BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

EMSUD PAJAZETOVIC, Claimant, vs. TYSON FRESH MEATS, INC., Employer, Self-Insured, Defendant.	:	File No. 5068770 ARBITRATION DECISION Head Notes: 1703, 1803

STATEMENT OF THE CASE

Claimant, Emsud Pajazetovic, filed a petition in arbitration seeking workers' compensation benefits from self-insured employer Tyson Fresh Meats, Inc. (Tyson). This matter was heard on December 9, 2021, with a final submission date of January 21, 2022.

The record in this case consists of Joint Exhibits 1 through 11, Claimant's Exhibits 1 through 9, Defendant's Exhibits A through S, and the testimony of claimant and Sebina Pajazetovic, claimant's wife.

The parties filed a hearing report at the commencement of the arbitration hearing. On the hearing report, the parties entered into various stipulations. All of those stipulations were accepted and are hereby incorporated into this arbitration decision and no factual or legal issues relative to the parties' stipulations will be raised or discussed in this decision. The parties are now bound by their stipulations.

ISSUES

1. Extent of claimant's entitlement to permanent partial disability benefits.

2. Whether apportionment under Iowa Code section 85.34(7) is applicable.

FINDINGS OF FACTS

Claimant was 45 years old at the time of hearing. Claimant was born in Bosnia. Claimant completed high school in Bosnia. After high school, claimant was inducted into the Army. After 10 months of service, claimant went to a refugee camp. (Hearing Transcript, pp. 10-12)

Claimant came to the United States in 1997. He began working for Tyson in Waterloo in August of 1998. Claimant worked for several months on a production line. (Defendant's Exhibit A, p. 3, deposition pp. 9-10; TR p. 13)

Claimant testified that when he came to the U.S., he was not fluent in English. He said he taught himself English by watching TV for hours every night after work. After he had become more proficient in English, he applied for a job at Tyson as a translator. Claimant tested for the job, passed and was hired as a translator with Tyson. (TR pp. 14-15)

Claimant testified his job at Tyson included interpreting for Bosnian employees, driving people, loading and unloading. (TR p. 21)

Claimant's prior medical history is relevant. In December of 2017 claimant had a neck injury while loading boxes. Claimant said he was referred to Chad Abernathey, M.D., who recommended surgery.

On February 2, 2018, claimant was evaluated by Dr. Abernathey for neck pain radiating to the left upper extremity. Claimant was assessed as having a left C7 radiculopathy secondary to a left C6-7 disc extrusion. (Joint Exhibit 4, pp. 25-26)

Claimant said he did not want to have surgery, and instead did at-home traction. (TR pp. 25-28)

Claimant settled this injury with Tyson under a full commutation of benefits based on 28 percent permanent impairment to the body as a whole. (Ex. M)

On October 22, 2018, claimant was translating for Tyson in a physical therapy/rehab area. Claimant stepped on a dumbbell and fell. Claimant said he finished his shift, but felt pain in his lower back, neck and shoulder. (TR pp. 29-32) Exhibit A, pages 44 through 52, are photos of the area where claimant was injured.

Claimant was evaluated by Robert Gordon, M.D., at the on-site clinic at Tyson. Claimant fell backward after stepping on a dumbbell and fell backward onto a wooden box. Claimant hit his left shoulder on a hand bike. Claimant had left shoulder and lower back pain. He was assessed as having a left posterior glenohumeral contusion and a lumbosacral contusion. (JE 3, pp. 15-16)

On December 13, 2018, claimant was evaluated by Matthew Bollier, M.D., at the University of Iowa Hospitals and Clinics (UIHC) for left shoulder pain. Claimant was assessed as having a SLAP tear. Surgery was discussed and chosen as a treatment option. (JE 6, p. 47; Claimant's Exhibit 3, p. 26)

Claimant was evaluated by Dr. Abernathey on January 11, 2019, for neck and low back pain. An MRI of the cervical spine was recommended. (JE 4, p. 26)

On January 16, 2019, claimant underwent the left shoulder surgery consisting of a SLAP repair and biceps tenodesis. (JE 6, pp. 48-52)

Claimant was evaluated by Ivo Bekavac, M.D., on February 5, 2019. He was assessed as having a bilateral lumbosacral radiculopathy due to a protrusion on the

right and a C5 radiculopathy due to his 2017 injury, but aggravated by his 2018 fall. (JE 7, pp. 94-96)

