BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

ROXANNA WALKER (f/k/a FIRLICK), Claimant, vs. QUAKER OATS COMPANY, Employer, and INDEMNITY INSURANCE COMPANY OF NORTH AMERICA, Insurance Carrier, Defendants.	File No. 5044625 REVIEW-REOPENING DECISION Head Note Nos.: 2905; 1804

STATEMENT OF THE CASE

Roxanna Walker, claimant, filed a petition in arbitration seeking a review/reopening of her Agreement for Settlement, which was previously approved by this agency on August 26, 2014, wherein Quaker Oats Company and Indemnity Insurance Company of North America appear as defendants. The hearing was held on August 2, 2016, in Waterloo, Iowa.

At the hearing, claimant was the only witness to testify. The evidentiary record also includes Joint Exhibits AA through II, Claimant's Exhibits 1 through 11, and Defendants' Exhibits A, B, D through H, and J, all of which were admitted without objection.

Counsel for the parties submitted post-hearing briefs on September 9, 2016, and the case was considered fully submitted at that time.

At the hearing, the parties submitted a hearing report, which contains numerous stipulations. The parties' stipulations are accepted. No factual findings or conclusions of law will be made in this decision regarding the parties' stipulations. The parties are now bound by their stipulations.

ISSUES

The parties submitted the following disputed issues for resolution:

1. Whether claimant sustained a change in condition, causally related to the original work injury such that the extent of her disability previously established in the Agreement for Settlement approved by this agency on August 26, 2014, should be reassessed.

2. If such a change in condition has occurred, whether claimant is entitled to a running healing period award or additional permanent partial disability, and if so, the extent thereof.

3. Entitlement to medical expenses.

4. Commencement date of additional permanent partial disability benefits, if any and the extent of defendant's credit, if any, against any weekly benefits awarded.

5. Penalty benefits.

FINDINGS OF FACT

On October 23, 2011, the claimant, Roxanna Walker, slipped and fell while working at Quaker Oats, twisting her back, landing on her knees and fracturing her right scaphoid. (Tr. p. 17) The parties entered into an Agreement for Settlement, which was approved by this agency on August 26, 2014. (Ex. AA, p. 3) In that settlement, the parties agreed that claimant sustained a 32.5 percent industrial disability (162.5 weeks) payable commencing January 3, 2013, concerning the following injuries, that arose out of and in the course of her employment on October 23, 2011:

> [R]ight scaphoid fracture; C5-6 disc protrusion with cervical discectomy, removal of extruded fragment, fusion at C5-6, interbody prosthesis; and a herniated disc at L4-5 and L5-S1 with decompressive L5-S1 laminectomy and decompression at L4-5 on the left and L5-S1 on the left with removal of extruded fragments.

(Ex. AA, p. 1)

At the time of this review-reopening hearing, claimant, Roxanna Walker, was 54 years of age. (Tr. p. 11) She testified that she grew up in Cedar Rapids and completed the 10th grade, and later obtained her GED in 1983. (Tr. p. 11-12) Claimant also attended some courses for legal secretary training at Kirkwood Community College in 1992, and/or 1993, but did not complete the program. (Tr. p. 41) She obtained a paralegal degree on-line in early 2000. (Ex. 5, p. 2; Tr. p. 40-41) There was no evidence that claimant advanced her education after the parties Agreement for Settlement was approved on August 26, 2014.

Ms. Walker began working for the defendant employer, Quaker Oats, in 1985. (Id.) She last worked for Quaker Oats on February 28, 2015. (Tr. pp. 27-28) Her employment involved a number of different jobs over the years, which she testified were

physically demanding. (Tr. p. 15-16) She further testified that she did not believe that she would be able to do any of these former jobs at the present time. (Tr. p. 17)

Prior to the approval of the Agreement for Settlement on August 26, 2014, claimant had surgery to treat her scaphoid fracture performed by James C. Johns, Jr. M.D. (Tr. p. 18; Ex. AA, p. 4) The records do not indicate any substantial treatment concerning the scaphoid fracture post-settlement. Claimant testified in her deposition on July 15, 2016, that she did not believe that she had any significant change to her hand condition since the settlement. (Ex. 5, p. 25) Concerning claimant's cervical injury, prior to the settlement, she received an injection followed by surgery performed by David Segal, M.D., involving a spinal fusion at the C5-6 level. (Ex. DD, p. 7; CC p. 5) After the settlement, the records do not indicate any substantial medical treatment concerning claimant's cervical spine. Claimant testified in her deposition on July 15, 2016 that "my neck is better," and she thought Dr. Segal did a good job on her neck surgery. (Ex. 5, p. 33) Further, claimant testified at hearing that she did not have any pain or discomfort associated with the neck surgery. (Tr. p. 34)

Regarding claimant's low back injury, before the Agreement for Settlement, she had multiple injections and radiofrequency ablation, none of which provided lasting relief. (Ex. DD, pp. 1, 3, 5, 9, 12, and 14) She then had surgery with Dr. Segal on November 13, 2013, consisting of decompressive laminectomies at the L4, L5 and S1 levels, along with transpedicular decompression on the left at the L4-5 and L5-S1 and removal of extruded fragments with microscopic magnification dissection. (Ex. CC, p. 13) Claimant experienced a significant reduction of her symptoms following surgery, described by Dr. Segal as 90 percent. (Ex. CC, p.18)

On December 9, 2013, she was released to return to work, with no restrictions. (Ex. CC, p. 16)

On May 5, 2014, following a one-time evaluation, and apparently based on the AMA Guides to the Evaluation of Permanent Impairment, Fifth Edition, Chad Abernathey, M.D., assigned a 7 percent whole person impairment for the lumbar spine with no restrictions. (Ex. FF, pp. 3, 5) He did not provide any details as to how he arrived at that particular rating.

