

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

<p>JAMES CORBETT,</p> <p>Claimant,</p> <p>vs.</p> <p>MIDAMERICAN ENERGY COMPANY,</p> <p>Self-Insured Employer,</p> <p>Defendant.</p>	<p>File Nos. 22000458.01, 21700535.01</p> <p>ARBITRATION DECISION</p> <p>HEADNOTES: 1108, 1803, 2501</p>
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I. STATEMENT OF THE CASE.

Claimant James Corbett filed two petitions in arbitration seeking workers' compensation benefits from the defendant, self-insured employer MidAmerican Energy Company (MidAmerican):

- Under No. 22000458.01, alleging a work injury to the right lower extremity on July 10, 2019; and
- Under No. 21700535.01, alleging a work injury to the left lower extremity on September 28, 2020.

The agency consolidated the claims into one contested case proceeding for administrative convenience pursuant to Iowa Administrative Code rule 876—4.6 and scheduled an arbitration hearing. The undersigned presided over the hearing, which was held using internet-based video by order of the Commissioner on December 14, 2022. Corbett participated personally and through attorney John P. Dougherty. MidAmerican participated by and through attorney Lori N. Scardina Utsinger.

II. ISSUES.

Under Iowa Administrative Code rule 876—4.19(3)(f), the parties jointly submitted a hearing report defining the claims, defenses, and issues submitted to the presiding deputy commissioner. The hearing report was approved and entered into the record via an order because it is a correct representation of the disputed issues and stipulations in this case. The parties identified the following disputed issues with respect to each alleged injury as detailed below.

A. No. 22000458.01: Right Knee Injury of July 10, 2019.

- 1) What is the nature and extent of permanent disability, if any, caused by the stipulated work injury?
- 2) What is the commencement date for permanent partial disability benefits, if any are awarded?
- 3) Is Corbett entitled to payment of the medical expenses listed in Exhibit 4?
- 4) Is Corbett entitled to taxation of costs against MidAmerican?

B. No. 21700535.01: Left Knee Injury of September 28, 2020.

- 1) What is the extent of permanent disability, if any, caused by the stipulated work injury?
- 2) What is the commencement date for permanent partial disability benefits, if any are awarded?
- 3) Is Corbett entitled to payment of the medical expenses listed in Exhibit 4?
- 4) Is Corbett entitled to taxation of costs against MidAmerican?

III. STIPULATIONS.

In the hearing reports, the parties entered into a series of stipulations as detailed below. The parties' stipulations in the hearing reports are accepted and incorporated into this arbitration decision. The parties are bound by their stipulations. This decision contains no discussion of any factual or legal issues relative to the parties' stipulations except as necessary for clarity with respect to disputed factual and legal issues.

A. No. 22000458.01: Right Knee Injury of July 10, 2019.

- 1) An employer-employee relationship existed between Corbett and MidAmerican at the time of the stipulated injury.
- 2) Corbett sustained an injury on July 10, 2019, which arose out of and in the course of his employment with MidAmerican.
- 3) The alleged injury is a cause of temporary disability during a period of recovery, but Corbett's entitlement to temporary or healing period benefits is no longer in dispute.

- 4) If the extent of permanent disability is ripe for determination, such disability is to the right lower extremity (knee), a scheduled member.
- 5) At the time of the stipulated injury:
 - a) Corbett's gross earnings were \$2,300.98 per week.
 - b) Corbett was single.
 - c) Corbett was entitled to one exemption.

B. No. 21700535.01: Left Knee Injury of September 28, 2020.

- 1) An employer-employee relationship existed between Corbett and MidAmerican at the time of the alleged injury.
- 2) Corbett sustained an injury on September 28, 2020, which arose out of and in the course of his employment with MidAmerican.
- 3) The alleged injury is a cause of temporary disability during a period of recovery, but Corbett's entitlement to temporary or healing period benefits is no longer in dispute.
- 4) If the extent of permanent disability is ripe for determination, such disability is to the left lower extremity (knee), a scheduled member.
- 5) At the time of the stipulated injury:
 - a) Corbett's gross earnings were \$2,314.07 per week.
 - b) Corbett was single.
 - c) Corbett was entitled to one exemption.
- 6) Prior to hearing, MidAmerican paid to Corbett 4.4 weeks of compensation at the rate of \$1,282.96 per week.

IV. FINDINGS OF FACT.

The evidentiary record in this case consists of the following:

- Joint Exhibits JE-1 through JE-7;
- Claimant's Exhibits 1 through 5;
- Defendant's Exhibits A through G; and

- Hearing testimony by Corbett; Dave Requet, Jr., a MidAmerican supervisor; and Tyler Waterhouse, a MidAmerican employee who worked with Corbett.

After careful consideration of the evidence and the parties' post-hearing briefs, the undersigned enters the following findings of fact.

Corbett was 63 years of age at the time of hearing. (Hrg. Tr. p. 19) He graduated from high school in 1978. (Hrg. Tr. p. 19) Corbett did not obtain any postsecondary credential or degree after graduating high school. (Hrg. Tr. p. 19)

Corbett injured his right knee while playing basketball when he was in his twenties, about 35 years before the date of hearing. (Hrg. Tr. p. 20; Ex. JE-1, p. 1) He underwent surgery to repair the anterior cruciate ligament (ACL) in his right knee. (Hrg. Tr. p. 20; Ex. JE-1, p. 1) After surgery, Corbett recovered to the point that he had no functional limitations relating to his surgically repaired knee with respect to physical activities such as playing sports, jogging, and skiing. (Hrg. Tr. p. 20)

Corbett did not experience symptoms or seek care for his surgically repaired right knee in the decades between when he reached maximum medical improvement and the stipulated work injury to his right knee on July 10, 2019. (Hrg. Tr. pp. 20–21) Likewise, prior to the stipulated work injury of September 28, 2020, Corbett did not seek care for his left knee. (Hrg. Tr. p. 21) After recovering from his right ACL repair, Corbett's knee joints did not bother him until the work injuries at the center of this case. (Hrg. Tr. p. 21)

Before Corbett sustained the stipulated 2019 work injury, he would go on walks of approximately two or three miles in distance without issue. (Hrg. Tr. p. 21) He also liked to ride a bicycle on trails for as long as fifteen miles and experienced no physical problems doing so. (Hrg. Tr. p. 22) Corbett worked out using treadmills, stationary bikes, and weights without causing symptoms. (Hrg. Tr. p. 22) During a trip to Colorado, Corbett hiked a loose gravel trail for one or two miles to a mountain peak with no physical complaints. (Hrg. Tr. pp. 22–23)

MidAmerican hired Corbett in 1984. (Hrg. Tr. p. 19) Corbett started working in the gas department in 1990. (Hrg. Tr. p. 54–55) He began as a gas journeyman. (Hrg. Tr. p. 55) In or around 2010, MidAmerican promoted Corbett to the position of crew leader. (Hrg. Tr. p. 55) As a crew leader, Corbett typically supervised a crew of one to four workers. (Hrg. Tr. p. 55) The work varied based on the job assignment. (Hrg. Tr. pp. 55–56)

Before the stipulated work injury in 2019, the job of gas crew leader at MidAmerican required Corbett to work a minimum of forty hours per week with regular mandatory overtime. (Hrg. Tr. p. 23) Consequently, Corbett averaged 57 hours per week over the 13-week period before the stipulated injury. (Hrg. Tr. p. 23) Corbett worked in the field, which entailed a lot of shovel work to access gas lines laid in the ground, climbing in and out of trenches, kneeling to work on gas lines, and carrying materials that weighed as much as fifty pounds. (Hrg. Tr. pp. 23–25, 39) During the

weeks leading up to July 10, 2019, Corbett did not experience issues with his knees that impacted its functionality or seek care for either knee. (Hrg. Tr. p. 25)