In a March 11, 2019, letter, written by Tyson, Dr. Abernathey indicated claimant had the same cervical findings as when surgery was suggested in 2017. Dr. Abernathey indicated that if surgery was performed, it would be different from what was recommended in 2017. (Ex. D)

On April 12, 2019, claimant returned to Dr. Bollier in follow up. Claimant indicated improvement in shoulder pain. Claimant was found to be at maximum medical improvement (MMI) for the shoulder as of April 26, 2019. Dr. Bollier found that claimant had a 4 percent permanent impairment to the upper extremity converting to a 2 percent permanent impairment to the body as a whole. (JE 6, pp. 60-62)

In an April 15, 2019, letter, written by Tyson, Dr. Abernathey compared claimant's cervical MRI from 2017 to the MRI of 2018. He noted there was a change in condition with a prominent disc extrusion on the December 2018 MRI. Dr. Abernathey recommended a microdiscectomy. (Ex. E)

In an April 9, 2019, letter, David Segal, M.D., gave his opinions of claimant's condition following an examination. He opined claimant's C4-5 cervical level appeared worsened and indicated pronounced pressure on the spinal cord. He opined that the December 11, 2018, lumbar MRI revealed a disc protrusion and annular tear at the L4-5 level. He assessed claimant as having a C5-C6 cervical radiculopathy and a right L5-S1 radiculopathy. Dr. Segal recommended claimant have a C4-5 surgery for the cervical condition. He also recommended physical therapy, injections and a microlumbar discectomy at the L5-S1 level. (Ex. 2)

On May 9, 2019, claimant underwent a right L5-S1 partial hemilaminectomy and a medial partial facetectomy. Surgery was performed by Dr. Abernathey. (Ex. 3, p. 30)

On May 17, 2019, claimant returned to Dr. Abernathey in follow up. Claimant was kept off work until his next appointment. (JE 4, p. 27)

Claimant returned to Dr. Abernathy on June 21, 2019. He was showing good relief of symptoms. Claimant was returned to work on July 8, 2019, without restrictions. (JE 4, p. 28)

Claimant saw Dr. Abernathey on July 29, 2019. Claimant had difficulty with lower back pain and right hip pain. He was recommended to have an epidural steroid injection (ESI) for lower back pain. (JE 4, p. 28)

Claimant returned to the UIHC on October 9, 2019, indicating his shoulder felt worse than it did before surgery. (JE 6, p. 64)

Claimant saw Dr. Abernathey on October 16, 2019. Claimant had an MRI prior to the ESI. Dr. Abernathey was asked to review the MRI. Dr. Abernathey did not recommend aggressive neurosurgical treatment given the findings on the MRI. Claimant was to proceed with the ESI. (JE 4, p. 28)

In a November 20, 2019, letter, written by Tyson, Dr. Abernathey indicated claimant had no additional permanent impairment regarding the cervical spine. He opined claimant had no permanent restrictions. He indicated claimant should consider a cervical fusion. (Ex. F)

On November 20, 2019, claimant underwent a bursa corticosteroid injection performed at the UIHC. (JE 6, pp. 66-68)

Claimant returned to Dr. Bollier on December 6, 2019. Claimant had continued left shoulder pain that did not improve with surgery. He indicated relief from the shoulder injection that lasted only one day. An EMG and physical therapy were recommended. (JE 6, pp. 69-72)

In a January 28, 2020, letter, written by Tyson, Dr. Abernathey indicated claimant's left cubital tunnel and carpal tunnel syndrome were caused by the October 22, 2018, injury at Tyson. (Ex. G)

On March 4, 2020, claimant returned to Dr. Abernathey. Cervical surgery was discussed and chosen as a treatment option. (JE 4, p. 29)

In a March 5, 2020, letter, Michael Gainer, M.D., opined that claimant's cubital tunnel and carpal tunnel syndrome was not related to his work injury at Tyson. (Ex. H)

On March 10, 2020, claimant underwent a cubital tunnel and carpal tunnel release. Surgery was performed by Dr. Abernathey. (Ex. 3, p. 30)

On June 16, 2020, claimant underwent a C4-5 discectomy and fusion. Surgery was performed by Dr. Abernathey. (JE 9)