On July 18, 2013, Farid Manshadi, M.D., issued a report/letter to claimant's counsel following an independent medical examination (IME). (Ex. 4, p. 1) He stated that claimant had not yet reached maximum medical improvement (MMI) concerning her low back. (Ex. 4, p. 7) However, about one year later, on July 14, 2014, Dr. Manshadi conducted a reevaluation of claimant. (Ex. 4, p. 8) In between these reports, Dr. Segal performed the lumbar surgery described above on November 13, 2013. (Ex. CC, p. 13) In his second report, Dr. Manshadi opined that claimant sustained an 11 percent permanent impairment based on the AMA Guides, Fifth Edition, and specifically DRE category III as described in chapter 15, page 384 of the Guides. (Ex. 4, p. 11) In addition, Dr. Manshadi assigned restrictions of avoiding repetitious twisting or bending, and lifting no more than 50 pounds. (Id.)

On July 21, 2014, Dr. Segal opined that the rating and restrictions assigned by Dr. Manshadi were reasonable. (Ex. 2, p. 4) However, claimant continued to work at Quaker Oats without restrictions, doing her regular job. (Tr. p. 23)

On August 8, 2014, claimant was taken off work from August 8, 2014, through August 16, 2014, by her primary care provider, due to "an acute exacerbation of a chronic condition and has been referred to another specialist for additional evaluation and treatment during that time frame. She is physically unable to bend, lift, twist her trunk, climb or descend stairs . . . ." (Ex. EE, p. 31)

On August 13, 2014, Dr. Segal said, "[i]t was recently recommended by her primary care physician that she be treated by Dr. Harman at the Mercy Pain Clinic for residual pain. I believe that would be appropriate treatment and concur with her physician's recommendation." (Ex. CC, p. 17)

On August 26, 2014, the same day the Agreement for Settlement was approved by this agency, claimant returned to see her primary care physician reporting recurrent lumbar spine pain radiating into her buttocks and her bilateral legs and feet, with numbness and tingling in both feet. (Ex. EE, p. 32) She was noted to be using a cane for assistance and reported her pain as 7/10. (Id.) She received injections and her prescription of hydrocodone was refilled. The record states that, "[i]f her lower back pain and bilateral lower extremity pain continues, we will obtain a new MRI of the lumbar spine with contrast to evaluate for post-surgical changes and interval progression of her lumbar spine degenerative changes." (Ex. EE, p. 34)

Claimant returned to her primary care physician on September 2, 2014, for follow-up of her "chronic lumbar spine pain radiating into the lower extremities," and her pain is described as 7/10. (Ex. EE, p. 36)

On September 22, 2014, claimant underwent an MRI of the lumbar spine, which found postsurgical changes on the left L4-5 and L5-S1 compatible with previous hemilaminectomy; mild disc bulges, with no evidence of extrusion; and, no significant appearing central or neural foraminal stenosis. (Ex. BB, p. 10)

On October 14, 2014, claimant requested a refill of hydrocodone in regard to her chronic lumbalgia. (Ex. EE, p. 40)

On October 23, 2014, about two months after the Agreement for Settlement was approved, claimant was seen by Dr. Segal and he recorded that she initially had good relief of symptoms following surgery, "noting a 90% reduction in her symptoms," but the symptoms have now returned and are worse than before [the November 13, 2013] surgery. (Ex. CC, p. 18) Claimant's current pain was noted to be 7/10, with 5/10 being the lowest and 10+/10 being the highest. (Id.) Dr. Segal found that the "MRI shows progressive collapse of the L4-5 disc space, even more than I would expect postoperatively." (Ex. CC, p. 19) He then recommended facet and SI joint injections. "If they do not work, we will consider a fusion at L4-L5." (Id.)

I find that the October 23, 2014 visit with Dr. Segal is the first time that a fusion surgery is considered as a potential treatment option to address claimant's lumbar condition.

On November 5, 2014, claimant returned to her family physician, Matthew Roes, M.D., with "chronic moderate to severe right gluteal and sacro-iliac pain that radiates to her lateral hip, as well as midline lower lumbar spine pain." (Ex. EE, p. 43) It is noted that following the November 13, 2013, surgery with Dr. Segal that claimant "initially had better than 90% relief of her original radiculopathy immediately following surgery before her symptoms began to gradually return." (Id.)

On November 18, 2014, claimant is seen by Tork Harman, M.D. (Ex. DD, p. 17) Dr. Harman notes the records indicate that claimant was last at the pain clinic on July 29, 2013, well over a year ago, at which time she reported her pain as 2/10 and she was feeling 80 percent better following surgery, with some residual pain in her left foot. At that time she was instructed to call as needed. (Ex. DD, pp. 16) Dr. Harman noted that claimant had "some short-term improvement" following the L4 through S1 decompression surgery, but that her symptoms returned and she has "pain across her low back, now going down both legs to the feet. She has numbness and tingling in her right thigh, left buttock and left foot as well as sometimes in the right calf. Pain is fairly equal in both legs. Pain in her back is as bad or worse than the pain down her legs." (Ex. DD, p. 17) Dr. Harman provided diagnostic medial branch block trial injections, which if successful may lead to radiofrequency ablation, and if not successful, would result in follow-up with Dr. Segal for other treatment options. (Ex. DD, p. 19) During this period of time, claimant continued to work her regular, full-time job, with no restrictions or accommodations. (Tr. p. 27; Ex. 5, p. 26)

On December 9, 2014, claimant returned to see Dr. Segal, who notes that the injections helped slightly, but not enough and that claimant was in severe pain and that he recommended proceeding with lumbar fusion surgery at L4-L5 and L5-S1. (Ex. CC, p. 20-21) At that time, claimant was placed on restrictions by Dr. Segal. Ex. CC, p. 22)

I find that December 9, 2014 is the first time that a physician specifically recommended proceeding with lumbar fusion surgery to treat claimant's low back condition.

