BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

FRED MILLER, Claimant, vs. LENNOX INDUSTRIES, INC., Employer, INDEMNITY INSURANCE COMPANY OF NORTH AMERICA, Insurance Carrier, Defendant.	:	File Nos. 20006056.01, 21700794.01 ARBITRATION DECISION Head Note Nos.: 1402.40, 1802, 1803, 2206, 2501, 2907

STATEMENT OF THE CASE

Fred Miller, claimant, filed two petitions for arbitration against Lennox Industries, Inc., as the employer and Indemnity Insurance Company of North America, as the insurance carrier. The first petition (File No. 20006056.01) alleges a left knee injury occurring on April 20, 2020. Claimant's second petition (File No. 21700794.01) alleges a left shoulder injury as a result of a work injury on June 14, 2021.

This case came before the undersigned for an arbitration hearing on June 6, 2022. Pursuant to an order from the Iowa Workers' Compensation Commissioner, this case was heard via videoconference using Zoom. All participants appeared remotely.

The parties filed a hearing report prior to the commencement of the hearing. On the hearing report, the parties entered into numerous stipulations. Those stipulations were accepted and no factual or legal issues relative to the parties' stipulations will be made or discussed. The parties are now bound by their stipulations.

The written evidentiary record includes Joint Exhibits 1 through 8, Claimant's Exhibits 1 through 6, and Defendants' Exhibits A through D. All exhibits were received without objection.

Claimant testified on his own behalf. No other witnesses testified live at the hearing. The evidentiary record closed at the conclusion of the arbitration hearing.

However, counsel for the parties requested an opportunity to file post-hearing briefs. This request was granted and both parties filed briefs simultaneously on July 1, 2022. The case was considered fully submitted to the undersigned on that date.

ISSUES

In File No. 20006056.01, the parties submitted the following disputed issues for resolution:

1. Whether claimant's left total knee replacement is causally related to the April 20, 2020 work injury.

2. Whether claimant is entitled to an award of healing period benefits from August 24, 2021 through February 21, 2022.

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

4. Whether claimant is entitled to payment or reimbursement for past medical expenses.

5. Whether claimant is entitled to reimbursement for an independent medical evaluation.

6. Whether costs should be assessed against either party and, if so, in what amount.

In File No. 21700794.01, the parties submitted the following disputed issues for resolution:

1. Whether claimant sustained permanent disability as a result of the June 14, 2021 work injury and, if so, the extent of claimant's entitlement to permanent disability benefits.

2. Whether claimant is entitled to reimbursement for an independent medical evaluation.

3. Whether costs should be assessed against either party and, if so, in what amount.

At the commencement of the hearing, defendants acknowledged liability for the requested independent medical evaluation (IME) and consented to an order requiring reimbursement of that IME. This concession resolved the IME request in both files and the undersigned entered an oral order requiring defendants to reimburse the claimant's IME. No further findings or conclusions will be entered regarding the IME issue.

FINDINGS OF FACT

The undersigned, having considered all the evidence and testimony in the record, finds:

Fred Miller, claimant, is a 63-year-old gentleman, who lives in Marshalltown, Iowa. Mr. Miller commenced working for Lennox Industries, Inc. (hereinafter "Lennox") in 1998 and continues to work for the employer at the time of hearing. Claimant worked in a variety of positions for Lennox. At the time of both injuries alleged in this case, Mr. Miller was working as a trades helper, operating a forklift, for Lennox.

On April 20, 2020, claimant was operating a forklift and noticed a shelf full of motors was about to collapse. Claimant attempted to raise his truck forks to stabilize the shelf. In the process, the motors fell off the shelf, striking claimant in the chest, abdomen, and left knee. Claimant experienced chest pain, left knee pain and could not breathe well or walk after the accident. (Claimant's testimony)

Lennox transported claimant to the emergency room in Marshalltown on April 20, 2020. On the date of the injury, the emergency room physician diagnosed claimant with a chest wall contusion status post trauma but released him the same day. (Joint Ex. 3)

