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IN THE IOWA DISTRICT COURT FOR POLK COUNTY

ARCHER DANIELS MIDLAND, **Petitioner/Respondent,** **v.** **RICHIE WILLIAMS,** **Respondent/Claimant.**	**File No. CVCV063598** **RULING ON CROSS PETITIONS FOR JUDICIAL REVIEW**

On September 30, 2022, this matter came for hearing before the Court on the parties' Cross-Petitions for Judicial Review. Petitioner, Archer Daniels Midland (ADM), was represented by its attorney, Brandon Lobberecht. Respondent, Richie Williams (Williams), was represented by his attorney, Andrew Giller. After reviewing the pleadings and briefs of the party contained in the file along with the agency record, and hearing the arguments of the parties, the Court enters the following ruling.

I. INTRODUCTION.

On August 2, 2022, ADM filed a Petition for Judicial Review alleging the Iowa Workers Compensation Commissioner (the Commissioner) erred in finding Williams sustained his burden of proof that permanent partial disability benefits (PPD benefits) were payable during a time of denial/delay and awarding Williams penalty benefits.

On the same day, Williams filed his Petition for Judicial Review alleging the Commissioner erred in finding Williams was offered suitable work and thus not entitled to healing period benefits; and in finding Williams' injury is limited to the shoulder under Iowa Code section 85.34(2)(n).

II. BACKGROUND FACTS AND PROCEEDINGS.

Williams began working for ADM in 2013. He continued working for ADM through the date of the Arbitration Hearing. He has worked in both the repair shop and the wash bay, spending most of his workdays in the wash bay as opposed to the repair shop. In the wash bay he inspected painting on the rail cars that may need to be touched-up or redone and checked safety valves that may need to be replaced. In the repair shop, he primarily performed welding and replacing train brakes and wheels. At the agency hearing, Williams testified in detail about the work in the wash bay and the repair shop. The work can be heavy.

On November 19, 2018, Williams sustained an injury at ADM which arose out of and in the course of his employment. He was working on top of a hopper while connected to a harness. The harness caught and he fell backwards on his right side. He initially felt alright but later in his work shift he noticed right side shoulder area pain. He reported the incident and wrote a statement of the accident.

On the same day, Williams was evaluated at Work Well Clinic in Cedar Rapids. The clinic documented his injury and his previous history of shoulder problems. He rated his discomfort as a 10 of 10. The working diagnosis was right shoulder injury and right upper extremity pain. The clinic recommended he ice the shoulder area and use over-the-counter medications as well as common sense limitations on activity use. He followed up in December after an MRI, which showed a number of tears in the shoulder area He was referred to a specialist, Dr. Switzer. Williams testified that ADM told him the appointment with Dr. Switzer was cancelled because he was not an approved physician. Williams utilized alternate care procedures to obtain an order in April 2019, authorizing the referral to Dr. Switzer, and finally saw Dr. Switzer on May 16, 2019.

Dr. Switzer recommended physical therapy and anti-inflammatory medications, in addition to restrictions limiting the use of his right arm. Williams underwent physical therapy and an injection, which helped for a short period of time. In July 2019, Dr. Switzer recommended surgery.

On September 9, 2019, Dr. Switzer performed surgery described as follows: "Right shoulder arthroscopy with extensive debridement including chondroplasty and labrum, biceps tenotomy, removal of suture anchors, bursectomy with lysis of adhesions in the subacromial space and decompression." JE. 7, at 1.

Williams testified that from the date of his injury through the date of surgery he was working under medical restrictions on light-duty. He testified that he would call in on days when he was in too much pain. Regarding his work assignments, Williams testified that his supervisor, Tyler Albert (Albert), told him to find work to do within his restrictions. Arb. Tr. 57:12-21; Certified Administrative Record (CAR) part 1, at 220. In essence, Williams testified that his light-duty work was not structured and he was expected to simply do his regular job but within his restrictions. On one occasion, Williams was reprimanded for sitting down when he could not find any work within his restrictions. Arb. Tr. 59:1-10; CAR part 1, at 222. In August 2019, Williams' counsel wrote to defense counsel outlining the problem. He asked that ADM direct his light-duty work. This was largely ignored. The employer did respond listing some of the light-duty tasks Williams had been performing. At the arbitration hearing, Williams testified that he found those job assignments himself. Arb. Tr. 58:14-17; CAR part 1, at 221.