On July 10, 2019, Corbett was standing near the edge of an excavation that was three or four feet deep. (Hrg. Tr. p. 26) There was sand in the ground underneath the edge, which caused it to cave in from beneath Corbett's feet. (Hrg. Tr. p. 26) The cave-in caused him to fall into the excavation. (Hrg. Tr. p. 26) Corbett twisted his knee up against a pipe that was in the excavation, causing him to experience pain, see stars, and feel light-headed. (Hrg. Tr. p. 26–27)

Waterhouse, a coworker of Corbett's at the time in question, testified at hearing. Waterhouse was in the hole when the side of the trench collapsed, causing Corbett to fall. (Hrg. Tr. p. 40) Corbett was unable to get out of the collapsed trench by himself, so Waterhouse assisted him. (Hrg. Tr. p. 40) Within about thirty minutes, his knee swelled up and became tight and more painful. (Hrg. Tr. p. 27)

MidAmerican arranged care at Genesis Occupational Health. (Ex. JE-5, pp. 53–56) Magnetic resonance imaging (MRI) of Corbett's right knee showed medial and lateral meniscal tears and joint effusion. (Ex. JE-1, p. 1; Hrg. Tr. p. 28; Ex. JE-2, pp. 43–44) Ryan Taylor, D.O., performed a right-knee aspiration and pulled 15 to 20 cubic centimeters of fluid out of Corbett's knee. (Ex. JE-1, p. 1; Ex. JE-2, pp. 60–61; Hrg. Tr. p. 28) He also performed a cortisone injection and platelet rich plasma treatment, but they provided little relief and Corbett's pain progressively worsened. (Ex. JE-1, p. 1; Ex. JE-2, pp. 57–73; Hrg. Tr. p. 28) Corbett also participated in physical therapy at Genesis. (Ex. JE-6, pp. 86–89)

Because of Corbett's worsening pain, Dr. Taylor referred him to John Hoffman, M.D., a surgeon at Orthopaedic Specialists. (Hrg. Tr. p. 28; Ex. JE-1, p. 1) Dr. Hoffman saw Corbett on November 19, 2019, and discussed with him that x-rays showed severe medial compartmental degenerative changes and potential treatment options. (Ex. JE-1, p. 2) Dr. Hoffman also addressed the "work comp issue" with Corbett, noting that in his opinion the work injury did not cause his arthritis; rather, it "exacerbated his medial knee pain secondary to his severe arthritic changes." (Ex. JE-1, p. 2) They discussed a two-stage total knee replacement consisting of removal of tibial metallic hardware from his decades-old ACL reconstruction about three months prior to a right total knee replacement. (Ex. JE-1, p. 2)

Ashley Walker was a case manager with Carlisle & Associates, an entity with "Serving the Workers' Comp Industry Since 1980" on its letterhead, which makes it more likely than not MidAmerican contracted with it for services relating to Corbett's claim. (Ex. B, pp. 3–4) Walker sent Dr. Hoffman a letter dated December 20, 2019, in reference to his evaluation of Corbett on November 19, 2019. (Ex. B, pp. 3–4) The letter consisted of three questions with spaces for short answers. (Ex. B, pp. 3–4) Dr. Hoffman wrote by hand the following answers to the following questions:

1. You diagnosed Mr. Corbett with unilateral primary osteoarthritis of the right knee. In your medical opinion, did Mr. Corbett's industrial injury cause primary osteoarthritis? Please explain.

No, the osteoarthritis was preexisting.

2. You have recommended Mr. Corbett undergo a two-stage right total knee replacement. In your medical opinion, should this surgery be covered under workers' compensation? Please explain.

No.

3. Your response to the causation letter indicated that Mr. Corbett's industrial injury exacerbated his medial knee pain secondary to severe arthritic changes. Please outline your treatment plan for the medical [sic] knee pain that should be covered under the workers' compensation claim.

We feel cortisone [and] viscosupplementation (Euflexxa) injections to relieve exacerbation of pain.

(Ex. B, pp. 3–4) Dr. Hoffman signed the letter and dated his response January 9, 2020.

(Ex. B, pp. 3–4)

While the undersigned respects Dr. Hoffman's right to have an opinion on what should and should not be covered with respect to care for an injury under Iowa workers' compensation law, there is no indication he has any legal training, has ever been admitted to practice law in Iowa, or has an understanding of what Iowa law is with respect to what constitutes an injury arising out of and in the course of employment. Therefore, his belief that Corbett's total right knee replacement surgery should not be covered under workers' compensation is given no weight—especially, when the opinion calls for the application of Iowa law to facts all of which are not addressed in the opinion.

The contents of Exhibit B do not allow for the conclusion that Carlisle & Associates or Dr. Hoffman had a complete understanding of Corbett's physical condition before the stipulated work injury to his right knee. There is an insufficient basis in the record from which to conclude that Dr. Hoffman understood at the time of this opinion that Corbett was largely asymptomatic in his right knee before the stipulated work injury and did not seek care for it or have any issues performing his job duties at MidAmerican. Further, Dr. Hoffman did not address whether Corbett's symptoms—which he previously opined the stipulated work injury “exacerbated”—necessitated the total right knee replacement surgery. This makes Dr. Hoffman's January 9, 2020 answers of little probative value.

Dr. Hoffman administered a cortisone injection in an attempt to provide Corbett with pain relief. (Ex. JE-1, p. 2) Corbett had been working without restrictions prior to the

appointment. (Ex. JE-1, p. 1) Dr. Hoffman did not change this and signed off on Corbett returning to full-duty work. (Ex. JE-1, p. 3)

On February 25, 2020, Corbett reported to Dr. Hoffman that his pain and instability had resolved but his range of motion was still decreased. (Ex. JE-1, p. 4) Corbett estimated he was experiencing 90 percent relief after the cortisone injection the previous November that was still lasting. (Ex. JE-1, p. 5) Corbett received another cortisone injection and Dr. Hoffman maintained his full-duty status at work. (Ex. JE-1, p. 5)

Corbett had a follow-up exam with Dr. Hoffman on June 25, 2020. (Ex. JE-1, pp. 7–8) He reported occasional aching medial right knee pain, stiffness, swelling, and decreased range of motion that was painful. (Ex. JE-1, p. 7) Corbett also shared that his pain was exacerbated by walking on uneven ground and going up and down hillsides. (Ex. JE-1, p. 7) Dr. Hoffman discussed treatment options with Corbett, who wanted to avoid another cortisone injection because the previous shots had caused his blood sugar to fluctuate due to his diabetes. (Ex. JE-1, p. 8) Dr. Hoffman decided to seek authorization for hyaluronic acid Euflexxa injections as an alternative to cortisone and scheduled Corbett to return in two weeks. (Ex. JE-1, p. 8)

MidAmerican asked questions of Dr. Hoffman regarding Corbett's injury and condition, which he answered in a letter dated June 25, 2020. (Ex. JE-1, p. 6) Dr. Hoffman identified Corbett's "current work[-]related diagnosis" as "exacerbation of pre-existing degenerative joint disease of the right knee." (Ex. JE-1, p. 6) He further opined that Corbett had not reached maximum medical improvement (MMI) and stated that he needed additional care in the form of Euflexxa injections in his right knee. (Ex. JE-1, p. 6)

Corbett next saw Dr. Hoffman on July 23, 2020. (Ex. JE-1, p. 9) Dr. Hoffman noted that Corbett received 90 percent pain relief in his right knee for about three months following his February 25, 2020 cortisone injection. (Ex. JE-1, p. 9) He further noted Corbett reported pain at a level of two on a one-to-ten scale. (Ex. JE-1, p. 9) They discussed treatment options and Corbett received the first of multiple Euflexxa injections. (Ex. JE-1, p. 10) Corbett returned a week later for a second such injection and a third on August 8, 2020. (Ex. JE-1, pp. 10–12)