Lennox authorized further care through an occupational medicine physician, Sherman Jew, D.O. Dr. Jew evaluated claimant virtually due to the Covid-19 pandemic a few times over the next few months. Ultimately, Dr. Jew ordered an MRI of claimant's left knee and referred him to an orthopaedic surgeon, Timothy R. Vinyard, M.D. (Joint Ex. 4)

Dr. Vinyard evaluated claimant and recommended arthroscopic surgery on claimant's left knee. Mr. Miller consented to the recommended surgery, and Dr. Vinyard performed a left knee arthroscopic partial lateral meniscectomy and chondroplasty of the medial, lateral, and patellofemoral compartments on January 12, 2021. (Joint Ex. 5, p. 53) Unfortunately, claimant testified that the surgery did not significantly improve his knee symptoms.

By March 22, 2021, Dr. Vinyard opined, "he is doing well. He does continue to have some mild to moderate symptoms. I think he has fully recovered as it relates to his work injury. He does have some osteoarthritis and I think that explains his current symptoms." (Joint Ex. 5, p. 60) Dr. Vinyard released claimant without restrictions at that time, but recommended he not work overtime. Dr. Vinyard also predicted claimant would require a future left knee replacement, but opined, "that should be covered under his personal insurance." (Joint Ex. 5, p. 60)

In a formal report dated March 31, 2021, Dr. Vinyard confirmed maximum medical improvement occurred and that claimant was released to return to work without restrictions. He reiterated that claimant was likely to require a knee replacement in the future but that it "should be covered under his personal insurance." Dr. Vinyard assigned a two percent permanent impairment rating of the left lower extremity pursuant to Table 17-33 of the AMA Guides to the Evaluation of Permanent Impairment, Fifth Edition. (Joint Ex. 5, p. 62) Dr. Vinyard re-evaluated claimant one additional time on April 26, 2021 but made no substantive changes to his opinions or recommendations. I acknowledge that there is mention of a potential subsequent injury occurring in the April 26, 2021 office note. However, neither Dr. Vinyard nor any other physician suggests

this potential injury caused a substantial and material aggravation of claimant's left knee condition or resulted in an injury that could interrupt the causal connection or chain of events leading to claimant's left total knee replacement. (Joint Ex. 5, pp. 63-64)

Mr. Miller sought additional evaluation of his left knee on August 9, 2021 through Arnold E. Delbridge, M.D., an orthopaedic surgeon. Dr. Delbridge noted claimant's prior injury and recommended a left total knee replacement. (Joint Ex. 8, p. 80) Claimant consented to the recommended knee replacement and Dr. Delbridge took claimant to surgery to perform the left total knee replacement on August 24, 2021. (Joint Ex. 8, p. 83)

Claimant's attorney asked Dr. Delbridge about whether the work injury at Lennox was a materially contributing factor to his left knee replacement. Dr. Delbridge provided an October 4, 2021, hand-written note in response that opines, "It is my conclusion, that the work incident was a materially aggravating factor of his left knee condition." (Joint Ex. 8, p. 91)

Mr. Miller also sought an independent medical evaluation, performed by Mark Kirkland, D.O., an orthopaedic surgeon. Dr. Kirkland evaluated claimant on April 8, 2022. He noted the mechanism of injury, appears to have reviewed pertinent medical information relative to the left knee injury, and performed a thorough physical examination of claimant's left knee. Dr. Kirkland concluded, "the April 20, 2020 work injury was more likely than not a substantial factor in materially aggravating and worsening Mr. Miller's preexisting left knee condition which resulted in left knee arthroscopy and eventually left total knee arthroplasty." (Claimant's Ex. 1, p. 7)

Dr. Kirkland opined that claimant achieved MMI for his knee injury on February 21, 2022, after Dr. Delbridge released claimant. He opined that claimant sustained a 37 percent permanent impairment as a result of the left knee injury occurring on April 20, 2020 and as a result of the total knee replacement. (Claimant's Ex. 1, p. 7)

The initial factual dispute presented to the undersigned is whether the claimant's left knee replacement is causally related to the April 20, 2020 work injury. The parties present conflicting evidence on this issue. Considering each of the medical professionals' opinions on the issue, I note that Dr. Vinyard was claimant's treating surgeon. He evaluated claimant on multiple occasions. He had the opportunity to inspect claimant's knee joint intra-operatively, and he evaluated claimant closest in time to his injury. His opinions are entitled to significant consideration.