Albert also testified at the arbitration hearing. He denied ever telling Williams that he needed to find his own work to do while on light-duty. In his testimony, however, he did not describe how tasks were assigned to Williams. Arb. Tr. 98:22-99:15 CAR part 1, at 261-62. Albert acknowledged that Williams called in sick because of his shoulder on the dates listed in ADM's

Exhibit E, at pages 7-8. ADM did not provide any testimony to rebut Williams' allegation that one of his superiors admonished him and instructed him to find work within his restrictions.

Williams submitted Claimant's Exhibit 6, page 1, (also Claimant's Exhibit 4, page 3) which is a list of dates between the date of injury and the date of surgery which he claims he called in sick to work because his right shoulder was hurting and his mobility was limited. Williams alleges he lost 52 days of pay between November 19, 2018 and September 17, 2019. He testified that he was not paid for the time off work. No physician, including Williams' own expert, recommended he be off work during the period between the date of his injury and the date of his surgery.

Following surgery, Williams was off work recuperating for a period of time and was paid healing period benefits. He had a relatively normal post-surgery recovery. He underwent a course of beneficial physical therapy. On December 19, 2019, Dr. Switzer released Williams to return to full-duty work. In January 2020, a claims adjustor acting on behalf of ADM requested an impairment rating from Dr. Switzer. In July 2020, Williams underwent a functional capacity evaluation (FCE) which found a number of functional deficits. The FCE placed Williams in the medium work category. However, it was recommended that he limit weighted overhead work, reduce the number of tasks he performed with his arms extended, and take breaks to allow his right shoulder to recover.

In September 2020, Williams' counsel inquired about whether ADM intended to have the right shoulder rated for impairment. CL. Ex. 5, at 4. Williams' counsel made several further inquiries with defense counsel responding each time. Cl. Ex. 5, at 5-8. With the arbitration hearing deadlines approaching, defense counsel wrote to Dr. Switzer requesting a rating on December 1, 2020. Def. Ex. B, at 3. Williams' counsel chose to have Williams evaluated by Farid Manshadi,

M.D., on November 19, 2020. Dr. Manshadi put Williams at maximum medical improvement (MMI). A report was issued on November 30, 2020.

Dr. Manshadi reviewed the medical records and examined Williams. Manshadi took range of motion measurements and performed other tests. He used the diagnosis of partial articular surface tear of the supraspinatus tendon, tendinosis of the supraspinatus and infraspinatus, a partial interstitial tear and thinning of the intra-articular and proximal vertical long-head of the biceps tendon, and a suspected SLAP tear of the superior labrum. Cl. Ex. 2, at 4. He opined that Williams sustained a 10% impairment for the right shoulder injury and a 1% impairment due to elbow flexion weakness, for a total of 11% impairment of the right upper extremity per the *AMA Guides to the Evaluation of Permanent Impairment, 5th edition*. Cl. Ex. 2, at 4. Dr. Manshadi specifically opined that the work injury damaged the structures which are located at the proximal aspect of the torso. In his opinion, this places his disability and impairment into the body as a whole. Cl. Ex. 2, at 4.

Dr. Switzer did not provide an impairment rating until December 23, 2020. After Dr. Switzer provided the rating, permanency was paid. In his report, Dr. Switzer provided an alternate impairment rating of 8% of the right upper extremity. Def. Ex. F, at 11. He used a similar method to that used by Dr. Manshadi, however, decreased the measurements slightly to account for Williams' lack of full (180 degree) range of motion in his left shoulder. Def. Ex. F, at 10. The record was held open for Dr. Manshadi to provide a rebuttal report where he opined that his method of rating was superior to Dr. Switzer's. He opined the following:

> I do not believe that comparing the right and left shoulder is appropriate as indicated as Dr. Switzer in his report. The reason being is that it is unknown that if the left shoulder has any pathology or not. Further, as far as I know, prior to this work injury Mr. Williams had a full normal range of motion of the right shoulder. It is my assumption that Mr. Williams had full range of

motion within normal limits prior to this work injury.

Cl. Ex. 9, at 1. The above referenced matter proceeded to Arbitration Hearing on January 4, 2021, before the Honorable Deputy Commissioner Joseph Walsh (the Deputy Commissioner).

At the time of the arbitration hearing, Williams continued to experience pain and symptoms in his shoulder. His pain increased with activity. His performance of his work activities has altered. He takes over-the-counter medicine when his pain is severe. He testified his range of motion is limited, particularly in overhead activities. He is unable to engage in hobbies such as hunting and fishing, and has difficulty performing other hobbies such as automotive work. Williams testified that he would be unable to perform much of his past employment for which he is otherwise qualified.