On September 3, 2020, Corbett followed up with Dr. Hoffman reporting pain relief of 70 percent from the Euflexxa injections and the ability to be more active because of its beneficial effects. (Ex. JE-1, p. 13) He rated his pain at one out of ten. (Ex. JE-1, p. 13) Dr. Hoffman discussed treatment options with Corbett and they decided to plan on another round of Euflexxa injections in February 2021 with the understanding that if Corbett experienced increased pain prior to that, he would return for a cortisone injection. (Ex. JE-1, p. 14) They also discussed a two-step total right knee replacement again, with Dr. Hoffman informing Corbett that "we do not feel the knee arthroplasty will be covered by work[ers'] comp[ensation]" and Corbett voicing understanding. (Ex. JE-1, p. 14) Dr. Hoffman did not include an explanation in his notes of why he and his staff felt

MidAmerican would not cover the procedure and he did not share such with Corbett. (Ex. JE-1, p. 14; Hrg. Tr. pp. 31–32)

On September 28, 2020, Corbett was at work for MidAmerican, performing job duties, when he felt a pop in his left knee while kneeling. (Hrg. Tr. p. 32; JE-1, p. 15) Corbett felt instant pain and soreness. (Hrg. Tr. p. 32) He experienced difficulty walking. (Hrg. Tr. p. 32)

Corbett reported the injury to MidAmerican. (Hrg. Tr. p. 33) Corbett first received care at Genesis Occupational Health and underwent x-rays and an MRI of his injured left knee. (Ex. JE-1, p. 15; Ex. JE-2, pp. 45–47; Ex. JE-5, pp. 74–85) Imaging showed a torn meniscus in his left knee. (Ex. JE-1, p. 15; Ex. JE-2, pp. 45–47)

Corbett saw Dr. Hoffman on November 10, 2020, for his left-knee pain. (Ex. JE-1, p. 15) Dr. Hoffman noted Corbett's pain was aggravated by stairs, prolonged sitting, and prolonged standing. (Ex. JE-1, p. 15) He also noted swelling, stiffness, weakness, and instability in Corbett's left knee. (Ex. JE-1, p. 15)

Dr. Hoffman discussed with Corbett the need for a left-knee arthroscopy with medial meniscectomy. (Ex. JE-1, p. 16) He also advised that while the imaging showed minimal arthritic changes in Corbett's left knee, there was the possibility of finding more arthritic changes at the time of surgery. (Ex. JE-1, p. 16) Dr. Hoffman informed Corbett that the injury may require lateral meniscectomy, chondroplasty, debridement of loose bodies, or synovectomy, based on what they found in his injured knee during the surgery. (Ex. JE-1, p. 16)

Dr. Hoffman performed surgery on Corbett's left knee on December 16, 2020, consisting of a partial medial meniscectomy, chondroplasty of the lateral patellofemoral joint, partial synovectomy, and excision of the medial synovial plica. (Ex. JE-3, pp. 48–49) After the surgery, Dr. Hoffman prescribed physical therapy to help Corbett rehabilitate. (Ex. JE-1, p. 19) He released Corbett to return to work on December 21, 2020, with the work restriction to perform only sit-down duties for three weeks. (Ex. JE-1, p. 20)

Corbett followed up with Dr. Hoffman on December 23, 2020. (Ex. JE-1, p. 21) Dr. Hoffman reviewed imaging from the procedure with Corbett and discussed treatment. (Ex. JE-1, p. 21) He released Corbett from performing only sit-down work and assigned the restrictions of no walking on uneven ground or climbing on ladders. (Ex. JE-1, p. 21) Dr. Hoffman sunset that limitation effective January 4, 2021, at which time Corbett was released to full-duty work. (Ex. JE-1, pp. 21, 23)

On December 28, 2020, Corbett started physical therapy with Kevin Swanson, PT. (Ex. JE-1, pp. 24–25) Swanson noted Corbett walked with an antalgic gait. (Ex. JE-1, p. 24) He also noted "significant loss of functional [range of motion] and strength due to reflex inhibition from pain and edema." (Ex. JE-1, p. 25)

Corbett participated in physical therapy on December 30, 2020, complaining of symptoms aggravated by kneeling, squatting, and work activities. (Ex. JE-1, p. 26) Swanson noted he walked with a mild antalgic gait. (Ex. JE-1, p. 26) He described his functional limitations as unchanged from their initial appointment two days earlier. (Ex. JE-1, p. 27)

In a note from Corbett's January 5, 2021 physical therapy session, Jason Schultz, PTA, states that Corbett was scheduled for a functional capacity evaluation (FCE) later that day for his return to work, but he did not feel ready to return to full duty. (Ex. JE-1, p. 28) Schultz documented Corbett had a mild antalgic gait posture. (Ex. JE-1, p. 28) Schultz advised Corbett to talk to Dr. Hoffman about his return to work. (Ex. JE-1, p. 29)

Corbett underwent the FCE at Athletico Physical Therapy as scheduled. (Ex. JE-1, pp. 51–52) Shauna Oyler, PT, performed the FCE and concluded Corbett demonstrated capabilities and functional tolerances within the medium-heavy physical demand level. (Ex. JE-1, p. 51) This meant Corbett showed the ability to meet the demands of his job at MidAmerican despite Oyler noting biomechanical changes when lifting 70 pounds from floor to waist and him reporting discomfort in his left knee with the task. (Ex. JE-1, p. 51) The job description detailing the physical demands of Corbett's job at MidAmerican identifies 70 pounds as the maximum amount he would have to lift in the position. (Ex. A, p. 1)

On January 8, 2021, Corbett had a physical therapy session with Brian Schaaf, PTA, who observed he walked with a mild antalgic gait. (Ex. JE-1, p. 30) He also noted Corbett's symptoms were aggravated by kneeling, squatting, and work activities. (Ex. JE-1, p. 30) Further, Schaaf documented significant suprapatellar swelling. (Ex. JE-1, p. 30) Corbett was able to complete all of his physical therapy exercises without an increase in pain. (Ex. JE-1, p. 31)

Corbett saw Dr. Hoffman for a follow-up exam on January 19, 2021. (Ex. JE-1, p. 32) He had completed his physical therapy regimen, but had complaints of tenderness when kneeling and minimal pain and stiffness. (Ex. JE-1, p. 32) Dr. Hoffman noted on examination Corbett had no signs of infection, redness, drainage, or edema. (Ex. JE-1, p. 32) He also found Corbett able to return to full-duty work effective the next day. (Ex. JE-1, pp. 32–33)

On February 23, 2021, Corbett again saw Dr. Hoffman for a post-surgery exam. (Ex. JE-1, p. 34) Corbett was experiencing minimal pain, tightness, and stiffness, but no swelling. (Ex. JE-1, p. 34) He also shared that he had tenderness in his left knee when kneeling. (Ex. JE-1, p. 34) Because of the "irritability" in Corbett's left knee, Dr. Hoffman administered a cortisone injection to address his ongoing symptoms, despite the effect on his blood sugar levels. (Ex. JE-1, p. 34)

Two days later, Corbett returned to Dr. Hoffman to receive care for his right knee. (Ex. JE-1, p. 35) Dr. Hoffman noted that Corbett received about 70 percent relief from his right-knee symptoms for about three months after his Euflexxa injection on August 6,

2020. (Ex. JE-1, p. 35) He rated his pain as a three out of ten that day. (Ex. JE-1, p. 35) Corbett shared with Dr. Hoffman he had experienced increased pain over the preceding months and wanted to discuss the total right-knee arthroplasty they had earlier identified as a potential treatment. (Ex. JE-1, p. 35) Dr. Hoffman placed Corbett at “MMI status post exacerbation of his degenerative condition of his right knee on the job” and removal of the tibial hardware from his ACL reconstruction with the plan for total right-knee arthroplasty two months later. (Ex. JE-1, p. 36)

McCain sent a letter dated March 5, 2021, to Dr. Hoffman. (Ex. JE-1, p. 37) McCain details the care Corbett received for his right knee and then asks, “If M[r]. Corbett has reached maximum medical improvement as of 2/25/2021 concerning the right knee injury, would he have any permanent impairment according to the AMA Guides, Fifth Edition, that you would equate to being causally related to his work injury on 7/10/2019 or, would his injury be a temporary aggravation with no permanent impairment?” (Ex. JE-1, p. 37) In a letter dated March 9, 2021, Dr. Hoffman replies:

James Corbett injured his right knee on July 10, 2019[,] while at work. James was first seen in our office on November 19, 2019. X-rays revealed severe degenerative joint disease about the right knee. At that time, the patient was informed that we felt he exacerbated his degenerative changes with his work injury. Patient has been treated conservatively and was placed at maximum medical improvement for his work injury on February 25, 2021. No impairment rating was given to the patient for this injury.