I find that on October 23, 2014, claimant's symptoms are noted to be 10+/10 at their worst. Claimant reported that her symptoms had returned and, at that time, were worse than before the surgery. I also find that on November 5, 2014, claimant described her symptoms as a gradual return. Dr. Segal, Dr. Roes, Dr. Harman and Dr. Manshadi each describe claimant's post-settlement pain as a return of the pain that she had prior to the November 13, 2013, surgery. (Ex. CC, p. 18; Ex. EE, p. 43; Ex. DD, p. 17; and, Ex. 4, p. 25)

Claimant continued working until February 28, 2015. (Tr. pp. 27-28)

On March 4, 2015, Dr. Segal performed a two-stage decompressive laminectomy and lumbar fusion surgery. (Ex. CC, pp. 24-27) This procedure involved the same areas of the lumbar spine that are included in the Agreement for Settlement and were the subject of the November 13, 2013 surgery performed by Dr. Segal. (Ex. CC, pp. 17, 24-27) The March 4, 2015 surgery also involved, in part, repeat procedures from the previous November 13, 2013 surgery, including decompressive laminectomies at L4, L5, and S1 as well as transpedicular decompression of L4-5 and L5-S1. (Id.) As noted above, the MRI obtained on September 22, 2014 showed changes on the left L4-5 and L5-S1, which were found to be "compatible with previous hemilaminectomy." (Ex. BB, p. 10) Dr. Segal stated on February 26, 2016, that following the November 13, 2013 surgery, claimant had "90% initial relief, which is a good result. The pain did return however." (Ex. 2, p. 12) He also stated that the September 6, 2013 MRI results "matched her pain." (Ex. 2, p. 13) Dr. Manshadi concluded following a January 7, 2016 IME that "Ms. Walker's back pain did get worse after she returned to work after her first back surgery . . ." and her "back condition did change since the August 25, 2014 settlement." (Ex. 4, p. 24, 25)

Following surgery, claimant developed an "abscess to the right flank following a recent low back surgery . . ." which was found to be positive for staph infection. (Ex. EE, p. 70) She had regular treatment for the infection with her primary care physician, Dr. Roes, who stated that it was "resolved" on June 30, 2015. (Ex. EE, p. 120)

On May 27, 2015, claimant underwent a functional capacity evaluation (FCE), about two and a half months after surgery. (Ex. GG, p. 1) Dr. Segal later stated that "the ideal time [for an FCE] is at least six months after surgery. Before that, patients typically are still in the healing period, and the functional capacity evaluation may not be optimal until six months out from surgery." (Ex. 2, pp. 14-15) Claimant testified that the FCE was done at that time, because Dr. Segal was getting pressure from the employer to provide a return-to-work date. (Tr. p. 55-56) She testified that she was present for a phone conversation between Dr. Segal and the employer's nurse representative, in which the matter was discussed. (Id.) Dr. Segal does note on May 12, 2015, that "work comp wants fit to work date." (Ex. CC, p. 37) At the time of the FCE, claimant was reporting pain of 7/10, with her lowest levels at 5/10 and 10/10 at its worst and she had not yet been released to return to work, following surgery. (Id.) Claimant testified that at the time of the FCE, she had recently started physical therapy and was battling staph infection. (Tr. p. 55) It is recorded that the testing was "limited due to increased pain as the test progressed." (Ex. GG, pp. 3) With the limited testing, claimant was found to have "a general strength capacity of sedentary to light." (Id.) The recommended levels for force exertion based on her demonstrated ability at the time of the testing, was as follows:

Nonmaterial handling:

1. Walking: No more than 1/16 mile at a time, with no added weight.

2. Stair climbing: No more than 10 stair steps continuous on a rare basis (once or twice in a day). If less than 5 steps at a time, then can likely handle no more than once every few hours. Must use handrail on all stairs.

3. Ladder climbing: No more than 3 to 4 steps on a ladder, rarely in a day (1 to 2 times in a day). Also, no added weight to be taken up or down the ladder.

Material handling capabilities:

1. Weight transfers near waist or bench level: 17 to 18 pounds maximum on an occasional basis, and 8 to 10 pounds maximum on a frequent basis.

2. Carrying two-handed for up to 20 feet: 10 to 12 pounds maximum on an occasional basis.

3. Cart pushing effort for under 100 feet: 20 pounds peak effort to initiate movement, and no more than 10 pounds sustained effort to maintain movement.

4. Peak push effort on a cart or on a push surface: 30 pounds maximum on occasion, with two-handed effort at elbow height off the ground.

(Ex. GG, pp. 3-4) In addition, the claimant was also restricted to limited shoveling of no more than a few scoops every hour and repetitive shoveling for a sustained effort of no more than two to three minutes. (Ex. GG, p. 4) It was also noted that she would likely have difficulty using a pressurized air hose on a frequent basis below knee level, requiring stooping or squatting. (Ex. GG, p. 4)

On June 30, 2015, claimant's primary care physician, Dr. Roes, stated that "she has completed a complete course of post-surgical PT." (Ex. EE, p. 120)

On July 8, 2015, after reviewing claimant's job description, provided by the employer, Dr. Roes sent a letter to the employer with recommendations for her return to work. (Ex. EE, p. 128) He returned claimant to work on July 16, 2015, with restrictions for 3 months of: (1) no pushing/pulling greater than 15 pounds; no climbing ladders and no bending, turning or twisting to clean machines or shovel. (Ex. EE, p. 128)

On July 9, 2015, Dr. Segal, initially adopted the restrictions identified in the FCE, as claimant's permanent restrictions. (Ex. CC, p. 48) However, on July 14, 2015, he modified those restrictions and released claimant to return to work on July 16, 2015. (Ex. CC, p. 49) Dr. Segal returned claimant to work with the following permanent restrictions based on an 8 hour day and 40 hours per week: (1) Lift 20 pound max and carry no more than 20 feet; (2) Stand no more than 20 minutes per hour; (3) No cart

pushing more than 20 pounds and no more than once per hour; (4) limit shoveling to a few scoops per hour; (5) limit squatting below knee level; (6) limit ladder climbing to 3 to 4 steps two times per day with no added weight and use handrails. (Ex. 2, pp. 8-9; Ex. CC, p. 49) I find these restrictions issued by Dr. Segal are less restrictive than those stated in the FCE and more accurately represent claimant's physical abilities. Dr. Segal also found claimant reached MMI on July 14, 2015. (Ex. CC, p. 49) I find that claimant reached MMI on July 14, 2015 per Dr. Segal's opinion.