Dr. Delbridge similarly served as a treating surgeon. He is the surgeon that performed the total knee replacement, which is at issue. Again, Dr. Delbridge had the advantage of evaluating claimant multiple times, as well as viewing claimant's knee joint intra-operatively. Dr. Delbridge's opinions are also entitled to significant consideration.

Dr. Kirkland evaluated claimant only once at the request of claimant's attorney. The advantage enjoyed by Dr. Kirkland is that he was able to review all of the pertinent

medical evidence in reaching his opinions. However, he did not have the advantage of viewing claimant's knee intra-operatively.

When I consider each of the physician's opinions, I find those of Dr. Vinyard to lack any explanation of why claimant's left knee was asymptomatic before the April 20, 2020 date of injury and then required a left knee replacement shortly after his work injury. Dr. Vinyard's explanation that claimant had pre-existing osteoarthritis makes sense but does not explain why that arthritis became symptomatic and worsened immediately after the work injury.

Dr. Delbridge offers a feasible explanation but provides only minimal, handwritten analysis. Dr. Delbridge explains that the work accident was a materially aggravating factor for claimant's left knee. However, he does not clarify whether it caused the total knee replacement specifically.

Dr. Kirkland's opinions provided a cogent and realistic explanation of how and why claimant's left knee osteoarthritis became symptomatic and worsened to the point of needing a total knee replacement. He appears to have been able to evaluate the medical records of both Dr. Vinyard and Dr. Delbridge, as well as taking a history from claimant and conducting his evaluation. I find Dr. Kirkland's opinions to be most credible and convincing in this evidentiary record. To the extent that his opinion supports Dr. Kirkland's conclusion, I also accept the causation opinion of Dr. Delbridge. Having reached these findings, I also find that claimant has proven that the April 20, 2020 work accident caused a material aggravation and worsening of his underlying osteoarthritis such that it caused and resulted in claimant's need for a left knee replacement.

Having reached this finding, I also find that the medical expenses contained in Claimant's Exhibit 5 are related to that left knee replacement and are causally related to the April 20, 2020 work accident. I also find that claimant was off work for his total left knee replacement as of August 24, 2021 and continued off work through February 21, 2022, when he achieved maximum medical improvement (MMI). Dr. Kirkland also provides the only permanent impairment rating related to claimant's left total knee replacement. I accept that impairment rating and find that claimant has proven a 37 percent permanent functional impairment of his left leg as a result of the April 20, 2020 work injury. (Claimant's Ex. 1, p. 7)

The second injury involves a left shoulder injury occurring at Lennox on June 14, 2021. Defendants stipulate that claimant sustained a left shoulder injury. The primary dispute submitted to me is whether the June 14, 2021 injury caused permanent disability and, if so, the extent of claimant's entitlement to permanent disability benefits.

On June 14, 2021, claimant was performing his job duties when he lifted a 100-pound spool of wire. As he lifted it onto the left shoulder, he experienced a sharp pain in the top of his left shoulder. Claimant acknowledges a prior left shoulder injury.

However, Mr. Miller testified that his prior left shoulder symptoms resolved prior to the June 14, 2021 injury. He also testified that his left shoulder injury in 2019 resulted in symptoms in the back of his shoulder as opposed to the top of his shoulder after the 2021 incident. He sought no medical care for his shoulder between his symptoms resolving in 2019 and the June 14, 2021 work injury. (Hearing Transcript, pages 40-48)

Claimant testifies that he still experiences his shoulder "sticking" and he testified that he has to be careful when lifting since the 2021 work injury. (Tr., p. 53) Defendants authorized care through Steven A. Aviles, M.D. Dr. Aviles obtained a left shoulder MRI, which was unremarkable. (Joint Ex. 7, pp. 75-76)