(Ex. JE-1, p. 38) Thus, Dr. Hoffman did not directly answer McCain’s question by opining as to what, if any, permanent impairment Corbett sustained from the work injury.

On April 1, 2021, Corbett followed up with Dr. Hoffman for his left knee, estimating that the cortisone injection provided 75 percent relief of his pain. (Ex. JE-1, p. 39) Corbett said he was still experiencing the pain relief from the shot to that day and rated it two out of ten. (Ex. JE-1, p. 39) His left knee pain was located in the medial aspects, sharp in nature, and aggravated by prolonged walking, standing, sitting, stairs, and activities of daily living. (Ex. JE-1, p. 39)

On examination, Dr. Hoffman found Corbett’s range of motion in his left knee restricted due to pain. (Ex. JE-1, p. 40) His active range of motion on flexion was 143 degrees and three on extension. (Ex. JE-1, p. 40) Dr. Hoffman placed Corbett at MMI following his left knee surgery and assigned no permanent work restrictions. (Ex. JE-1, p. 40)

In a letter dated April 9, 2021, McCain asked Dr. Hoffman if Corbett had sustained any permanent impairment in his left knee related to his September 28, 2020 work injury. (Ex. JE-1, p. 41) Dr. Hoffman responded in a letter dated April 19, 2021. (Ex. JE-1, p. 42) In it, he opined that using Table 17-33 on page 546 of the *Guides*, Corbett had a permanent impairment to the left lower extremity of 2 percent or 1 percent to the whole person. (Ex. JE-1, p. 42)

At hearing, Corbett testified that the cortisone and Euflexxa injections did not help his symptoms. (Hrg. Tr. p. 30) In the records documenting exams closer in time to the injections, Dr. Hoffman notes that Corbett informed him the injections gave him relief from his symptoms and increased his functionality. (Ex. JE-1, pp. 4–8, 13–14) However, as time passed, the benefit wore off, leaving Corbett in pain, as documented at the University of Iowa Hospitals and Clinics (UIHC). (Ex. JE-7, p. 92) This is also in line with Waterhouse's testimony regarding Corbett's description of how the injections affected him when he was working. (Hrg. Tr. p. 41) Thus, the weight of the evidence establishes the injections provided partial relief of Corbett's pain for months, but did not permanently eliminate it, and his pain worsened with time. This led him to seek care at UIHC. (Ex. JE-7, p. 95)

Nicolas Noiseux, M.D., saw Corbett at UIHC on January 4, 2022. (Ex. JE-7, p. 92) He noted Corbett's left knee symptoms worsened such that he tried using assistive devices when walking that included knee sleeves, shoe wedges, and a cane. (Ex. JE-7, p. 95) On January 4, 2022, Dr. Noiseux noted:

His left knee pain is causing him difficulty with his quality of life and activities of daily living. Notes start up pain after periods of sitting and being recumbent. Has intermittent left knee pain at rest and endorses left knee pain at night regularly. Pain has increased most significantly over the last year after he underwent a left meniscus repair after suffering a hyper flexion injury at work. Pain is worsened by weightbearing activities and ambulating to the point where he is unable to walk long distances without needing to rest. Has previously undergone multiple injections to the left knee including corticosteroid injections, Synvisc injections, and PRP without relief. States that Aleve and ibuprofen provide him minimal pain relief. He did not have any significant pain relief after undergoing postoperative physical therapy for the left knee.

(Ex. JE-7, p. 92)

Dr. Noiseux recommended a robotic total left knee arthroplasty for Corbett's ongoing symptoms. (Ex. JE-7, p. 95) Corbett underwent the procedure on June 16, 2022. (Ex. JE-7, pp. 103–06) During a follow-up televisit on August 3, 2022, he reported he was ambulating independently and doing well in his recovery. (Ex. JE-7, p. 99)

Claimant's counsel spoke with Dr. Noiseux regarding his treatment of Corbett and sent a letter dated July 12, 2022, in follow-up summarizing his understanding of Dr. Noiseux's opinions with respect to causation and the necessity of the surgery he performed:

For purposes of this report you are to assume that a judge determines that Mr. Corbett had not sought treatment and was asymptomatic in his left knee prior to the injury of 9-28-20. Additionally, you are to assume that a judge finds that on that date he felt a pop in his knee while standing from a crouched position. This caused immediate pain. This pain was not

alleviated by a meniscus repair or various injections. Specifically, Mr. Corbett never returned to his baseline from prior to the date of injury and as a result was then referred to your care.

Given these facts you would have the following opinions. Since the knee never returned to baseline you would opine that he either had a pre-existing degenerative arthritis which was materially aggravated, lighted-up or accelerated as a result of the injury or that as a result of the injury there was damage to the knee which lead [sic] to post-traumatic arthritis. In either case if the judge finds the above facts to be accurate you would opine that the necessity for your care and treatment arose from the 9-28-20 date of injury.

(Ex. JE-7, p. 107) Dr. Noiseux signed the letter, indicating his agreement with the substance of the letter's contents and dated his signature July 13, 2022. (Ex. JE-7, p. 107)

Claimant's counsel arranged for Corbett to undergo an IME with Jacqueline Stoken, D.O., in West Des Moines, Iowa, on July 12, 2022, with respect to both knee injuries. (Ex. 1, p. 1) Dr. Stoken performed a medical records review and physical examination of Corbett and then issued a report dated July 25, 2022. (Ex. 1, pp. 1–10) Dr. Stoken diagnosed Corbett with:

1. History of bilateral knee osteoarthritis.
2. Status post work injury 07/1[0]/2019¹ to the right knee with tear of the posterior horn of the medi[al] meniscus and tear of the posterior horn of the lateral meniscus.
3. Status post work injury on 09/28/2020 with left meniscal tear.
4. Status 1. Partial medial meniscectomy. 2. Chondroplasty of the lateral patellofemoral joint. 3. Partial synovectomy. 4. Excision of medial synovial plica post left knee on 12/16/2020, done by Dr. John Hoffman. Postoperative diagnosis was 1. Medial meniscus tear. 2. Chondromalacia of the patella. 3. Large thickened medial synovial plica.
5. Status post robotic total knee arthroplasty, left knee on 06/16/2022 done by Dr. Nicholas [sic] Noiseux. Postoperative diagnosis was primary osteoarthritis of the left knee.

¹ In Corbett's petition, he alleged an injury date of July 11, 2019. MidAmerican denied this was the date of injury in its answer and asserted the injury date was July 10, 2019. Consequently, the record contains some references to an injury date of July 11, 2019, instead of the stipulated date of July 10, 2019. Because the parties stipulated to an injury date of July 10, 2019 in the hearing report and for clarity, the undersigned has altered such references using brackets so they reflect the stipulated injury date.