The parties stipulated Williams sustained a work injury to his right shoulder on November 19, 2018, and that such injury resulted in entitlement to PPD benefits. The parties disputed whether the injury qualified as a scheduled member shoulder injury or an industrial disability injury, whether healing period benefits were owed, and nature and extent of PPD benefits. The parties further disputed Williams's gross average earnings and weekly compensation rate. Williams raised a constitutional challenge to Iowa Code sections 85.34(2)(n) and (2)(x), and ADM argued the agency lacked subject matter jurisdiction to resolve the constitutional validity of statutes. ADM further raised the issue of apportionment pursuant to Iowa Code section 85.34(7) for right shoulder disability that arguably existed prior to his November 19, 2018 right shoulder injury. The parties further stipulated that, prior to hearing, Williams had been paid 32 weeks of PPD benefits at the benefit rate of $665.74, and ADM is entitled to a PPD benefit credit of $21,303.68.

On November 3, 2021, the Deputy Commissioner issued an Arbitration Decision in this matter. The Deputy Commissioner found Williams's applicable gross weekly wages is $1,103.55

and his weekly rate of compensation is $665.74. Arb. Dec. at 7-8. The Deputy Commissioner denied Williams' claim for healing period benefits and determined Williams' evidence insufficient to prove entitlement to lost time benefits simply by calling in sick from work. *Id.* at 8-9. The Deputy Commissioner found Williams sustained a scheduled member injury to his right shoulder and adopted Dr. Manshadi's impairment rating, stating it to be of 11% of the right upper extremity (shoulder), which converted to 44 weeks of PPD benefits commencing December 20, 2019. Arb. Dec. at 9-12. The Deputy Commissioner further awarded Williams penalty benefits in the amount of $10,000 for ADM's failure to commence payment of PPD benefits between December 2019 through December 2020, and failure to convey to Williams that no permanency benefits would be paid during that time period. *Id.* at 13. On November 8, 2021, ADM timely filed a notice of appeal in this matter to the Commissioner.

On November 9, 2021, Williams filed an application for rehearing regarding the issue of healing period benefits. On November 16, 2021, ADM filed a resistance to ADM's application for rehearing. On November 19, 2021, the Deputy Commissioner entered a ruling on rehearing.

On November 23, 2021, ADM filed a notice of cross appeal to the Commissioner. On April 18, 2022, the Commissioner filed an Appeal Decision affirming the Deputy Commissioner's Arbitration Decision in its entirety and without comment on the issues presented in the appeal. ADM timely petitioned for Judicial Review. Williams also petitioned for Judicial Review (Polk County Case No. CVCV063619). The court consolidated these judicial review proceedings.

III. STANDARDS OF REVIEW.

On judicial review of an agency action, the district court functions in an appellate capacity. *Iowa Planners Network v. Iowa State Commerce Comm'n*, 373 N.W.2d 106, 108 (Iowa 1985). The Iowa Administrative Procedure Act, Iowa Code chapter 17A, governs the scope of the Court's

review in workers' compensation cases. Iowa Code § 86.26 (2011); *Meyer v. IBP, Inc.*, 710 N.W.2d 213, 218 (Iowa 2006). "Under the Act, we may only interfere with the commissioner's decision if it is erroneous under one of the grounds enumerated in the statute, and a party's substantial rights have been prejudiced." *Meyer*, 710 N.W.2d at 218. A party challenging agency action bears the burden of demonstrating the action's invalidity and resulting prejudice. Iowa Code § 17A.19(8)(a). This can be shown in a number of ways, including proof the action was ultra vires; legally erroneous; unsupported by substantial evidence in the record when that record is viewed as a whole; or otherwise, unreasonable, arbitrary, capricious, or an abuse of discretion. *See id.* § 17A.19(10). The district court acts in an appellate capacity to correct errors of law on the part of the agency. *Grundmeyer v. Weyerhaeuser Co.*, 649 N.W.2d 744, 748 (Iowa 2002).