Claimant testified that she took Dr. Segal's restrictions to Quaker Oats, who told her that there was no work available for her and that "they would not honor those restrictions." (Tr. p. 30) She was told that she could look for a different job within Quaker Oats. She testified that she called the employer once a week when new job postings went up, but found nothing that fit within her restrictions. (Id.)

Claimant had requested accommodations with Dr. Segal's restrictions, but on August 7, 2015, she was told by her employer that she was not able to do her job as Oat Mill Utility and that no accommodations were possible. (Ex. 1, p. 4; Ex. F, p. 4) The employer stated that they would provide assistance in helping her locate a job within her restrictions. (Ex. 1, p. 5) Claimant stated in her answer to interrogatory that she contacted the employer and her union a number of times after August 7, 2015, and was told that there was no positions available for her at Quaker Oats. Claimant continued her job search both at Quaker Oats and elsewhere through mid-January, 2016. (Ex. 11, pp. 3-17) Her job search included seeking assistance at Iowa Workforce Development. (Ex. 5, p. 30)

On November 2, 2015, Dr. Segal assigned a 21 percent whole person permanent partial disability rating based on the Table 15-3 and placement in DRE Category IV, as a result of the fusion surgery. (Ex. CC, p. 53) This is presumably from the AMA Guides, Fifth Edition, although it is not specifically stated.

On November 13, 2015, Carol Hulett, M.D., provided defendants with a records review and report. (Ex. E, p. 1) This report was apparently related to claimant's request for long-term disability benefits. (Tr. p. 33) Claimant testified that the company did not follow Dr. Hulett's conclusion that she was not disabled, because they did approve long-term disability benefits. (Id.) Defendants supplied exhibit H, which appears to show long-term disability payments issued beginning on February 12, 2016, with multiple payments made on that date that. (Ex. H, p. 1)

Concerning Dr. Hulett's report, the most recent record she reviewed was from August 4, 2015, about a year prior to the hearing. (Ex. E, p. 8) In her report, Dr. Hulett was critical of the timing of the FCE, stating that it was "premature in her post-operative recovery." (Ex. E, p. 9) She further argues that because the FCE was premature, it "does not give a true picture of this claimant's true or current condition." (Id.) Therefore, she also criticizes Dr. Segal's restrictions assigned July 14, 2015, stating that there were no clinical findings to support the restrictions. (Id.)

Dr. Hulett's point concerning the relatively short time between the lumbar fusion surgery and the FCE is worth noting. Dr. Segal himself, indicated it was not an ideal timing. However, as stated above, the restrictions assigned by Dr. Segal on July 14, 2015, were less restrictive than those identified in the FCE and were assigned after the staph infection had concluded, the physical therapy was complete, and she had been placed at MMI. It is also noteworthy that Dr. Hulett's conclusions were formulated without ever seeing, examining, or speaking with claimant. Dr. Hulett, also stated that without an updated FCE, she cannot support the need for any restrictions. (Id.) However, she then admits that "this individual may in fact need restrictions." (Id.) Nevertheless, Dr. Hulett concludes that "claimant is not disabled from performing all of the material and essential duties pertaining to her own occupation as of July 22, 2015." (Ex. E, p. 8) In other words, she identifies what she believes is a lack of supporting information to draw a conclusion regarding restrictions and then concludes, apparently based on the same "lack" of supporting information, that claimant is "not disabled" and not prevented from going back to her old job. (Ex. E, p. 10) Defendant employer apparently disagreed with Dr. Hulett, because claimant, as of the date of the hearing, had not returned to her old job, or any other job, after the March 5, 2015 lumbar fusion surgery. (Tr. p. 13) The undersigned assigns no weight to this records review and confirms the previous finding above that the restrictions assigned by Dr. Segal on July 14, 2015, represent the best evidence of claimant's physical abilities.

On December 18, 2015, Dr. Hitchon sent a letter to defense counsel following an independent medical examination of claimant. Claimant testified that she spent approximately 5 minutes being evaluated by Dr. Hitchon. (Tr. p. 31) Dr. Hitchon stated the records show that claimant had degenerative cervical changes at C5-6, for which the October 31, 2012 cervical fusion was performed. (Ex. D, p. 6) He also states that any restrictions assigned to claimant should have been lifted by October 31, 2013. (Id.) Dr. Hitchon noted that NFL star quarterback, Peyton Manning, had a similar surgery and was able to return to play in the NFL. There is a noticeable absence of any discussion of the probable rehabilitative resources and professional time and attention given to Peyton Manning as compared to claimant. Dr. Hitchon does not provide any specific basis for his opinion to lift all the restrictions within a year after surgery, other than an apparent assumption that she should be healed and no longer need restrictions. Dr. Hitchon states that there is no history in the records or from the claimant that she has had "any change in her condition subsequent to August 26, 2014." (Id.) However, as noted above, on October 23, 2014, the L4-5 fusion is considered for the first time, and is then recommended on December 9, 2014. (Ex. CC, p. 19-21) The claimant underwent lumbar fusion surgery on March 5, 2015. (Ex. CC, pp. 24-17) These records and claimant's testimony that her condition worsened are contrary to Dr. Hitchon's conclusion. (Tr. p. 26)

In answer to questions concerning whether claimant's employment was the cause of any change in condition following August 26, 2014 and whether any such change was temporary or permanent, Dr. Hitchon stated that there "is no history of trauma, falls, or injuries necessitating evaluation by an emergency room on or close to that date." (Ex. D, p. 6) He also states in another section that "I do not believe that this

lady suffered any work-related injuries on or subsequent to August 26, 2014." (Id.) These comments lead one to the conclusion that Dr. Hitchon was looking for an acute work-related trauma on or about August 26, 2014, rather than addressing the question of whether claimant sustained a change in condition after August 26, 2014 that was causally related to the original work injury of October 23, 2011. (Ex. AA, p. 1) Dr. Hitchon then states that following the lumbar fusion surgery, claimant should have restrictions of lifting no more than 30 pounds and avoiding heights, which would be lifted after 3 to 6 months, and she would have reached MMI one year post-surgery. (Ex. D, p. 7) He does not support this conclusion with discussion or analysis. He goes on to indicate that claimant should be assigned no more than 10 percent permanent impairment based on the AMA Guides, Fifth Edition. (Ex. D, p. 6)

The undersigned gives the report from Dr. Hitchon little weight based on his lack of discussion and analysis, along with his apparent reliance on whether or not there was an acute injury on or around November 26, 2014, rather than determining whether there was a change in condition related to the original work injury.

