BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

JERAMI CAMERON DAVIDSON,

Claimant,

vs.

RIVER CITY DISPOSAL, L.L.C.,

Employer,
Defendant.

File No. 5060814

ARBITRATION

DECISION

Head Notes: 1802, 1803, 2500

STATEMENT OF THE CASE

Jerami Cameron Davidson, filed a petition in arbitration seeking workers' compensation benefits from his employer, River City Disposal, L.L.C. There is no insurance carrier identified. A default judgment was entered against the employer on March 25, 2019 and a hearing on damages occurred on May 1, 2019. Post-Hearing Briefs were not filed and the matter was considered fully submitted on May 1, 2019.

At hearing Claimant's Exhibits 1-3 were admitted. Claimant and his mother, DeAnna Loughner, both provided testimony.

Because this is a hearing on damages following entry of a default judgment against the employer, no hearing report was submitted. Claimant identified on the record those benefits he seeks, which are stated as issues to be determined by the undersigned as follows:

ISSUES

1. The extent of healing period.
2. The extent of industrial disability.
3. The applicable rate for healing period and industrial disability.
4. Payment of medical expenses.
5. Alternate medical care.

FINDINGS OF FACT

After a review of the evidence presented, I find as follows:

This case does not involve an insurance carrier. There was no evidence that the defendant employer had workers' compensation insurance in place at the time of the injury in this matter. In fact, the defendant employer admitted in their answer that they "had no workers' comp insurance in place at the time of the accident in question." (Defendant's Answer, page 1, filed June 15, 2018) I therefore find that defendant failed to have workers' compensation insurance in place at the time of the work injury herein, August 1, 2016.

Claimant, Jerami Cameron Davidson, was 31 years old at the time of the hearing. He testified that in 2003 he was awarded Social Security Supplemental Income (SSI) based on a diagnosis of ADD, which affected his ability to focus and concentrate. Claimant stated that this was described to him as a learning disability.

Claimant worked for the defendant employer as a garbage man collecting trash. He rode on the back of the garbage truck as a regular part of his job.

On August 1, 2016, while working for the defendant employer, River City Disposal, L.L.C, he fell off the back of a garbage truck and struck his head on cement resulting in a loss of consciousness. (Ex. 1-2) Claimant testified that he recalls going to work on August 1, 2016, but remembers nothing of the accident itself or being in the hospital. His first recollection is going home after being discharged from the hospital. His mother explained to him what happened and how he was injured when he regained consciousness.

Claimant was taken from work by ambulance to Mercy Medical Center in Clinton, Iowa. (Ex. 1-2)

Claimant's mother, DeAnna Loughner testified that on August 1, 2016, she received a phone call from a family member and was told that claimant had been injured at work and that he was at Mercy Medical Center in Clinton, Iowa. Upon her arrival, she observed her son on a stretcher, intubated and unconscious. He was airlifted to the University of Iowa Hospitals and Clinics where he remained unconscious for 48 hours. (Ex. 1-10) He was in intensive care for three days and in the hospital for a total of five days before he was released. (Ex. 1-10)

At the University of Iowa, the work injury was described as claimant having fallen 8 feet off of a dump truck and landing on his head. He had bleeding from his right ear and several seizure-like episodes during initial treatment. (Ex. 1-4) The diagnosis included the following:

Date of service August 1, 2016. CT scan of the brain.
IMPRESSION:
1. Small right occipital subdural hematoma.
2. Right lambdoid suture diastases and right temporal bone fracture.

Date of service August 1, 2016. Maxillofacial CT scan.
IMPRESSION:
1. Complex transverse and longitudinal right temporal bone fracture. The fracture extends into the epitympanum through the scutum, but definite ossicular disruption is not appreciated. The fracture also involves the anterior wall of the external auditory canal.
2. No definite involvement of the carotid canal or facial nerve canal.
3. Medial orbital wall fracture on the left. This may not be acute.
4. Acute ethmoid and maxillary sinus disease.

(Ex. 1-5) Claimant was discharged from the University of Iowa Hospital on August 5, 2016 with an anti-seizure medication, Keppra. (Ex. 1-6)

Claimant's last day of work for the defendant employer, was August 1, 2016, the date of the injury herein. He has not worked for any employer since he was injured. There was no evidence that he has made an attempt to return to work.