On August 25, 2020, claimant underwent a telemedicine call with Raja Akbar, M.D. Claimant had been treating for depression. Claimant's depression was most likely due to his work-related injuries. (Ex. 9, p. 66) Claimant was assessed as having major depressive disorder, moderate to severe, related to a work injury and multiple surgeries. He was treated with medication and prescribed psychotherapy. (Ex. 9, pp. 66-68)

On February 9, 2021, claimant was evaluated by Frankie Dunbar, ARNP. Claimant said Nurse Practitioner Dunbar worked with James Nepola, M.D., at the UIHC. Surgery was discussed. Claimant was recommended to have a pectoralis major muscle transfer for scapular stabilization. (JE 6, p. 90; TR pp. 39-41)

In a March 18, 2021, report, Sunil Bansal, M.D., gave his opinions of claimant's condition following an independent medical evaluation (IME). Claimant had daily headaches. He had constant pain in his neck, left shoulder and lower back. (Ex. 3, p. 34)

Dr. Bansal found claimant at MMI for his neck on March 12, 2021. He found claimant at MMI for his back on November 20, 2019. He found claimant at MMI for his left shoulder on April 26, 2019. He also found claimant at MMI for the carpal tunnel and cubital tunnel releases on March 12, 2021. (Ex. 3, p. 38)

Dr. Bansal opined that claimant's fall at work on October 22, 2018, caused his neck, back, left shoulder, and left scapular dyskinesis. He opined claimant's cubital tunnel and carpal tunnel syndromes were a sequela from the left shoulder arthroscopic surgery. (Ex. 3, pp. 40-41)

Dr. Bansal opined that claimant had a 28 percent permanent impairment to the body as a whole for his neck injury. He opined claimant had a 13 percent permanent impairment to the body as a whole for his lower back injury. He indicated claimant had a 7 percent permanent impairment to the body as a whole for his left shoulder injury. He also opined that claimant had a 4 percent permanent impairment to the body as a whole for the cubital tunnel syndrome, and a 3 percent permanent impairment to the body as a whole for the carpal tunnel syndrome. (Ex. 3, pp. 41-42)

Dr. Bansal limited claimant to no lifting greater than 20 pounds. He also recommended claimant avoid activity that required repeated neck motion. He limited claimant to no prolonged sitting and no walking greater than 30 minutes at a time. (Ex. 3, p. 42)

On April 20, 2021, claimant met with Dr. Nepola at the UIHC. Claimant was evaluated for permanent impairment by Dr. Nepola. Claimant indicated he did not want to have surgery recommended by Dr. Nepola. (JE 6, p. 91)

Claimant testified Dr. Nepola told him that if surgery was not successful, his left arm would be totally useless. Claimant said upon learning this, he became scared and changed his mind about having a second shoulder surgery. (TR p. 41)

In an April 20, 2021, letter, Dr. Nepola found claimant at MMI on April 20, 2021, for his shoulder condition. He found claimant had a 15 percent permanent impairment to the upper extremity for the surgery, converting to a 9 percent permanent impairment to the body as a whole. He opined claimant would require further surgery and limited claimant to no lifting with the left upper extremity. (Ex. I)

Claimant testified that on April 29, 2021, he was evaluated by Brett Freedman, M.D. at the Mayo Clinic in Rochester, Minnesota, for a second opinion. He said Dr. Freedman told him that the C4-5 fusion had failed. He said Dr. Freedman told him that he would require a more extensive surgery and that the surgery would not resolve his pain. Claimant said Dr. Freedman told him he would ultimately require a pain specialist for life. (TR pp. 48-49; JE 11, pp. 143-144)

Claimant testified he began seeing Frank Hawkins, M.D., for pain management. He said that Dr. Hawkins recommended a spinal cord stimulator (SCS). Claimant said that at the time of hearing he was considering having the SCS implanted. (TR pp. 51-52)

On July 13, 2021, claimant returned in follow up with Dr. Akbar for depression and anxiety due to a work-related injury. Claimant was treated with medications and told to continue counseling. (Ex. 9, pp. 83-85)

In a November 8, 2020, letter, written by claimant's counsel, Dr. Akbar indicated that claimant's injury played a substantial role in his mental condition. He opined claimant's depression would continue indefinitely. (Ex. 9, pp. 102-103)