On January 5, 2016, Dr. Hitchon sent a letter to defense counsel indicating that he would not have performed the surgeries that claimant had. (Ex. D, p. 9) This is after his initial praise of Dr. Segal in his December 18, 2015 letter that claimant was "under the expert care of Dr. Segal." (Ex. D, p. 5) He also stated his opinion that "the reasons for performing surgery on this lady, both cervical and lumbar, are secondary to degenerative changes that are a natural occurrence with the passage of time and aging." (Ex. D, p. 9) If that alone, were the reason for the surgery, presumably, nearly everyone of similar age, would have similar conditions and require similar treatment, however, this is not the case.

On February 8, 2016, Dr. Manshadi issued a report following an independent medical examination (IME). (Ex. 4, p. 21) Unlike most IME physicians who likely see an individual only once at or near the end of medical treatment, Dr. Manshadi has the perspective of having seen this claimant three times, on July 18, 2013, July 14, 2014 and again on February 8, 2016. In his last report, he noted that claimant returned to work without restrictions after her first surgery in November, 2013, and was performing her regular job. (Ex. 4, p. 22) He stated that claimant's back pain did get worse after returning to work. (Ex. 4, p. 24) As a result of the worsening pain, and Dr. Segal's findings, Dr. Segal recommended lumbar fusion. This procedure was done on March 4, 2015. (Id.) Dr. Manshadi agreed with Dr. Segal's impairment rating of 21 percent to the whole person, and confirms that the rating assigned by Dr. Segal, is in fact, based on the AMA Guides, Fifth Edition. (Ex. 4, p. 25) Specifically, Table 15-3, with claimant placed in the DRE lumbar category 4. This is 10 percent higher than Dr.Manshadi's previous evaluation on July 14, 2014, and supports a change in claimant's condition.

Dr. Manshadi also agrees with the permanent restrictions set forth by Dr. Segal. (Ex. 4, p. 25) The restrictions assigned by Dr. Segal and adopted by Dr. Manshadi are significantly more restrictive than those Dr. Manshadi assigned near the time of the settlement in 2014. (Ex. 4, p. 11) Dr. Manshadi stated that "it appears that Ms.

Walker's back condition did change since August 25, 2014 settlement." (Ex. 4, p. 25) Based on the above, I agree.

Dr. Manshadi's conclusion of the change in claimant's condition after the August, 2014 settlement is supported by claimant's lumbar fusion surgery and her change in impairment and restrictions. The impairment rating increased by 10 percent and the restrictions became significantly more restrictive.

On February 25, 2016, Dr. Segal authored a letter to claimant's counsel in response to Dr. Hitchon's December 18, 2015 letter to defense counsel. Dr. Segal states that Dr. Hitchon incorrectly believed that claimant had no improvement following her cervical spine surgery and that Dr. Hitchon "is just factually incorrect in saying that the surgery did not help her." (Ex. 2, p. 12) Also, Dr. Segal stated that Dr. Hitchon is incorrect in his assertion that the cervical symptoms "progressed to involve the lumbar spine." (Ex. D, p. 5) Dr. Segal noted that claimant's lumbar spine pain was present along with her cervical spine condition. (Ex. 2, p. 12) Dr. Segal states that Dr. Hitchon was apparently unaware of the particular procedure performed or pathology, concerning the November 13, 2013 lumbar fusion surgery, and that the same was performed following findings, which included instability, which "is universally accepted (including by Dr. Hitchon) as a reason for fusion." (Ex. 2, p. 13) Dr. Segal also notes that the surgeries that he performed "had both medical indications and logic and reasoning that were supported by the physical findings on her exam as well as radiologic findings." (Id.) He stated, "[i]t is possible that Dr. Hitchon (as he admits in his letter) did not have all of the information or all of the imaging studies and possibly had not had a chance to look over all my notes." (Id.)

On March 29, 2016, claimant received injections at L4-5, noting that medical improvement is not anticipated.

On May 20, 2016, Dr. Segal drafted a letter to defense counsel stating that his October 23, 2014 medical record following his appointment with claimant was consistent with the note from Dr. Roes on August 26, 2014, because Dr. Roes stated that the symptoms began a few days before that office visit. (Ex. 2, p. 14) Dr. Segal also stated that it is more likely than not that the symptoms that led to surgery on March 4, 2015, had an onset date just a few days prior to August 26, 2014. (Id.) However, there is no opinion on whether those symptoms worsened over time after August 26, 2014, through the date of surgery on March 5, 2015. The record described above supports the conclusion that claimant's pain worsened over time, after August 26, 2014 and her conditioned changed as concluded by Dr. Manshadi. (Ex. 4, p. 25) As additional support, I note that claimant's pain on October 23, 2014 is described as "worse than before [the November 13, 2013] surgery," and "worse in the last couple months." (Ex. CC, p. 18) Further, it is inescapable that the lumbar fusion surgery occurred over six months after settlement.

I accept the opinion of Dr. Manshadi concerning the worsening of claimant's back condition since the August 25, 2014 settlement. Dr. Manshadi had the unique position of seeing claimant on three separate occasions unlike Dr. Hitchon who saw the claimant for about five minutes. As stated above, I give the letter of Dr. Hitchon little weight as he provides little, if any, discussion or analysis for his conclusions and as pointed out by Dr. Segal he had certain facts incorrect. The opinion of Dr. Hulett is likewise given little weight for the reasons stated above. I further accept the impairment rating and restrictions assigned by Dr. Segal, and adopted by Dr. Manshadi. I find that claimant sustained a change to her condition post-settlement, related to her work-injury.