Dr. Aviles provided only conservative care but reported that claimant indicated his shoulder felt great by September 21, 2021. He placed claimant at MMI at that point and released him from further care without permanent medical restrictions related to the left shoulder. (Joint Ex. 6, pp. 72-74) Dr. Aviles further opined that claimant had a zero percent permanent impairment resulting from the June 14, 2021 left shoulder injury. (Joint Ex. 6, p. 74)

Claimant sought no additional medical care for his left shoulder after Dr. Aviles released him. However, he did seek an independent medical evaluation performed by Dr. Kirkland at the same time he evaluated claimant's left knee. Dr. Kirkland concurred with Dr. Aviles that MMI occurred on September 21, 2021. (Claimant's Ex. 1, p. 8) However, he opined that claimant may require additional physical therapy and/or an arthroscopy of the left shoulder. Claimant has not pursued either since his evaluation by Dr. Kirkland.

Dr. Kirkland identified reduced range of motion in claimant's left shoulder. As a result of the reduced range of motion, Dr. Kirkland opines that Mr. Miller sustained an 11 percent permanent impairment of the left upper extremity as a result of the June 14, 2021 left shoulder injury. (Claimant's Ex. 1, p. 8) Dr. Kirkland's impairment is drawn from Figures 16-40, 16-43, and 16-46 of the AMA Guides to the Evaluation of Permanent Impairment, Fifth Edition.

Notably, Dr. Aviles describes claimant as doing "great" at his September 21, 2021 office visit. Yet, Dr. Aviles' September 21, 2021 evaluation demonstrated both painful active and passive range of motion in the left shoulder. He details claimant's passive range of motion measurements but does not document active range of motion measurements. (Joint Ex. 6, p. 73)

Dr. Kirkland documents in his report that he obtained active range of motion measurements using a goniometer. (Claimant's Ex. 1, p. 6) Claimant confirmed this during his testimony, explaining that Dr. Kirkland used the goniometer to measure active range of motion of his left shoulder. Mr. Miller testified that Dr. Aviles did not use a goniometer to measure range of motion in his shoulder, and Dr. Aviles' September 21, 2021 office note makes no reference to the use of a goniometer and provides no active range of motion measurements. (Tr., p. 50)

Section 16.4i on page 475 of the AMA Guides to the Evaluation of Permanent Impairment, Fifth Edition, instructs a medical evaluator to "[m]easure the maximum active shoulder flexion and extension" to determine permanent impairment. That same section of the AMA Guides, on page 476, also instructs an evaluating physician to "[m]easure the maximum active shoulder abduction and adduction" when determining permanent impairment under the range of motion methodology.

I find that Dr. Kirkland followed the specific instructions of the AMA Guides, Fifth Edition, when measuring claimant's left shoulder range of motion. Dr. Kirkland also used a goniometer to ensure the accuracy of his measurements. Dr. Aviles did not record or rely upon active range of motion measurements or use a goniometer when measuring claimant's range of motion to determine permanent impairment. I find that Dr. Kirkland's measurements and corresponding permanent impairment are in compliance with the AMA Guides, Fifth Edition, requirements. Therefore, I accept Dr. Kirkland's measurements as accurate and find that claimant has proven he sustained an 11 percent permanent functional impairment of the left arm as a result of the June 14, 2021 left shoulder injury.

CONCLUSIONS OF LAW

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" refer 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).

While a claimant is not entitled to compensation for the results of a preexisting injury or disease, its mere existence at the time of a subsequent injury is not a defense. Rose v. John Deere Ottumwa Works, 247 Iowa 900, 76 N.W.2d 756 (1956). If the claimant had a preexisting condition or disability that is materially aggravated, accelerated, worsened or lighted up so that it results in disability, claimant is entitled to recover. Nicks v. Davenport Produce Co., 254 Iowa 130, 115 N.W.2d 812 (1962); Yeager v. Firestone Tire & Rubber Co., 253 Iowa 369, 112 N.W.2d 299 (1961).

I found that claimant proved by a preponderance of the evidence that the April 20, 2020 work injury materially and substantially aggravated his left knee osteoarthritis and led to his need for a left knee replacement. Accordingly, I conclude claimant carried his burden of proof to establish a causal connection between the work injury and the subsequent left total knee replacement.