Claimant testified he has difficulty sleeping due to chronic pain. (TR pp. 57-58) Claimant indicated he has difficulty focusing. (TR pp. 58-59) Claimant says he has some difficulty driving a car. (TR p. 85) At the time of hearing, claimant was taking amitriptyline, gabapentin, bupropion and Seroquel. (TR p. 62) Claimant said he did not believe he could return to work at his job as an interpreter given his depression and chronic pain. (TR p. 63) Claimant said he has not looked for work since March of 2020. (TR pp. 69-70) He said his family doctor, Dr. Bogdanich, had taken him off work at the time of hearing. (TR pp. 71-72) During hearing, claimant continually moved to deal with pain in his neck and back.

Sebina Pajazetovic testified that she is claimant's wife and has been married to him for 10 years. She testified claimant is mad and angry all the time. She said claimant is in pain. She said prior to his injury, claimant was outgoing and friendly. She said claimant rarely sleeps due to chronic pain. (TR pp. 90-91)

CONCLUSION OF LAW

The first issue to be determined is the extent of claimant's entitlement to permanent partial disability benefits.

The party who would suffer loss if an issue were not established has the burden of proving that issue by a preponderance of the evidence. Iowa R. App. P. 6.904(3).

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 Ry. Co. of Iowa, 219 Iowa 587, 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 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, but consideration must also be given to the injured employee's age, education, qualifications, experience, motivation, loss of earnings, severity and situs of the injury, work restrictions, inability to engage in employment for which the employee is fitted and the employer's offer of work or failure to so offer. 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.

Claimant was 45 years old at the time of hearing. He graduated from high school in Bosnia. In 1997 claimant came to the United States. He began working at Tyson in

October 1998 as a production line worker. Claimant learned English on his own after work and eventually became an interpreter.

Claimant had a prior 2017 work-related cervical injury. Claimant settled that injury with Tyson under a commutation of benefits for a 28 percent permanent impairment to the body as a whole. (Ex. M)

Following his 2018 injury, claimant had a cervical fusion. Dr. Bansal found that claimant had a 28 percent permanent impairment to the body as a whole as a result of this first cervical injury. (Ex. 3, pp. 41-42) Dr. Abernathey opined, in a letter written by Tyson, that if claimant had surgery, his permanent impairment would still be 25 percent to the body as a whole. (Ex. F) Claimant had his cervical fusion in June of 2020. (JE 9) Dr. Abernathey's opinions regarding permanent impairment and permanent restrictions regarding the cervical injury are not credible as they were given approximately 7 months before claimant even had cervical surgery. Given this record, it is found that claimant has a 28 percent permanent impairment to the cervical spine as a result of the 2018 injury.

Regarding the low back injury, Dr. Bansal opined that claimant had a 13 percent permanent impairment to the body as a whole for the lower back. (Ex. 3, pp. 41-42) As this is the only rating given for claimant's lower back, it is found that claimant has a 13 percent permanent impairment to the body as a whole for his lumbar injury.

Dr. Bansal opined that claimant had a 7 percent permanent impairment to the body as a whole for his shoulder injury. (Ex. 3, pp. 41-42) Dr. Nepola opined that claimant had a 9 percent permanent impairment to the body as a whole for the shoulder injury. (Ex. J) Dr. Nepola limited claimant to no use of the left arm. Dr. Nepola was a treating physician for claimant's shoulder condition. As a practical matter, he has more experience with claimant's medical history and presentation regarding claimant's shoulder injury than does Dr. Bansal. Given this record, it is found that claimant has a 9 percent permanent impairment to the body as a whole for the shoulder injury and a permanent restriction of no use of the left upper extremity.