On the same day that claimant was released from the University of Iowa Hospital, he had a seizure at home and was transported by ambulance to Mercy Medical Center. (Ex. 1-3) While being examined by a physician in the emergency room, claimant's "eyes rolled back in his head and he stopped talking." (Id.) Claimant was transferred at his mother's request to Genesis Medical Center. (Ex. 1-5) Claimant was released from Genesis Medical Center with a higher dose of Keppra in hopes of controlling his seizures. (Ex. 1-7)

Claimant had follow-up care with Irena Charysz-Birski, M.D. at Neurological Consultants who diagnosed him with post-traumatic seizures following a head injury. (Ex. 1-7, 8) Claimant testified that he continues to receive prescription medication from Dr. Charysz-Birski, and is currently taking Zonegran to control seizures. Claimant testified that he has not had a seizure since August 5, 2016. Claimant testified that he did not have any seizures prior to this work injury.

Claimant and his mother testified that as a result of this work injury, he has suffered hearing loss in his right ear. Douglas Dvorak, M.D. noted claimant complained of sudden hearing loss associated with the work injury and assessed claimant with "conductive hearing loss in the right ear." (Ex. 1-9)

Claimant was seen by Sunil Bansal, M.D. on March 21, 2019 at the request of claimant's counsel. Dr. Bansal reviewed claimant's medical history related to the work

injury, discussed his lack of prior seizures and considered claimant's treatment and his current condition. Dr. Bansal also conducted a physical examination and recorded his findings. (Ex. 1-11) Dr. Bansal then expressed his diagnosis as: 1) Complex transverse and longitudinal right temporal bone fracture with extension into the epitympanum and anterior wall of the external auditory canal; 2) Right conductive hearing loss with right hemotympanum and right external auditory canal laceration; 3) Left orbital fracture; and 4) Post-traumatic seizures. He placed claimant at maximum medical improvement (MMI) as of March 21, 2019. Dr. Bansal, used the American Medical Association Guides to the Evaluation of Permanent Impairment, Fifth Edition, (AMA Guides) and relied on Table 11-5 and examples 11-9 and 11-10, and assigned 7 percent whole person impairment based on fractures to claimant's zygomatic, temporal and orbital bones in his face. He also relied on Table 13-3 and example 13-6 of the AMA Guides, and assigned 9 percent impairment of the whole person for his episodic seizures that are controlled with medication. (Ex. 1-12) Dr. Bansal assigned permanent restrictions of no lifting over 50 pounds, no standing for more than 30 minutes and avoid multiple stairs. (Ex. 1-13) Claimant testified that these restrictions are consistent with his abilities and activities.

I find that the combined values chart at page 604 of the AMA Guides provides that 7 percent plus 9 percent impairment ratings of the whole person combine to equal 15 percent impairment of the whole person.

The opinion of Dr. Bansal concerning permanent impairment is unrebutted and I accept the same and find that claimant sustained 15 percent whole person impairment as a result of the August 1, 2016 work injury.

The opinion of Dr. Bansal concerning permanent work restrictions is also unrebutted and supported by claimant's testimony. I accept the same and find that claimant has permanent restrictions of no lifting over 50 pounds, no standing for more than 30 minutes and avoiding multiple stairs.

Claimant provided unrebutted testimony that he worked for the defendant employer at the time of the injury averaging 20 hours per week and earning $164.00 per week. He testified that on the date of the injury, he was single with no dependents. There was no indication that claimant worked anywhere else in addition to the defendant employer at the time of the injury.

I find that on the date of the injury, claimant was entitled to an exemption status for purposes of rate calculation of, single with one dependent (S-1).

It was understood by the undersigned that claimant's earnings of $164.00 per week represented his net earnings after payroll deductions were withheld. I therefore find that claimant's "spendable weekly earnings" are $164.00 per week.

I find that upon review of the Iowa Workers' Compensation Manual for the effective dates of July 1, 2016 through June 30, 2017, thirty-five percent (35%) of the

statewide average weekly wage was two hundred ninety five and 00/100 dollars ($295.00). I find, according to the same manual, that the applicable rate for the average weekly wage of $295.00 when applying an exemption status of S-1, is one hundred ninety seven and 92/100 dollars ($197.92).

Claimant testified that he has not returned to work in any capacity since his injury on August 1, 2016. He was not placed at maximum medical improvement (MMI) until March 21, 2019, by Dr. Bansal. (Ex. 1-12) This opinion is unrebutted and I accept the same. I find that claimant reached MMI on March 21, 2019.

I find based on claimant's permanent restrictions that prior to March 21, 2019, he would not have been medically capable of returning to work that was substantially similar to the work he was engaged in at the time of the injury. In support of this conclusion I note that lifting and throwing garbage and hanging onto the back of the truck while riding through town and continually stepping on and off the truck, would likely violate his restrictions against lifting over 50 pounds and avoiding multiple stairs.

Claimant testified that following the work injury, he developed both short-term and long-term memory problems that did not previously exist. He also has lost the majority of his ability to taste, and consequently his enjoyment of food.