"Because of the widely varying standards of review, it is essential for counsel to search for and pinpoint the precise claim of error on appeal." *Jacobsen Transp. Co. v. Harris*, 778 N.W.2d 192, 196 (Iowa 2010) (citation and internal quotations omitted). For example, if the agency's alleged "error is one of fact, [the Court] must determine if the [agency's] findings are supported by substantial evidence." *Jacobsen Transp. Co. v. Harris*, 778 N.W.2d 192, 196 (Iowa 2010) (citing Iowa Code § 17A.19(10)(f)). "If the error is one of interpretation of law, [the Court] will determine whether the [agency's] interpretation is erroneous and substitute [its] judgment for that of the" agency. *Id.* (citing Iowa Code § 17A.19(10)(c)). "If, however, the claimed error lies in the [agency's] application of the law to the facts, we will disturb the [agency's] decision if it is '[b]ased upon an irrational, illogical, or wholly unjustifiable application of law to fact.'" *Id.* (quoting Iowa Code § 17A.19(10)(m)).

Further, the substantial rights of a person have been prejudiced when the agency action is "[b]ased upon a determination of fact . . . that is not supported by substantial evidence in the

record..." Iowa Code § 17A.19(10)(f). "Evidence is not insubstantial merely because different conclusions may be drawn from the evidence." *Pease*, 807 N.W.2d at 845. *See also Arndt v. City of Le Claire*, 728 N.W.2d 389, 393 (Iowa 2007) ("Just because the interpretation of the evidence is open to a fair difference of opinion does not mean the [agency's] decision is not supported by substantial evidence."). "Under chapter 17A, a court's task on judicial review is not to determine whether the evidence might support a particular factual finding; rather, it is to determine whether the evidence supports the finding made." *Burton v. Hilltop Care Ctr.*, 813 N.W.2d 250, 263–64 (Iowa 2012). Furthermore, the Iowa Supreme Court has found that a "district court exceed[s] the scope of permissible judicial review of agency decisions by making findings" the agency never made. *Id.* at 264 (citation and internal quotations omitted).

Another subsection of section 17A.19(10) states that a person's substantial rights have been prejudiced if the agency action is "[t]he product of reasoning that is so illogical as to render it wholly irrational." Iowa Code § 17A.19(10)(i). However, "[t]he legislature's grant of judicial power to reverse an agency decision "on this basis" did not confer upon courts wholesale authority to substitute their judgment for that of agencies whenever courts might favor a different outcome in a contested case." *Christensen v. Snap-On Tools Corp.*, 665 N.W.2d 439, 2003 WL 1024942, at *3 (Iowa Ct. App. Mar. 12, 2003).

IV. MERITS.

A. ADM's Appeal.

ADM appeals the Deputy Commissioner's award of penalty benefits, arguing there was no denial or delay in paying PPD benefits to Williams or that any delay in payment of such benefits was not unreasonable. Iowa Code section 86.13(4) provides:

> 4. a. If a denial, a delay in payment, or a termination of benefits occurs without reasonable or probable cause or excuse known to the employer or

> insurance carrier at the time of the denial, delay in payment, or termination of benefits, the workers' compensation commissioner shall award benefits in addition to those benefits payable under this chapter, or chapter 85, 85A, or 85B, up to fifty percent of the amount of benefits that were denied, delayed, or terminated without reasonable or probable cause or excuse.
>
> b. The workers' compensation commissioner shall award benefits under this subsection if the commissioner finds both of the following facts:
>
> (1) The employee has demonstrated a denial, delay in payment, or termination of benefits.
>
> (2) The employer has failed to prove a reasonable or probable cause or excuse for the denial, delay in payment, or termination of benefits.
>
> c. In order to be considered a reasonable or probable cause or excuse under paragraph "b", an excuse shall satisfy all of the following criteria:
>
> (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 for 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 §86.13(4) (2021).

Further, Iowa Code section 85.34(2) states:

> Compensation for permanent partial disability shall begin when it is medically indicated that maximum medical improvement from the injury has been reached and that the extent of loss or percentage of permanent impairment can be determined by use of the guides to the evaluation of permanent impairment, published by the American medical association, as adopted by the workers' compensation commissioner by rule pursuant to chapter 17A.

Iowa Code §85.34(2)(2021). Here, there is substantial evidence in the record supporting the Deputy Commissioner's finding that Williams' MMI was established as of December 20, 2019, and therefore PPD payments were owed beginning then. ADM stipulates that MMI was reached on December 20, 2019, and further concedes that Dr. Switzer indicated as much because he permitted Williams to return to work without restrictions and released him to return on an as needed basis during the December 20, 2019 appointment.