Mr. Miller seeks an award of additional healing period benefits for that time period after his left knee replacement. Specifically, claimant asserts a claim for healing period benefits from August 24, 2021 (the date of his left total knee replacement) until February 21, 2022 (the date of MMI).

Section 85.34(1) provides that healing period benefits are payable to an injured worker who has suffered permanent partial disability until (1) the worker has returned to work; (2) the worker is medically capable of returning to substantially similar employment; or (3) the worker has achieved maximum medical recovery. The healing period can be considered the period during which there is a reasonable expectation of improvement of the disabling condition. See Armstrong Tire & Rubber Co. v. Kubli, 312 N.W.2d 60 (Iowa App. 1981). Healing period benefits can be interrupted or intermittent. Teel v. McCord, 394 N.W.2d 405 (Iowa 1986).

I found that claimant was off work under medical restrictions after his left total knee replacement on August 24, 2021, and that he remained off work and unable to perform substantially similar employment until he achieved MMI on February 21, 2022. Therefore, I conclude that claimant has proven by a preponderance of the evidence that he is entitled to an award of additional healing period benefits from August 24, 2021 to February 21, 2022. Iowa Code section 85.34(1). Having found that claimant achieved MMI on February 21, 2022, his healing period benefits terminate on that date.

Claimant also requests an award of permanent partial disability benefits for the April 20, 2020 injury date. I accepted the opinions, including the permanent impairment rating, of Dr. Kirkland as most credible and convincing. Dr. Kirkland's measurements and permanent impairment rating were found to be in compliance with the AMA Guides, Fifth Edition. Therefore, I also found that claimant proved he sustained a 37 percent permanent impairment of the left leg as a result of the April 20, 2020 injury.

Under the Iowa Workers' Compensation Act, permanent partial disability is compensated either for a loss or 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). The extent of scheduled member disability benefits to which an injured worker is entitled is determined by using the functional method. Functional disability is "limited to the loss of the physiological capacity of the body or body part." Mortimer v. Fruehauf Corp., 502 N.W.2d 12, 15 (Iowa 1993); Sherman v. Pella Corp., 576 N.W.2d 312 (Iowa 1998). In determining the extent of permanent disability sustained in a scheduled member injury, "the extent of loss or percentage of permanent impairment shall be determined solely by utilizing the guides to the evaluation of permanent impairment." Iowa Code section 85.34(2)(x). Moreover, "Lay testimony or agency expertise shall not be utilized in determining loss or percentage of permanent impairment … when determining functional disability." Iowa Code section 85.34(2)(x).

The leg is specifically noted as a scheduled member injury in Iowa Code section (2)(p). According to the statute, the leg is compensated on a 220-week schedule. Iowa Code section 85.34(2)(p). Having found claimant proved a 37 percent permanent impairment of the left leg, I conclude claimant is entitled to an award of 81.4 weeks of permanent partial disability benefits. Iowa Code section 85.34(2)(p), (w).

Claimant also seeks award of past medical expenses in this case. The medical expenses are included at Claimant's Exhibit 5. 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 1975).

Having found that claimant proved a causal connection between the April 20, 2020 work injury and claimant's subsequent left total knee replacement, I conclude that claimant is entitled to payment, reimbursement, or an order requiring defendants to hold him harmless for all medical expenses contained in Claimant's Exhibit 5.

Regarding the second injury date of June 14, 2021, Mr. Miller again carries the burden of proof to establish a causal connection between the alleged injury and his claimed disability. Claimant asserts he sustained permanent disability as a result of the June 14, 2021 left shoulder injury. Ultimately, I accepted the opinions of Dr. Kirkland as most credible and convincing with respect to the shoulder injury. In this instance, Dr.

Kirkland's impairment rating is the rating that is in compliance with and accurately applies the AMA Guides. Accordingly, I found that claimant proved permanent disability resulting from his left shoulder injury and proved he sustained an 11 percent permanent impairment of the left arm as a result of the June 14, 2021 injury date.