6. Chronic pain of the bilateral lower extremities.

(Ex. 1, p. 11)

On the question of causation, Dr. Stoken opined her diagnoses are causally related to the stipulated work injuries. (Ex. 1, p. 11) Dr. Stoken did not elaborate on the reasoning behind this opinion. (Ex. 1, pp. 1–12) She did not expressly address the question of aggravation. (Ex. 1, pp. 1–12) Nor did she opine on whether the work injury to either knee more likely than not caused the need for total knee arthroplasty. (Ex. 1, pp. 1–12) Therefore, Dr. Stoken's causation opinion is of little probative value.

Dr. Stoken opined on what, if any, permanent impairment Corbett sustained to the right knee as follows:

Using the *AMA Guides to the Evaluation of Permanent Impairment*, Fifth Edition, Chapter 17, table 17-10, page 537, he is allowed 35% Lower Extremity Impairment or 14% Whole Person Impairment due to flexion contracture (extension) of 20 degrees of the right knee.

(Ex. 1, p. 11)

Dr. Stoken opined Corbett had not reached MMI following the left total knee arthroplasty he underwent at UIHC. (Ex. 1, p. 11) Nonetheless, she opined on his impairment level at the time using the *Guides*. (Ex. 1, pp. 11–12) Because the weight of the evidence demonstrates Corbett had not reached MMI, a fact with which Dr. Stoken concurred in the report, her July 13, 2022 impairment rating of Corbett's left knee is not persuasive.

During a follow-up appointment with Dr. Noiseux on September 20, 2022, Corbett reported he was satisfied with his range of motion and stability and experiencing minimal pain. (Ex. JE-7, p. 109) Further, he was full weightbearing without the use of any assistive devices. (Ex. JE-7, p. 109) Corbett stated he was prepared to move forward with a right total knee arthroplasty. (Ex. JE-7, p. 109)

Defense counsel sent a letter dated September 27, 2022, to Dr. Hoffman that summarized Corbett's care and posed two questions:

1. In regard to Mr. Corbett's left knee diagnosis of osteoarthritis, particularly in the patellofemoral medial [*sic*] compartments with areas of deep partial thickness cartilage loss, in your medical opinion, did Mr. Corbett's September 28, 2020 left knee injury cause or materially aggravate the osteoarthritis? Please explain.
2. In terms of Mr. Corbett's left total knee replacement, in your medical opinion, is this surgery related to the September 28, 2020 [w]orkers' [c]ompensation injury? Please explain.

(Ex. B, pp. 5–6)

In the blank provided on defense counsel's letter for a response, Dr. Hoffman handwrote the following:

The Sept. 28, 2020 caused an exacerbation of the preexisting knee osteoarthritis which was treated with cortisone and viscosupplementation. The work injury was not the reason for the knee replacement. He had significant preexisting severe osteoarthritis which is the reason for the [total knee arthroplasty].

(Ex. B, p. 6) Dr. Hoffman signed and dated his response September 30, 2022. (Ex. B, p. 6)

Claimant's counsel again conferenced with Dr. Noiseux. (Ex. JE-7, p. 111) He sent Dr. Noiseux a follow-up letter dated September 28, 2022, summarizing his understanding of Dr. Noiseux's causation opinion with respect to Corbett's right knee based on their earlier conversation as follows:

For purposes of your opinion you are asked to assume that a judge finds that prior to this date of injury Mr. Corbett was not having problems with the right knee and in fact was doing his day in and day out work involving ladder climbing, bending, squatting and kneeling all day without limitation. Assuming the judge also finds that on July 1[0], 2019, Mr. Corbett was standing on the edge of an excavation trench which collapsed and during this collapse he twisted his right knee causing significant and instant pain. Finally, if the judge finds after the date of injury of July 1[0], 2019, despite cortisone injections and [E]uflexxa injections, that Mr. Corbett's right knee never returned to anywhere close to his baseline from the day before the injury that you would then opine that the procedure that you have now recommended, the total knee arthroplasty, would be causally related to this trench cave in. Specifically, you believe that the injury of July 1[0], 2019, materially aggravated, lighted up or accelerated Mr. Corbett's preexisting degenerative condition in the right knee or this event caused injury to Mr. Corbett's right knee which led to post-traumatic arthritis therefore necessitating your recommended surgical procedure.

(Ex. JE-7, p. 111) Dr. Noiseux signed the letter, indicating his adopting of the opinion, and dated his signature September 29, 2022. (Ex. JE-7, p. 111)

Defense counsel arranged for William Jacobson, M.D., to perform a records review relating to Corbett's July 10, 2019 right knee injury. (Ex. C, pp. 7–8) In a letter dated November 1, 2022, defense counsel summarized events relating to the stipulated work injury, the care for it, and opinions from other doctors. (Ex. C, pp. 7–8) With respect to Corbett's medical history regarding the injured knee, defense counsel wrote, "Additionally, of note, prior to the July 10, 2019, injury, Mr. Corbett did have a previous right knee surgery which involved an ACL repair approximately 30 years prior." (Ex. C,

p. 7) The letter to Dr. Jacobson does not include information about Corbett's lack of symptoms or that he did not seek care for his right knee between reaching MMI for his ACL reconstruction over 30 years earlier and the time of the work injury. (Ex. C, pp. 7–8)

Defense counsel asked Dr. Jacobson to answer the following questions:

1. In your medical opinion, what are the diagnoses concerning Mr. Corbett's right knee? More specifically, which diagnoses are work related or, are any conditions personal, degenerative, or related to non-injury conditions
2. Does Mr. Corbett require any further treatment as causally related to the alleged injury date as to his right knee? Please opine on whether the need for a right total knee replacement is work related.

(Ex. C, p. 8)

After reviewing documents relating to the care and litigation stemming from the stipulated work injury to his right knee, Dr. Jacobson authored a letter dated November 13, 2022. (Ex. C, pp. 13–15) In the letter, Dr. Jacobson states he did not “perform[] a history with Mr. Corbett or a physical examination on him.” (Ex. C, p. 13) Dr. Jacobson addresses Corbett's medical history thusly:

It should also be noted that Mr. Corbett has a history of prior right knee surgery. Due to a basketball injury to his right knee, he had an ACL reconstruction approximately 30 years ago. I do not believe there are records to review for this.

(Ex. C, p. 14) Dr. Jacobson's letter contains no discussion of Corbett's symptomology or functional capabilities between reaching MMI following the ACL reconstruction surgery and the stipulated work injury. (Ex. C, pp. 13–15)

Dr. Jacobson answered defense counsel's questions as follows:

In response to your first question, regarding Mr. Corbett's diagnosis regarding his right knee, it would be right knee severe degenerative osteoarthritis with underlying medial and lateral menisci tears and an effusion. It is my opinion that the diagnosis of severe degenerative osteoarthritis is a pre-existing condition. This is based on the imaging studies that were performed, including the MRI in August 2019 and the x-rays performed in November 2019. The x-rays show essentially bone-on-bone arthritis of the right knee. This clearly would have pre-dated his injury in July 2019. I cannot state with any certainty when the menisci tears may have occurred.

In response to your second question, regarding future treatments or further treatment for the right knee in regards to the work injury from July 2019, it is my opinion, within a reasonable degree of medical certainty, that the right knee ongoing treatment is due to the pre-existing severe degenerative osteoarthritis and not a result of the work injury from July 2019. It is my opinion that this was a temporary aggravation of a pre-existing condition. This is consistent with the opinion of Dr. Hoffman, the initial treating physician. It is reasonable that Mr. Corbett would need a total knee arthroplasty at this point; however, as stated above, it is my opinion that it is not related to the July 2019 work injury.