Both Dr. Bansal and Dr. Abernathey opined that claimant's cubital tunnel syndrome and carpal tunnel syndrome were related to the October 22, 2018, work injury. (Ex. G; Ex. 3, pp. 41-42) Dr. Gainer opined that claimant's cubital tunnel and carpal tunnel syndrome were not work related. (Ex. H) Dr. Abernathey treated claimant for an extended period of time and ultimately performed the cubital tunnel and carpal tunnel surgeries. As a practical matter, Dr. Abernathey has more experience with claimant's medical history and medical presentation than does Dr. Gainer. Given this record, the opinions of Dr. Gainer regarding causation of the cubital tunnel and carpal tunnel syndrome are found not convincing. Claimant has carried his burden of proof he has work-related cubital tunnel and carpal tunnel syndrome. Dr. Bansal found that claimant has a 4 percent permanent impairment to the body as a whole for the cubital tunnel syndrome and a 3 percent permanent impairment to the body as a whole for the carpal tunnel syndrome. (Ex. 3, p. 42) Given this record, it is found that claimant has a 4 percent permanent impairment to the body as a whole for the cubital tunnel syndrome

and 3 percent permanent impairment to the body as a whole for the carpal tunnel syndrome.

Dr. Akbar opined that claimant's mental condition is caused by his work injury. He also indicates claimant's condition is permanent. (Ex. 9, pp. 83, 102-103) However, Dr. Akbar offers no opinion regarding the extent of permanent impairment regarding claimant's mental injury. Based on this, it is found that claimant has a permanent mental injury as a result of his work injury with Tyson.

Dr. Bansal limited claimant in his ability to lift, walk, sit and use of his neck. As noted, Dr. Nepola recommended claimant have no use of his left arm. Both claimant and his wife indicate that claimant gets little sleep due to his chronic pain. Claimant takes prescription medications for pain and sleep. At the time of hearing, claimant intended to have a spinal cord stimulator implanted to deal with pain.

Claimant has been off work with Tyson since March of 2020. At the time of hearing, claimant had not returned to work. At the time of hearing claimant was still employed with Tyson. The record indicates claimant was kept off work by his family doctor. (TR pp. 71-72)

Because claimant had not returned to work following his June of 2020 cervical surgery, Iowa Code section 85.34(2)(v) is not applicable.

Using the combined values found in the AMA Guides to the Evaluation of Permanent Impairment (Fifth Edition), claimant has a combined permanent impairment of 47 percent (28 percent plus 13 percent plus 9 percent plus 4 percent plus 3 percent) He has a permanent mental injury. He is restricted in lifting, walking, and sitting. Claimant is restricted from using his left arm. Claimant gets little sleep due to chronic pain. Claimant is currently taking prescription medications for sleep and pain. Claimant has not returned to work since his June of 2020 cervical surgery. When considering all the factors detailed above, it is found that claimant has a 70 percent loss of earning capacity or industrial disability.

Dr. Nepola found claimant at MMI on April 20, 2021. Benefits shall commence on that date.

The next issue to be determined is whether apportionment is appropriate under Iowa Code section 85.34(7)

Prior to the legislature's amendments in 2017, Iowa Code section 85.34(7) stated, in relevant part:

> 7. SUCCESSIVE DISABILITIES.
>
> a. An employer is fully liable for compensating all of an employee's disability that arises out of and in the course of the employee's employment with the employer. An employer is not liable for compensating an employee's preexisting disability that arose out of and in the course of

employment with a different employer or from causes unrelated to employment.

b. (1) If an injured employee has a preexisting disability that was caused by a prior injury arising out of and in the course of employment with the same employer, and the preexisting disability was compensable under the same paragraph of subsection 2 as the employee's present injury, the employer is liable for the combined disability that is caused by the injuries, measured in relation to the employee's condition immediately prior to the first injury. In this instance, the employer's liability for the combined disability shall be considered to be already partially satisfied to the extent of the percentage of disability for which the employee was previously compensated by the employer.

(2) If, however, an employer is liable to an employee for a combined disability that is payable under subsection 2, paragraph “u”, and the employee has a preexisting disability that causes the employee's earnings to be less at the time of the present injury than if the prior injury had not occurred, the employer's liability for the combined disability shall be considered to be already partially satisfied to the extent of the percentage of disability for which the employee was previously compensated by the employer minus the percentage that the employee's earnings are less at the time of the present injury than if the prior injury had not occurred.

c. A successor employer shall be considered to be the same employer if the employee became part of the successor employer's workforce through a merger, purchase, or other transaction that assumes the employee into the successor employer's workforce without substantially changing the nature of the employee's employment.