At the time the Agreement for Settlement was approved, Ms. Walker was working full-time at Quaker Oats in her regular job, the Oat Mill Utility position, working full-duty, with no accommodations or restrictions. (Tr. p. 24, 52; Ex. 5, p. 26) At the hearing, she testified that she worked from July, 2014 through December 2014, seven days per week, up to 68 or 74 hours per week with mandatory overtime. (Tr. p. 24-25) Claimant testified that she had last worked for Quaker Oats on February 28, 2015. (Tr. p. 13) As of the date of the hearing, claimant had not been returned to work at Quaker Oats.

At the time of the August 26, 2014 settlement, Ms. Walker had not applied for Social Security Disability benefits. (Ex. 5, p. 2; Ex. G, p. 1) However, claimant did apply for Social Security Disability benefits, post-settlement, on December 22, 2015, with an alleged onset date of March 4, 2015, the date of her lumbar fusion surgery with Dr. Segal. (Ex. 6, p. 7; Ex. CC, p. 24; Tr. p. 28) She was awarded disability benefits on April 1, 2016 and receives $1,994.00 per month in benefits. (Ex. 6, p. 1) Claimant was awarded Social Security Disability benefits based primarily on her back condition. (Ex. 6, p. 10) The vocational specialist involved in the social security claim found that although claimant had two years of college, her previous relevant work was a low level semiskilled position and "[i]t is unlikely that, after 30 years doing this one job, the claimant would have skills that would transfer to any other work." (Ex. G, p. 18) Claimant had been earning $29.00 per hour in her position at Quaker Oats. (Ex. G, p. 7) Although claimant understood that she was still an employee at Quaker Oats at the time of the hearing, she had not worked there for over one and one half years. (Tr. p. 13) The undersigned finds the de facto loss of claimant's employment at Quaker Oats and her award of Social Security Disability benefits, which included the onset date of March 4, 2015, the date of her lumbar fusion surgery, to be significant.

Claimant testified that at the time of the hearing, she continued to have constant pain in her left foot, left leg, and her lower back. (Tr. p. 34) She has difficulty sitting and standing for long periods. Claimant alternated between sitting and standing during the hearing. If she drives very far, she needs to stop and get out and walk around. (Tr. p. 35) Claimant testified that she regularly uses a cane, recommended by Dr. Segal and Dr. Manshadi, while walking, but if she does extended walking, she will use a walker. (Tr. p. 36) She struggles to find a comfortable position for sleeping and the pain wakes her up at night. (Tr. p. 37)

Claimant testified in her deposition on July 15, 2016, that her pain at that time, was located in a similar location as it was in August 26, 2014. (Ex. 5, p. 25) She also admitted at hearing that she had some of these problems prior to the settlement in August, 2014, but they were "nothing like they are now." (Tr. p. 37)

Claimant submitted a job search log consisting of over 40 job contacts made by claimant from mid-August 2015, through mid-January 2016. (Ex. 11, pp. 3-17) Claimant testified that she has sought assistance through Iowa Vocational Rehabilitation, but has not found employment. (Tr. p. 39) Claimant testified at hearing that she continues to look for work because she would prefer to find a job that she can do within her restrictions because, she likes to work, earn a paycheck and "feel proud of what I can accomplish . . ." (Tr. p. 39-40) I find that despite receiving Social Security Disability benefits and the bleak employment opportunities available to claimant, she nevertheless remains motivated to work.

Concerning industrial disability, when considering claimant's age, education, her past work history including her lack of work in the area of her post-high school education, the significance of her injury, the impairment rating and restrictions assigned, along with her current condition and all other appropriate factors for determining industrial disability, I find that claimant is permanently and totally disabled.

Concerning the medical expenses detailed in Exhibit 8, I find that the same are based upon her work injury. It is clear from the medical records that claimant had ongoing treatment for a period of time after the lumbar fusion surgery through June 30, 2015 with Dr. Roes at Metropolitan Family Medicine and Chiropractic to treat the staph infection that developed following said surgery.

CONCLUSIONS OF LAW

The first issue is whether claimant sustained a change in condition causally related to the original work injury following the Agreement for Settlement approved by this agency on August 26, 2014.

Iowa Code section 86.14(2) provides: "[i]n a proceeding to reopen an award for payments or agreement for settlement as provided by section 86.13, inquiry shall be into whether or not the condition of the employee warrants an end to, diminishment of, or increase of compensation so awarded or agreed upon."

In a review-reopening, "[t]o justify an increase in compensation benefits, the claimant carries the burden of establishing by a preponderance of the evidence that, subsequent to the date of the award under review, he or she has suffered an impairment or lessening of earning capacity proximately caused by the original injury." Simonson v. Snap-On Tools Corp., 588 N.W.2d 430, 434 (Iowa 1999).

The Supreme Court stated in Kohlhaas v. Hog Slat, Inc., "The review-reopening claimant need not prove, as an element of his claim, that the current extent of disability was not contemplated by the commissioner (in the arbitration award) or the parties (in their agreement for settlement)." Kohlhaas v. Hog Slat, Inc., 777 N.W.2d 387, 392 (Iowa 2009).

The Supreme Court also stated in the case of Kohlhaas v. Hog Slat, Inc, stated that:

> A compensable review-reopening claim filed by an employee requires proof by a preponderance of the evidence that the claimant's current condition is "proximately caused by the original injury." See Simonson, 588 N.W.2d at 434 (original emphasis omitted) (quoting Collentine,525 N.W.2d at 829). While worsening of the claimant's physical condition is one way to satisfy the review-reopening requirement, it is not the only way for a claimant to demonstrate his or her current condition warrants an increase of compensation under section 86.14(2). See Blacksmith v. All–Am., Inc., 290 N.W.2d 348, 354 (Iowa 1980) (holding a compensable diminution of earning capacity in an industrial disability claim may occur without a deterioration of the claimants physical capacity).

Kohlhaas v. Hog Slat, Inc., 777 N.W.2d 387, 392 (Iowa 2009).