Claimant's mother also testified that claimant's memory loss can sometimes drive him to tears. She stated that he has headaches as a result of the injury. She also tries to always speak to claimant on his left side, because of his right ear hearing loss.

Claimant has not asserted that he is an odd-lot worker.

Considering claimant's industrial disability, I note that claimant's age and his lack of any attempt to return to work support a lower industrial disability award. However, his learning disability, the severity of the injury, his physical restrictions, his 15 percent whole person functional impairment, and the length of the healing period all support a higher award of industrial disability. Considering the above elements along with all other appropriate factors regarding the assessment of industrial disability, I find that claimant has sustained 70 percent industrial disability.

Claimant testified that the medical treatment he received was helpful and he believes the medications have been successful in controlling his seizures.

I find that the medical expenses as set forth in Exhibit 2 and 3 are fair, reasonable and appropriate to treat this work injury.

I find that although claimant obtained an opinion concerning permanent impairment, no employer retained physician offered a prior opinion of permanent impairment.

I find that claimant was paid no healing period or permanent partial disability benefits for this injury.

I find that claimant has been provided no medical benefits for this injury and the employer's failure to provide medical care for this injury is unreasonable. Claimant has expressed a desire to continue treatment with Dr. Charysz-Birski.

CONCLUSIONS OF LAW

1. Healing Period, Extent and Rate.

Healing period benefits are payable to an employee who has sustained a permanent partial disability "beginning on the first day of disability after the injury, and until the employee has returned to work or it is medically indicated that significant improvement from the injury is not anticipated or until the employee is medically capable of returning to employment substantially similar to the employment in which the employee was engaged at the time of injury, whichever occurs first." Iowa Code section 85.34(1).

In this case, I have found above that claimant did not work following the work injury on August 1, 2016. I also found that claimant was not medically capable of returning to substantially similar work prior to his MMI date of March 21, 2019. I conclude that claimant reaching MMI on March 21, 2019 was the first triggering event under Iowa Code section 85.34(1) to cause healing period benefits to cease.

I conclude that claimant is entitled to healing period benefits for the period of August 1, 2016 to March 21, 2019.

Iowa Code section 85.37 provides instruction on the calculation of the appropriate healing period rate:

> The minimum weekly benefit amount shall be equal to the weekly benefit amount of a person whose gross weekly earnings are thirty-five percent of the statewide average weekly wage, or to the spendable weekly earnings of the employee, whichever is less.

Iowa Code section 85.37 (emphasis added). The term "spendable weekly earnings" is defined in Iowa Code section 85.61(9), which states it is "that amount remaining after payroll taxes are deducted from gross weekly earnings."

I have found above that claimant's spendable weekly earning amount is $164.00, which is less than the rate derived from 35 percent of the statewide average weekly wage, which I found above to be $197.92. Therefore, applying Iowa Code section 85.37, claimant's rate for healing period is $164.00.

2. Permanent Partial Disability, Extent and Rate.

Under the Iowa Workers' Compensation Act, permanent partial disability is compensated either for a loss of use of a scheduled member under Iowa Code section 85.34(2)(a)-(t) or for loss of earning capacity under section 85.34(2)(u).

Claimant's injuries involve a head injury and a seizure disorder, which are not contained within the scheduled members and therefore compensated under Iowa Code section 85.34(2)(u) and involving the whole body and assessment of loss of earning capacity/industrial disability.

Since claimant has an impairment to the body as a whole, an industrial disability has been sustained. 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 workers' qualifications intellectually, emotionally and physically; the worker's earning 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).

Compensation for permanent partial disability shall begin at the termination of the healing period. Compensation shall be paid in relation to 500 weeks as the disability bears to the body as a whole. Section 85.34.

There are no weighting guidelines that indicate how each of the factors is to be considered. Neither does a rating of functional impairment directly correlate to a degree of industrial disability to the body as a whole. In other words, there are no formulae which can be applied and then added up to determine the degree of industrial disability. It therefore becomes necessary for the deputy or commissioner to draw upon prior experience as well as general and specialized knowledge to make the finding with regard to degree of industrial disability. See Christensen v. Hagen, Inc., Vol. 1 No. 3 Industrial Commissioner Decisions, 529 (App. March 26, 1985); Peterson v. Truck Haven Cafe, Inc., Vol. 1 No. 3 Industrial Commissioner Decisions, 654 (App. February 28, 1985).

I have found above that claimant sustained 70 percent industrial disability for the reasons there stated. Seventy percent of the whole body is 350 weeks (70% of 500 weeks). Defendant is obligated to pay industrial disability weekly benefits commencing on March 22, 2019, the day after claimant's healing period ceases.