(Ex. C, pp. 14–15)

Dr. Jacobson's letter contains no discussion of Corbett's lack of symptoms before the stipulated work injury to his right knee. Based on the record, it appears more likely than not Dr. Jacobson did not understand at the time of the November 13, 2022 opinion that Corbett had no complaints, was able to perform his work duties without issue, was able to participate in physically demanding activities in his free time without issue, and had not sought any care for his right knee between reaching MMI following ACL reconstruction about three decades earlier and the date of the stipulated work injury. The failure to address Corbett's symptoms and functional ability before the stipulated work injury undermines the credibility of Dr. Jacobson's opinion because he had an incomplete understanding of Corbett's medical history or lack thereof with respect to the right knee.

Moreover, Dr. Jacobson did not address the question of whether it is more likely than not that the stipulated work injury to Corbett's right knee aggravated, exacerbated, or lighted up the underlying osteoarthritis that had not caused him symptoms or functional limitation before July 10, 2019, the date the parties stipulated that he injured it while working for MidAmerican. (Ex. C, pp. 13–14) The question of causation under Iowa workers' compensation law includes aggravation. The failure to consider or discuss aggravation on the question of causation with respect to Corbett's right-knee symptoms limits the probative value of Dr. Jacobson's opinion on whether the stipulated work injury was a significant factor in causing the need for a right total knee replacement.

Defense counsel arranged for Dr. Jacobson to perform a records review with respect to Corbett's left knee. (Ex. C, pp. 7–8) The letter contains no discussion of Corbett's lack of symptoms in the left knee before the stipulated work injury or his ability to perform his job duties and participate in physically demanding activities in his free time without complaint before the stipulated work injury to his left knee. (Ex. C, pp. 7–8) On November 2, 2022, defense counsel sent Dr. Jacobson a letter posing the following questions:

1. In your medical opinion, did Mr. Corbett's osteoarthritis pre-date the September 28, 2020 work injury? More specifically, did the September

28, 2020 work injury cause the osteoarthritis found within Mr. Corbett's left knee?

2. Given the osteoarthritis contained within Mr. Corbett's left knee, would it have been possible and/or likely that Mr. Corbett would have needed a knee replacement whether or not he had a work related injury?

(Ex. C, p. 10)

Dr. Jacobson authored a letter dated November 13, 2022, addressing defense counsel's questions about Corbett's left knee and the care for it. (Ex. C, pp. 11–12) In the letter, Dr. Jacobson states that he performed a records review and did not perform a history or physical examination of Corbett before reaching his opinions. (Ex. C, p. 11) Dr. Jacobson does not discuss Corbett's lack of symptoms before the stipulated work injury to his left knee on September 28, 2020, or his ability to perform his work duties and engage in physically demanding activities outside work without complaint before the work injury. (Ex. C, pp. 11–12)

Dr. Jacobson answered defense counsel's questions regarding Corbett's left knee as follows:

In response to your first questions, Mr. Corbett did have underlying pre-existing osteoarthritis of the left knee. This was pre-existing to the work injury from September 28, 2020, specifically. Specifically, it is my opinion that the September 28, 2020, work injury did not cause the underlying arthritis in Mr. Corbett's left knee.

In response to your second question, based on the MRI findings and Dr. Hoffman's intraoperative findings at the time of the left knee arthroscopy in December 2020, it is possible that Mr. Corbett would have progressed to severe left knee degenerative arthritis and the need for a total knee arthroplasty whether or not he had a work-related injury.

(Ex. C, p. 12)

Dr. Jacobson did not address the question of whether it is more likely than not that the stipulated work injury to Corbett's left knee aggravated, exacerbated, or lighted up the underlying osteoarthritis that had not caused him symptoms or functional limitation before September 28, 2020, the date the parties stipulated that he injured it while working for MidAmerican. (Ex. C, pp. 11–12) The question of causation under Iowa workers' compensation law includes aggravation. The failure to consider or discuss aggravation on the question of causation with respect to Corbett's right-knee symptoms limits the probative value of Dr. Jacobson's opinion on whether the stipulated work injury was a significant factor in causing the need for a right total knee replacement.

Further, Dr. Jacobson opines “it is possible” the degenerative arthritis in Corbett’s left knee could have progressed to the point of needing a total knee arthroplasty independent of the work injury. Causation in workers’ compensation cases is based on probability, not possibility. Consequently, Dr. Jacobson positing a counterfactual was “possible” is not persuasive. Rather, it reinforces the finding that the evidence reflecting the actual events in question shows it is more likely than not the work injury was significant factor in necessitating the surgery.

Claimant’s counsel arranged for Corbett to undergo a second IME with Dr. Stoken on November 2, 2022. (Cl. Ex. 2, p. 36) Dr. Stoken performed a records review regarding the care Corbett underwent between his first IME with her and the November 2, 2022 IME and physical examination of Corbett. (Cl. Ex. 2, pp. 36–39) On the question of what, if any, permanent impairment Corbett sustained to his left knee, Dr. Stoken opined:

Using the *Guides*, Chapter 17, table 17-35, he has 62 points in rating his left knee replacement results.

Using the *Guides*, Chapter 17, table 17-33, page 547, he fits into the Fair Results category, 50–84 points. This allows him 50% Lower Extremity or 20% Whole Person Impairment due to the Left Total Knee Replacement.

(Ex. 1, p. 40)

The weight of the evidence establishes Corbett had pre-existing osteoarthritis in both knees. The condition produced little in the way of pain or other symptoms in either knee. Corbett was able to perform his daily job duties for decades without complaint or limitations. The same is true of physically demanding activities in his free time such as bicycle riding, jogging, and hiking. There is an insufficient basis in the evidence from which to conclude Corbett developed worsening symptoms with age or heavy usage in either knee prior to the stipulated work injuries. Rather, each injury was a significant factor in causing the need of a total knee replacement. The evidence shows it is more likely than not the osteoarthritis he had in both knees was asymptomatic and did not limit him physically until he sustained the stipulated work injuries at the center of this case.

As found above, Drs. Jacobson, Hoffman, and Stoken are unpersuasive on the question of whether the stipulated work injury to his left knee was a significant factor in causing the need for Corbett to undergo a left total knee replacement. None of the doctors addressed Corbett’s lack of symptoms or not needing care for his left knee prior to the stipulated work injury. For these reasons, their opinions on the causal link between the stipulated work injury and the left total knee replacement surgery are unpersuasive and of little probative value in this case.

MidAmerican argues that Dr. Noiseux had an incorrect understanding of how Corbett’s symptoms manifested themselves after surgery and injections to the left knee. MidAmerican contends he made his opinions “contingent on the assumption that

Claimant did not reach ‘anywhere close to his baseline’ following the injections and left knee surgery.” (Def. Brief, p. 24 (citing Ex. JE-7, pp. 107, 111)). However, the letter regarding Corbett’s left knee that Dr. Noiseux signed on July 13, 2022, says, “Mr. Corbett never returned to his baseline from prior to the date of injury and as a result was then referred to your care.” (Ex. JE-7, p. 107) While somewhat similar, the wording in the letter is different. Moreover, the wording in the letter is in line with the bulk of the evidence in this case.

The weight of the evidence establishes Corbett did not return to his baseline—largely asymptomatic, with little if any limitation on physical function—with respect to his left knee prior to seeing Dr. Noiseux. Thus, Dr. Noiseux’s understanding of Corbett’s injury and symptoms in his left knee is accurate overall. The evidence shows Dr. Noiseux had the most complete and accurate understanding of Corbett’s left knee symptoms, both before and after the stipulated work injury, which makes his opinion on the causal link between the need for a left total knee replacement surgery and the work injury most persuasive.

On the question of whether Corbett has reached MMI in his left knee following the total knee arthroplasty, neither Dr. Noiseux nor Dr. Hoffman opined. Dr. Jacobson opined it was too close to the time of surgery to find Corbett at MMI even though he did not examine him personally and only reviewed records. Dr. Stoken did not discuss the reasoning behind her apparent conclusion that he was at MMI. Thus, there is an insufficient basis in the record from which to conclude Corbett had reached MMI at the time of hearing from the total left knee replacement surgery.