The principles of res judicata apply in a review-reopening situation. "The agency, in a review-reopening petition, should not reevaluate an employee's level of physical impairment or earning capacity if all of the facts and circumstances were known or knowable at the time of the original action." Kohlhaas v. Hog Slat, Inc., 777 N.W.2d 387, 393 (Iowa 2009).

"[S]ection 86.14(2) does not provide an opportunity to relitigate causation issues that were determined in the initial award or settlement agreement." Kohlhaas v. Hog Slat, Inc., 777 N.W.2d 387, 393 (Iowa 2009).

The question of causal connection is essentially within the domain of expert testimony. The expert medical evidence must be considered with all other evidence introduced bearing on the causal connection between the injury and the disability. Supportive lay testimony may be used to buttress the expert testimony and, therefore, is also relevant and material to the causation question. The weight to be given to an expert opinion is determined by the finder of fact and may be affected by the accuracy of the facts the expert relied upon as well as other surrounding circumstances. The expert opinion may be accepted or rejected, in whole or in part. St. Luke's Hosp. v. Gray, 604 N.W.2d 646 (Iowa 2000); IBP, Inc. v. Harpole, 621 N.W.2d 410 (Iowa 2001); Dunlavey v. Economy Fire and Cas. Co., 526 N.W.2d 845 (Iowa 1995). Miller v. Lauridsen Foods, Inc., 525 N.W.2d 417 (Iowa 1994). Unrebutted expert medical

testimony cannot be summarily rejected. Poula v. Siouxland Wall & Ceiling, Inc., 516 N.W.2d 910 (Iowa App. 1994).

The parties entered into an Agreement for Settlement, which was approved by this agency on August 26, 2014. (Ex. AA, p. 3) In the settlement document, the parties agreed that the claimant's work-related injury included her low back. (Ex. AA, p. 1)

Defendants argue that claimant's complaints of worsening back pain began to occur prior to the Agreement for Settlement approval date by this agency of August 26, 2014, and that fact should eliminate claimant's review-reopening claim. However, the medical evidence in this case supports the undersigned's conclusion that claimant sustained a worsening of her low back condition after the Agreement for Settlement. The fact that claimant's low back pain began increasing just prior to the settlement approval date of August 26, 2014, does not change the fact that the record supports the undersigned's conclusion that claimant's condition worsened post-settlement.

The lumbar fusion surgery occurred more than six months after the settlement was approved by this agency and had not, according to the medical records presented, been recommended or considered at the time of the settlement.

In addition to claimant's medical condition and lumbar fusion surgery, claimant had been working, full-time, without any restrictions or accommodations at the time of the settlement. Thereafter, she was medically restricted from returning to her former job following the lumbar fusion surgery. Claimant worked for this employer for about 30 years, and yet this long time employer has not offered her any work within her restrictions following her lumbar fusion surgery. The fact that this long time employer is unable or unwilling to accommodate claimant is an indicator of the difficulty that claimant faces in the competitive labor market. If any employer is willing to accommodate claimant's restrictions, it is likely to be the one with whom she had been employed for 30 years. Claimant had been earning $29.00 per hour in her job at Quaker Oats and is now unemployed as a result of her physical condition and the work restrictions placed on her following the lumbar fusion surgery.

After the Agreement for Settlement, claimant applied for and has been awarded, without appeal, Social Security Disability benefits, based primarily on her back condition. (Ex. 6, p. 10; Ex. 5, p. 31)

Claimant has carried her burden of proof that she has sustained a substantial change in circumstances that requires the previous Agreement for Settlement be reevaluated.

The second issue in this matter is whether the change warrants an award of running healing period of reassessment of the previously agreed upon 32.5 percent industrial disability, and if so, the extent thereof.

Healing period benefits are payable when an employee has sustained a personal injury causing permanent partial disability "until the employee has returned to work or it is medically indicated that significant improvement from the injury is not anticipated or until the employee is medically capable of returning to substantially similar to the employment in which the employee was engaged at the time of injury, whichever occurs first." (Iowa Code section 85.34(1)

Having accepted the medical opinions of Dr. Segal and Dr. Manshadi concerning MMI, permanency, and restrictions, I conclude that claimant, per Dr. Segal and Dr. Manshadi, has reached MMI. As of the date of the hearing, there was no additional medical opinions presented that would place claimant in a healing period. Therefore, I determine that claimant is not presently entitled to a running award of healing period, and I therefore address the extent of industrial disability.

Because 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 R. Co., 219 Iowa 587, 593; 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 the 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. However, consideration must also be given to the injured worker's medical condition before the injury, immediately after the injury and presently; the situs of the injury, its severity, and the length of healing period; the work experience of the injured worker prior to the injury, after the injury, and potential for rehabilitation; the injured workers' qualifications intellectually, emotionally and physically; the worker's earning before and after the injury; the willingness of the employer to re-employ the injured worker after the injury; the worker's age, education, and motivation; and, finally the inability because of the injury to engage in employment for which the worker is best fitted. Thilges v. Snap-On Tools Corp., 528 N.W.2d 614, 616 (Iowa 1995); 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).

There are no weighting guidelines that indicate how each of the factors is to be considered. Neither does a rating of functional impairment directly correlate to a degree of industrial disability to the body as a whole. In other words, there are no formulae which can be applied and then added up to determine the degree of industrial disability. It therefore becomes necessary for the deputy or commissioner to draw upon prior experience, as well as, general and specialized knowledge to make the finding with regard to degree of industrial disability. See Christensen v. Hagen, Inc., Vol. 1 No. 3 Industrial Commissioner Decisions, 529 (App. March 26, 1985); Peterson v. Truck Haven Cafe, Inc., Vol. 1 No. 3 Industrial Commissioner Decisions, 654 (App. February 28, 1985).

Total disability does not mean a state of absolute helplessness. Permanent total disability occurs where the injury wholly disables the employee from performing work that the employee's experience, training, education, intelligence, and physical capacities would otherwise permit the employee to perform. See McSpadden v. Big Ben Coal Co., 288 N.W.2d 181 (Iowa 1980); Diederich v. Tri-City R. Co., 219 Iowa 587, 258 N.W. 899 (1935).