Considering the applicable rate, Iowa Code section 85.34(2) provides that the weekly workers' compensation rate for payment of permanent partial disability/industrial disability shall not be less than a particular specified minimum rate, which is "the weekly benefit amount of a person whose gross weekly earnings are thirty-five percent of the statewide average weekly wage," which was found above to be $197.92. Claimant's weekly earnings of $164.00 would produce a weekly rate below the minimum applicable rate. Therefore, the minimum rate of $197.92 is the correct rate for claimant's industrial disability.

Therefore, I conclude that claimant is entitled to industrial disability of 350 weeks at the rate of $197.92.

4. Medical Expenses and Alternate Medical Care.

a) Medical Expenses, Exhibit 2 & 3.

The employer shall furnish reasonable surgical, medical, dental, osteopathic, chiropractic, podiatric, physical rehabilitation, nursing, ambulance, and hospital services and supplies for all conditions compensable under the workers' compensation law. The employer shall also allow reasonable and necessary transportation expenses incurred for those services. The employer has the right to choose the provider of care, except where the employer has denied liability for the injury. Section 85.27. Holbert v. Townsend Engineering Co., Thirty-second Biennial Report of the Industrial Commissioner 78 (Review-Reopening October 16, 1975).

Prudent persons customarily rely upon a physician's recommendation for medical care without expressly asking the physician if that care is reasonable. Proof of reasonableness and necessity of the treatment can be based on the injured person's testimony. Sister M. Benedict v. St. Mary's Corp., 255 Iowa 847, 124 N.W.2d 548 (1963).

It is said that "actions speak louder than words." When a licensed physician prescribes and actually provides a course of treatment, doing so manifests the physician's opinion that the treatment being provided is reasonable. A physician practices medicine under standards of professional competence and ethics. Knowingly providing unreasonable care would likely violate those standards. Actually providing care is a nonverbal manifestation that the physician considers the care actually provided to be reasonable. A verbal expression of that professional opinion is not legally mandated in a workers' compensation proceeding to support a finding that the care provided was reasonable. The success, or lack thereof, of the care provided is evidence that can be considered when deciding the issue of reasonableness of the care. A treating physician's conduct in actually providing care is a manifestation of the physician's opinion that the care provided is reasonable and creates an inference that can support a finding of reasonableness. Jones v. United Gypsum, File No. 1254118 (App. May 2002); Kleinman v. BMS Contract Services, Ltd., File No. 1019099 (App. September 1995); McClellon v. Iowa Southern Utilities, File No. 894090 (App. January

1992). This inference also applies to the reasonableness of the fees actually charged for that treatment.

Claimant is entitled to an order of reimbursement only if he has paid treatment costs; otherwise, to an order directing the responsible defendants to make payments directly to the provider. See, Krohn v. State, 420 N.W.2d 463 (Iowa 1988). Defendants should also pay any lawful late payment fees imposed by providers. Laughlin v. IBP, Inc., File No. 1020226 (App., February 27, 1995)

The Court in Bell Bros. stated:

> We do not believe the statute can be narrowly construed to foreclose all claims by an employee for unauthorized alternative medical care solely because the care was unauthorized. Instead, the duty of the employer to furnish reasonable medical care supports all claims for care by an employee that are reasonable under the totality of the circumstances, even when the employee obtains unauthorized care, upon proof by a preponderance of the evidence that such care was reasonable and beneficial. In this context, unauthorized medical care is beneficial if it provides a more favorable medical outcome than would likely have been achieved by the care authorized by the employer.

Bell Bros. Heating and Air Conditioning v. Gwinn, 779 N.W.2d 193, 206 (Iowa 2010).

The medical records demonstrate that claimant improved with the medical treatment he received. Claimant testified that the treatment was helpful and his continued use of medication is effectively controlling his seizures.

In this case, there is no evidence that defendant paid for any medical care at all and there was no authorized medical provider in this case. I conclude that it was reasonable for claimant to proceed with the medical treatment as recommended by his physicians and that the treatment he received was beneficial and provided a more favorable medical outcome than would have likely occurred with the lack of treatment offered by defendant. I therefore find that the medical treatment claimant received as identified in Exhibits 2 and 3 was reasonable and beneficial and the defendant is obligated to pay the medical expenses therein.

b) IME Reimbursement.

Concerning reimbursement under Iowa Code section 85.39, I have found above that there was no opinion from an employer retained physician concerning permanent impairment in this case.

Iowa Code section 85.39 permits an employee to be reimbursed for a 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.

Defendant is 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).