As with Corbett’s left knee, Drs. Jacobson, Hoffman, and Stoken do not address Corbett’s lack of symptoms in his right knee before the stipulated work injury or his ability to function without issue prior to the injury. The record as a whole shows these doctors had an incomplete understanding of Corbett’s symptoms and functional ability before the stipulated work injury to his right knee. For these reasons, their opinions on the causal connection between the stipulated work injury to Corbett’s right knee and the need for a total right knee arthroplasty are not persuasive and are given little weight.

In MidAmerican’s post-hearing brief, it accurately states the contents of the letter Dr. Noiseux signed with respect to Corbett’s right knee injury. The letter states that, “despite cortisone injections and [E]uflexxa injections, that Mr. Corbett’s right knee never returned to anywhere close to his baseline from the day before the injury.” (Ex. JE-7, p. 111) The record as a whole shows this statement is accurate. Before the stipulated work injury, Corbett did not experience symptoms in his right knee anywhere close to those he experienced in the years following the work injury. Likewise, Corbett did not experience any functional limitations in the right knee before the stipulated work injury, let alone limitations anywhere close to those that followed it.

While the care Corbett received may have helped to reduce his symptoms and increased his function relative to the time period immediately after the work injury, it did not return him to his pre-work-injury baseline. The weight of the evidence establishes Dr. Noiseux had the most complete and accurate understanding of Corbett’s symptoms

and functional ability in his right knee both before and after the stipulated work injury. Dr. Noiseux's opinion on the causal link between the stipulated work injury to Corbett's right knee and the need for a total knee arthroplasty is adopted.

The right total knee replacement surgery recommended by Dr. Noiseux had not occurred at the time of hearing. Therefore, Dr. Stoken's opinion on permanent partial disability is premature. It would be inappropriate to reach a finding on permanent disability caused by the work injury of July 10, 2019, when Corbett has yet to undergo a procedure necessitated by his ongoing symptoms from that injury and that is intended to help alleviate those symptoms and increase his functional capacity.

V. CONCLUSIONS OF LAW.

In 2017, the Iowa legislature amended the Iowa Workers' Compensation Act. See 2017 Iowa Acts, ch. 23. The 2017 amendments apply to cases in which the date of an alleged injury is on or after July 1, 2017. *Id.* at § 24(1); see also Iowa Code § 3.7(1). Because the injuries at issue in this case occurred after July 1, 2017, the Iowa Workers' Compensation Act, as amended in 2017, applies. *Smidt v. JKB Restaurants, LC*, No. 5067766, 2020 WL 7489048 (Iowa Work. Comp. Comm'r, Dec. 11, 2020) (App. Decision).

A. Causation.

"In order for an injury to be compensable in Iowa, there must be 'a connection between the injury and the work.'" *Lakeside Casino v. Blue*, 743 N.W.2d 169, 173 (Iowa 2007) (quoting *Meyer v. IBP, Inc.*, 710 N.W.2d 213, 221 (Iowa 2006)). An employer's duty to furnish reasonable care for an injury under Iowa Code section 85.27(1)(a) is based on the requirement that the injury is "compensable" under Iowa Code chapter 85 or 85A. In this case, the parties dispute whether there is a casual connection between the stipulated work injury to Corbett's left knee and the left total knee arthroplasty he underwent and the stipulated injury to his right knee and the need for a right total knee arthroplasty.

The answer to this question lies "essentially within the domain of expert testimony." *Id.* at 845 (quoting *Dunlavey v. Econ. Fire. & Cas. Co.*, 526 N.W.2d 845, 853 (Iowa 1995)). The agency may accept or reject an expert opinion in whole or in part. *Schutjer v. Algona Manor Care Ctr.*, 780 N.W.2d 549, 560 (Iowa 2010) (quoting *Grundmeyer v. Weyerhaeuser Co.*, 649 N.W.2d 744, 752 (Iowa 2002)). In doing so, the agency "has the duty to determine credibility of the witnesses and to weigh the evidence, together with the other disclosed facts and circumstances, and then to accept or reject the opinion." *Dunlavey*, 526 N.W.2d at 853.

When determining which expert opinion is most persuasive, the agency may consider the:

- Expert's employment in connection with litigation;

- Timing of the expert's examination relative to the injury date;
- Extent and nature of the expert's examination of the claimant;
- Expert's education, training, and area of practice;
- Accuracy of the facts upon which the expert relied;
- Completeness of the premise which the expert is given; and
- Other surrounding circumstances. Schutjer v. Algona Manor Care Ctr., 780 N.W.2d 549, 560 (Iowa 2010); Rockwell Graphic Sys. v. Prince, 366 N.W.2d 187, (Iowa 1985); Dunlavey, 526 N.W.2d at 853.

"Medical causation presents a question of fact." Cedar Rapids Cmty. Sch. Dist. v. Pease, 807 N.W.2d 839, 844 (Iowa 2011). "A cause is proximate if it is a substantial factor in bringing about the result. It only needs to be one cause; it does not have to be the only cause." Blacksmith v. All-American, Inc., 290 N.W.2d 348, 354 (Iowa 1980) (internal citations omitted).

"[W]here an accident occurs to an employee in the usual course of [the employee's] employment, the employer is liable for all consequences that naturally and proximately flow from the accident." Oldham v. Scofield & Welch, 222 Iowa 764, 266 N.W. 480, 482 (1936). Under the Iowa Workers' Compensation Act, a claimant "would not be entitled to compensation or care for the results of a pre-existing injury or disease, but "the mere existence thereof at the time of a subsequent injury is not a defense." Nicks v. Davenport Produce Co., 254 Iowa 130, 135, 115 N.W.2d 812, 815 (1962). However, a claimant is entitled to recover if the claimant "had a pre-existing condition or disability that was aggravated, accelerated, worsened or 'lighted up'" by an incident at work. Id.

1. No. 22000458.01: Right Knee Injury of July 10, 2019.

As found in Section IV above, the opinion of Dr. Noiseux is most persuasive. The evidence is insufficient to establish Dr. Stoken, Dr. Hoffman, and Dr. Jacobson, the other doctors who opined on the question of whether there is a causal link between the stipulated work injury to Corbett's right knee and the total right knee replacement surgery, had a complete and accurate understanding of Corbett's symptoms and function before and after the work injury. The evidence shows it is more likely than not that Dr. Noiseux had the most complete and accurate understanding of Corbett's complaints and functional abilities relative to his right knee from before and after the work injury.

The weight of the evidence shows Corbett had the pre-existing condition of osteoarthritis in his right knee, which was aggravated, accelerated, worsened, or lighted up by falling into the excavation on July 10, 2019. The need for a total knee arthroplasty

naturally and proximately flows from the accident. The accident was a significant contributing factor to the need for the procedure. Corbett has met his burden of proof on the question of whether there is a causal connection between the stipulated work injury to his right knee and total right knee replacement surgery.

2. No. 21700535.01: Left Knee Injury of September 28, 2020.

As found above, Dr. Noiseux's opinion on the causal connection between the stipulated work injury to Corbett's left knee and the total left knee replacement he underwent is most persuasive. The evidence is insufficient from which to conclude the other doctors who addressed the question had a complete understanding of Corbett's symptoms and level of function before and after the stipulated work injury. The totality of the evidence establishes it is more likely than not Dr. Noiseux had the most complete and accurate understanding of Corbett's symptoms and level of function before and after the stipulated work injury.

It is more likely than not that Corbett had osteoarthritis in his left knee, which was dormant, before the stipulated work injury. The evidence establishes the total left knee replacement he underwent naturally and proximately flowed from the incident on September 28, 2020, which was a significant factor in causing the need for the surgery because it aggravated, accelerated, worsened, or lighted up the osteoarthritis in his left knee, ultimately necessitating the left knee arthroplasty. Corbett has met his burden of proof on the question of whether there exists a causal link between the stipulated work injury to his left knee and the total left knee arthroplasty he underwent.