There is also substantial evidence in the record supporting the Deputy Commissioner's findings that: 1) the December 20, 2019 appointment with Dr. Switzer was an evaluation of William's permanent disability; 2) Dr. Switzer did not give a permanent disability rating at that time; 3) ADM knew he did not do so because they did not inform Williams of any permanent disability rating, and specifically requested an impairment rating from Dr. Switzer a month later; 4) ADM did not obtain that rating from Dr. Switzer because they did not timely pay for his impairment rating report; and 5) ADM did not follow up to pay for or obtain the report from Dr. Switzer until November, 2020.

Based on the above findings, the Deputy Commissioner concluded:

> The question is whether the employer had a reasonable basis for failing to commence permanent partial disability payments from December 2019 through December 2020, and then conveyed this contemporaneously to the claimant. I find they did not. I find the greater weight of evidence supports a finding that the defendant simply failed to secure a report which contained a specific impairment rating which would provide them with a basis for paying the benefits. It appears in the record this occurred because the employer did not timely pay for the impairment rating report. The total amount of the permanent partial disability which was owed to the claimant by December 2020 exceeded $20,000.00. I find that a penalty of $10,000.00 is assessed to the defendant to deter it from engaging in such claims handling practices in the future.

The Deputy Commissioner's conclusions checked all the boxes of section 86.13(4). There was a delay in payment of PPD payments. The purported reason for the delay (a presumed 0% rating)

was not contemporaneously conveyed to Williams. There was no reasonable investigation into whether the benefits were owed. The delay in payment was therefore without reasonable or probable cause or excuse known to the employer or insurance carrier at the time of the delay. The Deputy Commissioner's decision awarding $10,000 in penalty benefits is supported by substantial evidence in the record and is based on a logical and rational interpretation of the law applied to the facts.

B. Williams' Appeal.

1. Whether Williams was entitled to healing period benefits for 52 days of missed work between February 5, 2019 to August 23, 2019.

Williams first argues the Deputy Commissioner erred in finding he was offered suitable work pursuant to Iowa Code section 85.33(3)(a) and (b), and therefore he was not owed healing period benefits for work missed due to calling in sick 52 times between November 19, 2018, and September 9, 2019. The Deputy Commissioner did not base his ruling, however, on an offer of suitable work and refusal. In his Ruling on Application for Rehearing filed November 19, 2021, the Deputy Commissioner clarified that Williams actually returned to work on November 19, 2018, and that:

> The underlying issue presented here is: what is the appropriate remedy when an employer fails to comply with Iowa Code section 85.33(3)(b) (by failing to provide a written offer of work to the injured worker)? The simple answer is: The employer may not assert a refusal of suitable work defense.
>
> In a case, however, where the injured worker actually returned to work and worked within his or her restrictions for the employer, the employer's failure to put the job offer in writing, does not provide the injured worker with a license to call in sick whenever he does not feel well enough to go to work due to the injury. Admittedly, this presents a stark choice for an injured worker. The injured worker must either refuse the work as not suitable or the injured worker can try to work. If the injured worker refuses to work for an employer who has not complied with Section 85.33(3)(b) by providing a written offer, the employer is barred from asserting the defense.

> In this case specifically, ADM did not assert the claimant's refusal of suitable work as a defense because Mr. Williams never refused to work. Instead, the employer simply argued that the claimant returned to work within his restrictions, thereby ending his claim for healing period. Thereafter, claimant never produced any medical evidence that his condition somehow worsened or that he otherwise needed to be off work. This case likely would be decided differently had the claimant ever refused to perform his light-duty assignment.

The court agrees with the Deputy Commissioner's conclusions that Williams' return to work ended his claim for healing period benefits, and that any claim for further benefits would have to come with proof that such benefits are medically indicated. *See Iowa Code* §§85.33(1) and (2). His interpretation of the law is not erroneous, and his decision is supported by substantial evidence in the record and based on a logical and rational interpretation of the law applied to the facts.

2. Whether the Deputy Commissioner erred in finding Williams's injury was limited to his shoulder.

The Deputy Commissioner found Williams sustained an injury to his right shoulder as a result of the stipulated work injury, and awarded benefits under Iowa Code section 85.34(2)(n). Williams argues the Deputy Commissioner erred in his decision, contending he sustained permanent impairment to his arm *separate* from the impairment he sustained in his shoulder, and therefore his injury does not fall under section 85.34(2)(n) but under the catch-all provision of section 85.34(2)(v). ADM counters: (1) Williams failed to preserve error and exhaust administrative remedies for his argument of alleged separate injuries to his arm and shoulder; and, in the alternative, (2) substantial evidence supports Williams sustained only a "shoulder" injury, which was properly compensated as a scheduled-member injury by the Commissioner.