The Iowa Supreme Court's decision in Dart v. Young, 867 N.W.2d 839 (Iowa 2015), clearly states that if no impairment rating has actually been provided by an employer-retained physician prior to the occurrence of the claimant's IME, then the injured worker does not qualify for reimbursement for the IME under section 85.39.

In this case, I conclude that claimant is not entitled to reimbursement of his IME with Dr. Bansal because there was no prior impairment rating from an employer-retained physician.

c) Alternate Medical Care.

Turning to the issue of alternate medical care, under Iowa law, the employer is required to provide care to an injured employee and is permitted to choose the care. Pirelli-Armstrong Tire Co. v. Reynolds, 562 N.W.2d 433 (Iowa 1997).

> [T]he 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.

By challenging the employer's choice of treatment – and seeking alternate care – claimant assumes the burden of proving the authorized care is unreasonable. See Iowa R. App. P. 14(f)(5); Long v. Roberts Dairy Co., 528 N.W.2d 122 (Iowa 1995). Determining what care is reasonable under the statute is a question of fact. Id. The employer's obligation turns on the question of reasonable necessity, not desirability. Id.; Harned v. Farmland Foods, Inc., 331 N.W.2d 98 (Iowa 1983). In Pirelli-Armstrong Tire Co., 562 N.W.2d at 433, the court approvingly quoted Bowles v. Los Lunas Schools, 109 N.M. 100, 781 P.2d 1178 (App. 1989):

> [T]he words "reasonable" and "adequate" appear to describe the same standard.
>
> [The New Mexico rule] requires the employer to provide a certain standard of care and excuses the employer from any obligation to provide other services only if that standard is met. We construe the terms "reasonable" and "adequate" as describing care that is both appropriate to the injury and sufficient to bring the worker to maximum recovery.

The commissioner is justified in ordering alternate care when employer-authorized care has not been effective and evidence shows that such care is "inferior or less extensive" care than other available care requested by the employee. Long; 528 N.W.2d at 124; Pirelli-Armstrong Tire Co.; 562 N.W.2d at 437.

I have found above that the employer's failure to provide medical care was unreasonable.

I conclude that the employer's unreasonable failure to provide medical care for claimant concerning this work injury justifies an order from this agency compelling defendant to provide said care. It is appropriate for defendant to immediately authorize Irena Charysz-Birski, M.D. to provide ongoing medical care and medication maintenance for claimant.

5. Costs.

Assessment of costs is a discretionary function of this agency. Iowa Code section 86.40. Costs are to be assessed at the discretion of the deputy commissioner or workers' compensation commissioner hearing the case. 876 IAC 4.33. I conclude that claimant was successful in this claim and therefore exercise my discretion and assess costs against the defendant in this matter. Defendant shall pay costs per rule 876 IAC 4.33, including the cost of the medical report prepared by Dr. Bansal and contained in Claimant's Exhibit 1, but not including the cost of the examination pursuant to Dart v. Young, 867 N.W.2d 839 (Iowa 2015).

6. No Insurance.

Iowa Code section 87.14A provides that an employer "shall not engage in business without first obtaining insurance covering compensation benefits or obtaining relief from insurance as provided in this chapter. A person who willfully and knowingly violates this section is guilty of a class 'D' felony."

I have found above that the employer admitted in their answer to the petition that they did not have insurance in place on the date of the injury herein. Further, there was no evidence presented that the employer had obtained relief from their obligation to obtain insurance. Therefore, the defendant employer is advised that:

A copy of this decision is being provided to the workers' compensation commissioner to determine whether further action should take place under Iowa Code section 87.19 for failure to have workers' compensation insurance.

ORDER

IT IS THEREFORE ORDERED:

Defendant shall pay claimant healing period benefits from August 1, 2016 to March 21, 2019, at the weekly rate of one hundred sixty-four and 00/100 dollars ($164.00).

Defendant shall pay claimant three hundred fifty (350) weeks of industrial disability benefits commencing on March 22, 2019 and continuing each week thereafter until paid in full at the weekly rate of one hundred ninety seven and 92/100 dollars ($197.92).

Defendant 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).

Defendant shall pay medical providers directly for any outstanding medical expenses, reimburse claimant for any out-of-pocket expenses paid, and otherwise hold claimant harmless for the medical expenses contained in Claimant's Exhibits 2 and 3.

Defendant shall immediately identify and authorize Irena Charysz-Birski, M.D. to provide medical care and medication maintenance for this work injury.

Defendant shall pay costs pursuant to rule 876 IAC 4.33.

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

Signed and filed this 9th day of May, 2019.

TOBY J. GORDON
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

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TJG/sam

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.