



injury in this case is August 8, 2016. (Hrg. Rpt. & Order, p. 1) Therefore, Iowa Code section 85.34 in the Code of Iowa 2017<sup>1</sup> applies in this case.

Iowa Code section 85.34(1) provides “alternative markers of the end of the healing period.” Waldinger Corp. v. Mettler, 817 N.W.2d 1, 9 (Iowa 2012); see also Evenson v. Winnebago Indus., 881 N.W.2d 360, 372 (Iowa 2012). The alternative markers are when the injured employee:

- 1) Returns to work;
- 2) Reaches maximum medical improvement (MMI) for the injury; or
- 3) Is medically capable of returning to employment substantially similar to that which the employee was engaged at the time of injury. Iowa Code § 85.34(1); Evenson, 881 N.W.2d at 372.

The first of the alternative markers to occur ends a healing period. Id.; Evenson, 881 N.W.2d at 372 (Iowa 2012); Crabtree v. Tri-City Elec. Co., File No. 5059572, pp. 2-3 (App., Mar. 20, 2020). PPD benefits “begin at the termination of the healing period.” Id. at § 85.34(2); Evenson, 881 N.W.2d at 372.

Young’s stipulated work injury occurred on August 8, 2016. (Hrg. Rpt. & Order, p. 1; see also Arb. Dec., pp. 4-5) She underwent surgery on her left knee on November 3, 2016. (Arb. Dec., p. 11) The defendants began paying Young what they categorized as temporary total disability (TTD) benefits on the date of surgery. (Def. Ex. B, p. 3) However, because Young’s injury resulted in PPD, the benefits are properly categorized as healing period benefits. See Bell Bros. Heating & Air Conditioning v. Gwinn, 779 N.W.2d 193, 200 (Iowa 2010) (citing Clark v. Vicorp Rests., Inc., 696 N.W.2d 596, 604–05 (Iowa 2005)).

Nicole Ruble, PA-C, wrote a letter dated April 3, 2017, releasing Young to return to work with restrictions, per the recommendation of William Jacobson, M.D. (Arb. Dec., p. 15) The defendants ceased paying Young healing period benefits on April 5, 2017. (Def. Ex. B, p. 2) Thus, the arbitration decision’s conclusion that Young returned to work on April 3, 2017, the date of Ruble’s letter, is incorrect. (Arb. Dec., p. 15) Instead, the weight of the evidence establishes Young returned to work on April 6, 2017.

April 6, 2017, is consequently the date upon which Young’s PPD benefits must commence under the version of Iowa Code section 85.34(2) that is applicable to this case. The arbitration decision is amended and supplemented accordingly.

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<sup>1</sup> Iowa Code (2017) contains all statutes of a general and permanent nature, including the acts of a permanent nature of the Eighty-Sixth General Assembly, 2015 and 2016. Online at: <https://www.legis.iowa.gov/docs/shelves/code/ocr/2017%20Iowa%20Code.pdf> (last viewed Apr. 16, 2020).

IT IS THEREFORE ORDERED:

- 1) The arbitration decision is amended and supplemented as described above.
- 2) The commencement date for Young's PPD benefits is April 6, 2017.
- 3) The arbitration decision remains the same in all other respects.

Signed and filed this 20<sup>th</sup> day of April, 2020.

  
BENJAMIN G. HUMPHREY  
DEPUTY WORKERS'  
COMPENSATION COMMISSIONER

The parties have been served, as follows:

Joseph Powell (via WCES)

Tiernan Siems (via WCES)