The Court concludes Williams did preserve the issue for review. The Hearing Report identifying issues in dispute to be submitted to the Deputy Commissioner states: "The disability is

an industrial disability. [Williams] claims this is an unscheduled injury under Iowa Code section 85.34(2)(v)." Hr'g Report at 2. Williams' brief to the Commissioner also identified the issue. Further, the facts necessary for deciding the issue were in the record before the agency, including Dr. Manshadi's report. *See* Cl. Ex. 2-4. This was an issue brought before the Deputy Commissioner and Commissioner, and not for the first time on judicial review. *See Interstate Power Co. v. Iowa State Commerce Comm'n*, 463 N.W.2d 699, 701 (Iowa 1990) (holding "we have consistently held that a party is precluded from raising issues in the district court that were not raised and litigated before the agency."). The Court will address the merits of Williams' argument.

In 2017, the Iowa Legislature added section 85.34(2)(n), which states, in relevant part, "[f]or all cases of permanent partial disability compensation shall be paid as follows . . . [f]or the loss of a shoulder, weekly compensation during four hundred weeks." However, the Legislature did not define "shoulder," nor did it include the anatomical structures that should be included or excluded, where the arm ends and where the shoulder begins, or where the shoulder ends and the torso begins. The Iowa Supreme Court recently addressed the issue in *Chavez v. MS Technology*, 972 N.W.2d 662 (Iowa 2022). There, the Court concluded, "the 'shoulder' under section 85.34(2)(n) must be defined in the functional sense to include the glenohumeral joint as well as all of the muscles, tendons, and ligaments that are essential for the shoulder to function." *Id,* at 668.

Dr. Manshadi found that after Williams underwent an arthroscopic surgical repair of his right shoulder on September 9, 2019, he had elbow flexion weakness. Cl. Ex. 2-4. He found Williams sustained 1% impairment due to this elbow weakness, and 10% impairment for the right shoulder injury, totaling an 11% impairment rating. *Id.* Williams argues this evidence supports a finding that he sustained impairment to his arm *in addition* to his shoulder. As noted, the *Chavez* Court included in its definition of the shoulder parts of the body "essential for the shoulder to

function." *Chavez*, 927 N.W.2d at 668. There is no authority or evidence in the record to suggest "elbow flexion" is essential or related to shoulder function. The Deputy Commissioner accepted Dr. Manshadi's opinion to be the more compelling impairment rating in the record. Nevertheless, the Deputy Commissioner found only that "the claimant suffered an injury to his 'shoulder' under Iowa Code section 85.34(2)(n)." It does not appear that the Deputy Commissioner recognized or considered that 10% was attributable to the shoulder and 1% attributable to the elbow flexion. It is illogical that the Deputy Commissioner would accept Dr. Manshadi's impairment ratings, which clearly lists two different body parts affected, and then only apply Iowa Code section 85.34(2)(n) which just addresses one body part. Accordingly, the court concludes the Deputy Commissioner erred in his application of the law to the facts in his decision on the nature of disability under section 85.34(2). This case must be reversed and remanded to the agency to make further disability findings as to all body parts affected, and properly allocate Williams' permanent partial disabilities under section 85.34(2).

V. RULING.

For the reasons stated above,

IT IS ORDERED that ADM's Petition for Judicial Review is **DENIED.**

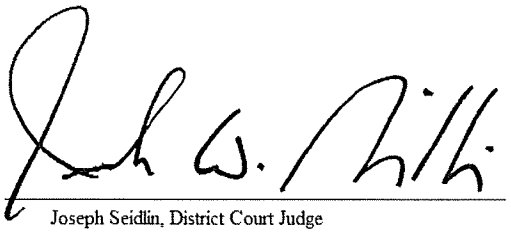
IT IS FURTHER ORDERED that that Williams' Petition for Judicial Review is **DENIED IN PART** as to healing period benefits pursuant to Iowa Code 85.33, and **GRANTED IN PART** as to the Commissioner's decision on the nature of disability under section 85.34(2). The case is **REMANDED** to the Worker's Compensation Commission for further proceedings consistent with this Ruling.

IT IS FURTHER ORDERED that court costs are assessed one half to each party.

State of Iowa Courts

Case Number	**Case Title**
CVCV063598	ARCHER DANIELS MIDLAND VS RICHIE WILLIAMS
Type:	OTHER ORDER

So Ordered



Joseph Seidlin, District Court Judge
Fifth Judicial District of Iowa

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