Iowa Code section 85.34(7) currently reads:

7. Successive disabilities.

An employer is liable for compensating only that portion of an employee's disability that arises out of and in the course of the employee's employment with the employer and that relates to the injury that serves as the basis for the employee's claim for compensation under this chapter, or chapter 85A, 85B, or 86. An employer is not liable for compensating an employee's preexisting disability that arose out of and in the course of employment from a prior injury with the employer, to the extent that the employee's preexisting disability has already been compensated under this chapter, or chapter 85A, 85B, or 86. An employer is not liable for compensating an employee's preexisting disability that arose out of and in the course of employment with a different employer or from causes unrelated to employment.

When comparing the two versions, the 2017 amendments revised subpart (a), and removed subparts (b) and (c) from Iowa Code section 85.34(7).

When interpreting statutory provisions, our goal is to determine and effectuate the legislature's intent. Auen v. Alcoholic Beverages Div., Iowa Dept. of Commerce, 679 N.W.2d 586, 590 (Iowa 2004) To determine legislative intent, we look to the language chosen by the legislature and not what the legislature might have said. Absent a statutory definition, we consider statutory terms in the context in which they appear and give each its ordinary and common meaning. Ramirez-Trujillo v. Quality Egg, L.L.C., 878 N.W.2d 759, 770 (Iowa 2016) We "may not extend, enlarge or otherwise change the meaning of a statute" under the guise of construction. Auen, 679 N.W.2d at 590. In interpreting statutes, we generally "give weight to explanations attached to bills as indications of legislative intent." Homan v. Branstad, 887 N.W.2d 153, 166 (Iowa 2016).

Unlike when the initial successive disabilities statute was adopted in 2004, the general assembly did not include a statement of intent within the 2017 amendments. Thus, this Agency does not have a clear directive from the legislature regarding its intent in amending Iowa Code section 85.34(7). As such, this Agency must rely on the plain language and legislative history of the statute for guidance.

I recognize that the 2017 revisions to Iowa Code section 85.34(7) do not have a statement of intent within the 2017 amendments.

Iowa Code section 85.34(7) does indicate that the ". . . employer is liable for compensating only that portion of an employee's disability . . . that relates to the injury that serves as a basis for the employee's claim for compensation . . ." Iowa Code section 85.34(7). In short, the plain language meaning of the statute indicates that an employer is only liable for compensation of the disabilities relating to the injury that is being litigated.

When Iowa Code section 85.34(7) was adopted in 2004, the legislature included an "intent" provision, in section 20 of that bill, that states:

> LEGISLATIVE INTENT. It is the intent of the general assembly that this division of this Act will **prevent all double recoveries and all double reductions** in workers' compensation benefits for permanent partial disability. This division modifies the fresh start and full responsibility rules of law announced by the Iowa supreme court in a series of judicial precedents.

(H.F. 2581)(Emphasis added)

Based on the plain language meaning of the statute, it does not appear that the intent of Iowa Code section 85.34(7) (2017) has changed to suddenly allow double recoveries. Based on this, it is found that apportionment under Iowa Code section

85.34(7) may be applicable in this case. Wilkie v. Kelly Services, File No 5064366 (App. Dec. September 2, 2020)

Claimant was awarded 140 weeks of permanent partial disability benefits regarding settlement for the 2017 injury. (Ex. M) The combined disabilities of the 2017 and 2018 injuries resulted in claimant having a 70 percent industrial disability. Claimant is only due benefits for the 2018 injury. Claimant is due 210 weeks of benefits for the 2018 injury (350 weeks – 140 weeks). See Ditsworth v. ICON, File No. 5054080 (App. Dec. November 5, 2018); Knaeble v. John Deere Dubuque Works, File Nos. 5066463 and 5066464 (App. Dec. May 10, 2021)

ORDER

Therefore it is ordered:

That defendant shall pay claimant two hundred ten (210) weeks of permanent partial disability benefits at the rate of five hundred thirty-nine and 71/100 dollars ($539.71) per week commencing on August 20, 2021.

Defendant shall pay accrued weekly benefits in a lump sum together with interest 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.

That defendant shall be given a credit for benefits previously paid.

That defendant shall file subsequent reports of injury as required by this agency under Rule 876 IAC 3.1(2).

Signed and filed this 5th day of April, 2022.

JAMES F. CHRISTENSON
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

The parties have been served, as follows:

Steve Hamilton (via WCES)

Jason Wiltfang (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.