B. Permanent Disability.

This case stems from two separate injuries: One to the right knee and another to the left knee. Each stipulated work injury is to a distinct scheduled member and therefore subject to compensation for functional disability out of 220 weeks under the statutory schedule. See Iowa Code § 85.34(2)(p); see also Chavez v. MS Technology LLC, 972 N.W.2d 662, 666–67 (Iowa 2022) (discussing compensation for permanent partial disability to scheduled members and unscheduled body parts).

In 2017, the legislature amended Iowa Code section 85.34(2) so that it incorporates the *Guides* by reference. Under Iowa Code section 85.34(2), the commencement date for permanent partial disability benefits occurs when both:

- 1) The claimant has reached maximum medical improvement (MMI) from the work injury; and
- 2) The extent of any permanent impairment caused by the work injury can be determined using the Guides.

The *Guides* use the term “maximal medical improvement.” See id., p. 19. The Iowa Workers' Compensation Act uses “maximum medical improvement.” See Iowa

Code § 85.34(2). The substantive meaning of the two terms, as contained in the *Guides* and fleshed out via Iowa Supreme Court precedent pre-dating the 2017 amendments, is largely similar.

The *Guides* provide, “An impairment should not be considered permanent until the clinical findings indicate that the medical condition is static and well stabilized.” *Guides*, p. 19. “Maximal medical improvement refers to the date from which further recovery or deterioration is not anticipated, although over time there may be some expected changes. Once an impairment has reached [maximal medical improvement], a permanent impairment rating may be performed.” *Id.*

The Iowa Supreme Court has held “a claim for permanent disability benefits is not ripe until maximum medical improvement has been achieved.” Bell Bros. Heating and Air Conditioning v. Gwinn, 779 N.W.2d 193, (Iowa 2010) (citing 4 Arthur Larson & Lex K. Larson, *Larson’s Workers’ Compensation Law* § 80.03D[3] n. 10, at D80–43 to D80–48.2 (2009)). “[A] claimant is entitled to PPD benefits upon proof that ‘it is medically indicated that *significant* improvement from the injury is not anticipated.’” Broadlawns Med. Ctr. v. Sanders, 792 N.W.2d 302, 307 (Iowa 2010) (quoting Iowa Code § 85.34(1)) (emphasis in opinion). “Any disability that remains after stabilization of the condition will support an award of [PPD] benefits to the extent the residual impairment decreases the claimant’s earning capacity.” *Id.*

Corbett seeks PPD benefits for both stipulated work injuries. MidAmerican argues that there is an insufficient basis from which to conclude either knee had reached MMI at the time of hearing. For Corbett to establish that the question of his entitlement to PPD benefits is ripe for determination, he must show by a preponderance of the evidence that the clinical findings indicate that the medical condition is static and well stabilized—put otherwise, that significant improvement from the injury is not anticipated.

1. No. 22000458.01: Right Knee Injury of July 10, 2019.

As found in Section IV, the weight of the evidence establishes a causal connection between the stipulated work injury of July 10, 2019, and the right total knee replacement surgery Corbett will undergo at UIHC. Consequently, Corbett has not yet reached MMI under section 85.34 with respect to his right knee injury and the care for it. The question of what, if any, permanent partial disability Corbett sustained from the stipulated work injury to his right knee is not ripe for adjudication.

2. No. 21700535.01: Left Knee Injury of September 28, 2020.

The weight of the evidence in this case does not establish that Corbett had reached MMI at the time of hearing from the total left knee arthroplasty. More time is needed for Corbett to reach the point where he is unlikely to have a significant improvement in his condition. Therefore, the question of what, if any, permanent

disability the stipulated work injury to his left knee caused is not ripe for determination under Iowa Code section 85.34.

C. Medical Benefits.

The parties identified reimbursement for the medical expenses in Exhibit 4 as a disputed issue and entered into a series of stipulations and identified additional disputed issues related to the larger issue in the hearing reports. Corbett did not address the issue in his post-hearing brief and neither did MidAmerican. Consequently, the contours of the parties' positions are not clear.

For all injuries compensable under Iowa Code chapter 85 or 85A, the employee must "furnish reasonable surgical, medical, dental, osteopathic, chiropractic, podiatric, physical rehabilitation, nursing, ambulance, and hospital services and supplies therefor and shall allow reasonably necessary transportation expenses incurred for such services." Iowa Code Ann. § 85.27(1). The undersigned found a causal connection between the stipulated work injuries to Corbett's knees and the need to undergo a total knee arthroplasty for each. This makes the disability stemming from the injuries compensable under chapter 85.

Corbett underwent care for both injuries that did not resolve his symptoms, so he sought additional care at UIHC, where Dr. Noiseux recommended the total knee replacement surgeries. This establishes the care, both past and future, relating to the surgeries and recovery from them is reasonably necessary. MidAmerican is responsible for the medical expenses listed in Exhibit 4 and those after the date of hearing relating to the total knee arthroplasties and the care following them as recommended by Dr. Noiseux.

D. IME Reimbursement.

The parties did not identify IME reimbursement under Iowa Code section 85.39 as a disputed issue on the hearing report. Corbett did not discuss IME reimbursement in his post-hearing brief. But MidAmerican identified the issue in its post-hearing brief as in dispute. (Def. Brief, p. 1) MidAmerican states the following in Footnote 7 on Page 31 of its post-hearing brief:

Defendant agrees that Iowa Code [section] 85.39 allows for the reimbursement of Claimant's IME given the timing of Dr. Hoffman's impairment ratings in relation to Dr. Stoken's examination. Defendant requests that Claimant's IME be reimbursed for a reasonable fee given that Claimant's total knee replacements are not work related.

The issue was not identified as in dispute in the hearing reports. MidAmerican therefore waived it as a disputed issue because Corbett did not know it was in dispute at the time of hearing or at the time of briefing the case. However, even if the issue were identified as in dispute in the hearing reports, MidAmerican's articulated basis for limiting the amount it must pay for Dr. Stoken's examination is that the two total knee

replacements are not work related and this decision finds that they are work related, as detailed above. Consequently, MidAmerican must pay for the entirety of Dr. Stoken's IME.

VI. ORDER.

Based on the above findings of fact and conclusions of law, it is ordered:

A. No. 22000458.01: Right Knee Injury of July 10, 2019.

- 1) MidAmerican shall file subsequent reports of injury as required by Iowa Administrative Code rule 876—3.1(2).
- 2) MidAmerican shall pay to Corbett one hundred and 00/100 dollars (\$100.00) for the cost of the filing fee.
- 3) MidAmerican shall pay Corbett for the medical expenses listed in Exhibit 4.
- 4) MidAmerican shall pay for care after the date of hearing relating to the right total knee arthroplasty and recovery from the procedure.
- 5) MidAmerican shall reimburse Corbett for Dr. Stoken's IME.

B. No. 21700535.01: Left Knee Injury of September 28, 2020.

- 1) MidAmerican shall file subsequent reports of injury as required by Iowa Administrative Code rule 876—3.1(2).
- 2) MidAmerican shall pay to Corbett one hundred and 00/100 dollars (\$100.00) for the cost of the filing fee.
- 3) MidAmerican shall pay Corbett for the medical expenses listed in Exhibit 4.
- 4) MidAmerican shall pay for care after the date of hearing relating to the left total knee arthroplasty and recovery from the procedure.

Signed and filed this 27th day of July, 2023.

A handwritten signature in black ink, appearing to read "Ben Humphrey", is written over a horizontal line.

BEN HUMPHREY
Deputy Workers' Compensation Commissioner

The parties have been served, as follows:

John P. Dougherty (via WCES)

Lori N. Scardina Utsinger (via WCES)

Edward Rose (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.