Since a 2017 statutory amendment, the shoulder is compensated as a scheduled member injury on a 400-week schedule. (Iowa Code section 85.34(2)(n). Having found claimant proved an 11 percent permanent functional impairment of the left arm as a result of the June 14, 2021 left shoulder injury, I conclude claimant is entitled to an award of 44 weeks of permanent partial disability benefits for the June 14, 2021 injury date. Iowa Code section 85.34(2)(n), (w).

The final disputed issue in each file is whether costs should be assessed against either party. Costs are assessed at the discretion of the agency. Iowa Code section 86.40. Claimant has prevailed on the disputed issues submitted for resolution. Therefore, I conclude it is appropriate to assess claimant's costs against defendants in some amount.

Mr. Miller submits a request for two filing fees, one for each file. Filing fees are reasonable and appropriate costs pursuant to 876 IAC 4.33(7). I conclude it is reasonable to assess both filing fees in the amount of $206.00. He also seeks a service fee ($6.96) for service of the original notice and petition. Again, this is a reasonable request and is assessed pursuant to 876 IAC 4.33(3).

Claimant's statement of costs seeks award of Dr. Kirkland's IME. However, defendants acknowledged liability for that IME at the commencement of hearing and a verbal order was entered for defendants to reimburse that fee pursuant to Iowa Code section 85.39. Since the issue was resolved via section 85.39, it will not also be considered as a cost.

Finally, claimant seeks assessment of the cost of obtaining the October 4, 2021 report from Dr. Delbridge. I ultimately accepted Dr. Delbridge's opinions to the extent they supported those offered by Dr. Kirkland. It was reasonable for claimant to solicit a causation opinion from Dr. Delbridge as a treating surgeon. Therefore, I conclude it is reasonable to assess Dr. Delbridge's $125.00 report fee as a cost. 876 IAC 4.33(6). In total, I conclude that defendants should be assessed and reimburse costs totaling $337.96.

ORDER

THEREFORE, IT IS ORDERED:

In File No. 20006056.01:

Defendants shall pay claimant healing period benefits from August 24, 2021 through February 21, 2022.

Defendants shall pay claimant eight-one point four (81.4) weeks of permanent partial disability benefits commencing on February 22, 2022.

All weekly benefits shall be payable at the stipulated weekly rate of five hundred fifty and 02/100 dollars ($550.02) per week.

Defendants are entitled to the stipulated credit for both short-term disability and prior payment of permanent partial disability benefits.

Defendants shall pay for, reimburse claimant or any third-party payor, and hold claimant harmless for all medical expenses included and submitted in Claimant's Exhibit 5.

In File No. 21700794.01:

Defendants shall pay claimant forty-four (44) weeks of permanent partial disability benefits commencing on September 22, 2021.

Defendants shall pay all weekly benefits at the stipulated weekly rate of five hundred seventeen and 80/100 dollars ($517.80) per week.

In both files:

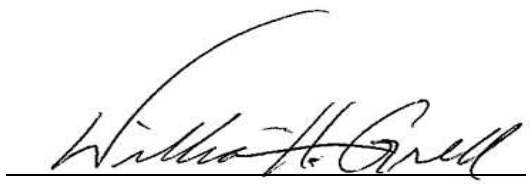
Interest on any late paid weekly benefits shall be payable at an annual rate equal to the one-year treasury constant maturity published by the federal reserve in the most recent H15 report settled as of the date of injury, plus two percent. See Gamble v. AG Leader Technology File No. 5054686 (App. Apr. 24, 2018).

Defendants shall reimburse Dr. Kirkland's independent medical evaluation fees totaling four thousand eight hundred thirty and 00/100 dollars ($4,830.00).

Defendants shall reimburse claimant's costs in the amount of three hundred thirty-seven and 96/100 dollars ($337.96).

Defendants shall file subsequent reports of injury (SROI) as required by this agency pursuant to rules 876 IAC 3.1(2) and 876 IAC 11.7.

Signed and filed this ___18th___ day of October 2022.



WILLIAM H. GRELL
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

The parties have been served, as follows:

James Ballard (via WCES)

Alison Stewart (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.