

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

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CYNTHIA MAHONEY,

Claimant,

vs.

ROBERT HALF INTERNATIONAL (RHI),

Employer,

and

INS. CO. OF PA,

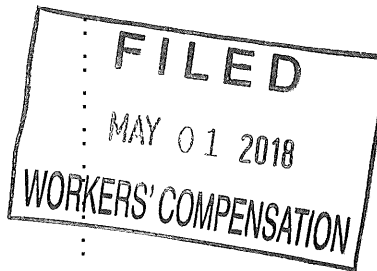
Insurance Carrier,

SECOND INJURY FUND OF IOWA,

Defendants.

File Nos. 5056921, 5056922

RULING ON REHEARING



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On March 28, 2018, I entered an arbitration decision which broadly accepted the parties' stipulation regarding credit.

On April 17, 2018, claimant filed a Motion for Rehearing, seeking a more specific ruling on the credit issue. Claimant argues that defendants are seeking a credit for the full amount of an overpayment paid to claimant against this award. Defendants' employer and insurance carrier have not filed a resistance, although they did set forth their position regarding credit in their brief. (Def. Brief, pages 6-7)

The claimant is correct that I did not address the issue with the necessary specificity as requested by the parties in their Hearing Report and Order (File No. 5056921). The defendant employer and insurance carrier are, in fact, seeking a credit for all benefits paid against the award of permanency in this case. (See Def. Brief, pp. 6-7; see also Hearing Report) The defendant employer and insurance carrier are not entitled to such a credit under the Iowa Supreme Court decision in Swiss Colony v. Deutmeyer, 789 N.W.2d 129, 136 (Iowa 2010). I read Deutmeyer to strictly limit such credit in Iowa Code section 85.34 to future benefits. I am bound by this decision. As a result, defendants employer and insurance carrier are only entitled to a credit for the overpayments against future benefits for a subsequent injury and not against future benefits for this injury.

Defendants' credit is limited to seven point five (7.5) weeks of benefits at the stipulated rate of five hundred ninety and 26/100 dollars (\$590.26).

Signed and filed this 15<sup>th</sup> day of May, 2018.

  
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JOSEPH L. WALSH  
DEPUTY WORKERS'  
COMPENSATION COMMISSIONER

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JLW/kjw

**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.