks before the injury. This results in an average weekly wage of $594.76 ($7731.77 divided by 13). Claimant was single with one exception. Claimant's rate is $380.23.

The next issue to be determined is whether claimant is entitled to reimbursement for an IME.

Section 85.39 permits an employee to be reimbursed for subsequent examination by a physician of the employee's choice where an employer-retained physician has previously evaluated "permanent disability" and the employee believes that the initial evaluation is too low. The section also permits reimbursement for reasonably necessary transportation expenses incurred and for any wage loss occasioned by the employee attending the subsequent examination.

Defendants are responsible only for reasonable fees associated with claimant's independent medical examination. Claimant has the burden of proving the reasonableness of the expenses incurred for the examination. See Schintgen v. Economy Fire & Casualty Co., File No. 855298 (App. April 26, 1991) Claimant need not ultimately prove the injury arose out of and in the course of employment to qualify for reimbursement under section 85.39. See Dodd v. Fleetguard, Inc., 759 N.W.2d 133, 140 (Iowa App. 2008).

Regarding the IME, the Iowa Supreme Court provided a literal interpretation of the plain-language of Iowa Code section 85.39, stating that section 85.39 only allows the employee to obtain an independent medical evaluation at the employer's expense if dissatisfied with the evaluation arranged by the employer. Des Moines Area Reg'l Transit Auth. v. Young, 867 N.W.2d 839, 847 (Iowa 2015).

Under the Young decision, an employee can only obtain an IME at the employer's expense if an evaluation of permanent disability has been made by an employer-retained physician.

Iowa Code section 85.39 limits an injured worker to one IME. Larson Mfg. Co., Inc. v. Thorson, 763 N.W.2d 842 (Iowa 2009).

The Supreme Court, in Young noted that in cases where Iowa Code section 85.39 is not triggered to allow for reimbursement of an independent medical examination (IME), a claimant can still be reimbursed at hearing the costs associated with the preparation of the written report as a cost under rule 876 IAC 4.33. Young at 846-847.

Dr. Broghammer, the employer-retained physician, gave his opinions of permanent impairment on August 21, 2019, August 29, 2019, and January 31, 2020. Dr. Manshadi, the employee-retained expert, gave his opinions regarding permanent impairment in a January 31, 2020, report. Dr. Manshadi opined regarding permanent impairments to claimant's knee, carpal tunnel syndrome, and trigger finger injury. Dr. Broghammer only gave an opinion regarding permanent impairment concerning the trigger finger injury. Dr. Manshadi charged $2000.00 for his IME report. (Ex. 4, p. 39) Under Iowa Code section 85.39, defendants are only liable for

reimbursement of the IME as it relates to the trigger finger. As a result, the defendants shall pay one-third of the charge of Dr. Manshadi's IME or $666.67 ($2000.00 divided by 3).

The next issue to be determined is whether claimant is entitled to alternative medical care under Iowa Code section 85.27.

Iowa Code section 85.27(4) provides, in relevant part:

> For purposes of this section, the employer is obliged to furnish reasonable services and supplies to treat an injured employee, and has the right to choose the care . . . The treatment must be offered promptly and be reasonably suited to treat the injury without undue inconvenience to the employee. If the employee has reason to be dissatisfied with the care offered, the employee should communicate the basis of such dissatisfaction to the employer, in writing if requested, following which the employer and the employee may agree to alternate care reasonably suited to treat the injury. If the employer and employee cannot agree on such alternate care, the commissioner may, upon application and reasonable proofs of the necessity therefor, allow and order other care.

An application for alternate medical care is not automatically sustained because claimant is dissatisfied with the care he has been receiving. Mere dissatisfaction with the medical care is not ample grounds for granting an application for alternate medical care. Rather, the claimant must show that the care was not offered promptly, was not reasonably suited to treat the injury, or that the care was unduly inconvenient for the claimant. Long v. Roberts Dairy Co., 528 N.W.2d 122 (Iowa 1995).

Defendants deny liability for claimant's carpal tunnel syndrome. Dr. Wills was the authorized provider for claimant's upper extremity injury. He recommended claimant undergo carpal tunnel surgery. Claimant testified that when Dr. Wills initially recommended surgery, claimant was prepared for Dr. Wills to perform the surgery. (TR 50-51) Defendants indicate in the posthearing brief, that if liability is found for the carpal tunnel condition, they will provide care with Dr. Wills. (Defendant's posthearing brief page 8) I recognize claimant was unhappy at hearing with Dr. Wills performing carpal tunnel surgery, if ordered, and she believes Dr. Wills was responsible for her problems with cellulitis. However, given the records detailed above and defendant's offer to authorize Dr. Wills to provide surgery, defendants cannot be said to be offering unreasonable care. Given this record, claimant has failed to carry her burden of proof she is entitled to alternate medical care consisting of surgery by Dr. Kuo.

The final issue to be determined is cost. Costs are assessed at the discretion of this agency. Claimant has already been awarded one-third of Dr. Manshadi's IME cost per Iowa Code section 85.39. Claimant prevailed on the issue of causation of the carpal

tunnel syndrome. Given this record, defendants are liable for costs shown in Exhibit 4 consisting of filing and service fees.

ORDER

Therefore it is ordered:

That claimant shall take nothing in the way of permanent partial disability benefits, at the present, from this proceeding.

That defendants shall authorize and pay for claimant's treatment for her carpal tunnel syndrome.

That defendants shall pay one-third (1/3) of the cost associated with Dr. Manshadi's IME.

That defendants shall pay costs as detailed above.

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

Signed and filed this 12th day of April, 2021.

JAMES F. CHRISTENSON
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

The parties have been served, as follows:

Gary Nelson (via WCES)

Casey Steadman (via WCES)

James Peters (via WCES)

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 filed via Workers' Compensation Electronic System (WCES) unless the filing party has been granted permission by the Division of Workers' Compensation to file documents in paper form. If such permission has been granted, the notice of appeal must be filed at the following address: Workers' Compensation Commissioner, Iowa Division of Workers' Compensation, 150 Des Moines Street, Des Moines, Iowa 50309-1836. The notice of appeal must be received by the Division of Workers' Compensation 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 legal holiday.