A finding that claimant could perform some work despite claimant's physical and educational limitations does not foreclose a finding of permanent total disability, however. See Chamberlin v. Ralston Purina, File No. 661698 (App. October 1987); Eastman v. Westway Trading Corp., II Iowa Industrial Commissioner Report 134 (App. May 1982).

Defendants argue that this review reopening is barred by res judicata and judicial estoppel. In support thereof, defendants argue that claimant's condition has not changed and is the same as it was at the time the Agreement for Settlement was approved.

Having found that the requisite change has occurred as described above, I conclude that claimant's argument that the claim is barred by res judicata and judicial estoppel is without merit. Further, as stated above and for the reasons there discussed, I find that claimant is permanently and totally disabled.

The next issue is the claimant's entitlement to medical expenses set forth in claimant's Exhibit 8.

The employer shall furnish reasonable surgical, medical, dental, osteopathic, chiropractic, podiatric, physical rehabilitation, nursing, ambulance, and hospital services and supplies for all conditions compensable under the workers' compensation law. The employer shall also allow reasonable and necessary transportation expenses incurred for those services. The employer has the right to choose the provider of care, except where the employer has denied liability for the injury. Section 85.27. Holbert v. Townsend Engineering Co., Thirty-second Biennial Report of the Industrial Commissioner 78 (Review-Reopening October 16, 1975).

Prudent persons customarily rely upon their physician's recommendation for medical care without expressly asking the physician if that care is reasonable. Proof of reasonableness and necessity of the treatment can be based on the injured person's testimony. Sister M. Benedict v. St. Mary's Corp., 255 Iowa 847, 124 N.W.2d 548 (1963).

It is said that "actions speak louder than words." When a licensed physician prescribes and actually provides a course of treatment, doing so manifests the physician's opinion that the treatment being provided is reasonable. A physician practices medicine under standards of professional competence and ethics. Knowingly providing unreasonable care would likely violate those standards. Actually providing

care is a nonverbal manifestation that the physician considers the care actually provided to be reasonable. A verbal expression of that professional opinion is not legally mandated in a workers' compensation proceeding to support a finding that the care provided was reasonable. The success, or lack thereof, of the care provided is evidence that can be considered when deciding the issue of reasonableness of the care. A treating physician's conduct in actually providing care is a manifestation of the physician's opinion that the care provided is reasonable and creates an inference that can support a finding of reasonableness. Jones v. United Gypsum, File No. 1254118 (App. May 2002); Kleinman v. BMS Contract Services, Ltd., File No. 1019099 (App. September 1995); McClellon v. Iowa Southern Utilities, File No. 894090 (App. January 1992). This inference also applies to the reasonableness of the fees actually charged for that treatment.

Claimant is entitled to an order of reimbursement only if he has paid treatment costs; otherwise, to an order directing the responsible defendants to make payments directly to the provider. See, Krohn v. State, 420 N.W.2d 463 (Iowa 1988). Defendants should also pay any lawful late payment fees imposed by providers. Laughlin v. IBP, Inc., File No. 1020226 (App., February 27, 1995)

Exhibit 8 details certain medical expenses incurred substantially from Metropolitan Family Medicine & Chiropractic, the office of claimant's family physician, Dr. Roes. It is clear from the records that Dr. Roes treated claimant concerning the staph infection that developed following the lumbar fusion surgery with Dr. Segal. Claimant had regular treatment with Dr. Roes and the staph infection was noted to have finally resolved on June 30, 2015, which is the final billing date from this clinic in Exhibit 8. (Ex. EE, pp. 120) It is clear that the treatment from Metropolitan Family Medicine & Chiropractic clinic and the other medical care contained in Exhibit 8 was needed to address the claimant's work related health care and was reasonable, necessary, and beneficial for her condition. Defendants are responsible for these costs under Iowa Code 85.27. See Bell Bros. Heating v. Gwinn, 779 N.W.2d 193 (Iowa 2010). Defendants shall reimburse claimant directly for her out-of-pocket expenses as set forth in Exhibit 8, page 2 and shall pay, reimburse, and or otherwise satisfy all remaining medical expenses contained therein. Defendants shall likewise reimburse claimant her incurred mileage expense as provided in Exhibit 9 of $132.98.

The next issue is the commencement date of benefits and extent of defendant's credit, if any, against any weekly benefits awarded. I have previously found that claimant is permanently and totally disabled. Permanent total disability benefits are payable during the period of disability. Iowa Code section 85.34(3)(a). In this case, claimant had returned to work following the Agreement for Settlement and continued working until her last day of employment on February 28, 2015. Therefore, the appropriate commencement date of benefits for permanent total disability benefits is the date that claimant ceased working, March 1, 2015. Having determined that claimant is permanently and totally disabled, she is entitled to permanency benefits so long as the disability remains and defendants should receive a credit for prior weekly benefits paid.

In addition, the parties have stipulated in the hearing report to a credit to defendants in the amount of $18,661.24 for sick pay/disability benefits.

The final issue is penalty benefits. Claimant argues that she is entitled to penalty benefits for unpaid temporary partial disability (TPD) benefits of $1,880.05, and unpaid healing period benefits of $3,358.85. Claimant argues that she was in multiple healing periods since the agreement for settlement through the present. However, the evidence presented is limited to an indemnity log with the most recent date of November 5, 2015. (Ex. 7, p. 15) This log does show periods of underpayment. Defendants argue that there has been no change in claimant's condition and they further rely on the December 18, 2015 report of Dr. Hitchon and his opinion that the March 4, 2015 surgery may not have been needed and that there was no acute work–related injury on or around August 6, 2014. However, it is important to note that Dr. Hitchon's report was not issued until December 18, 2015 and could have been relied on to deny/delay benefits prior to it being issued.

If weekly compensation benefits are not fully paid when due, section 86.13 requires that additional benefits be awarded unless the employer shows reasonable cause or excuse for the delay or denial. Weekly compensation payments are due at the end of the compensation week. Robbennolt v. Snap-on Tools Corp., 555 N.W.2d 229, 235 (Iowa 1996).

I find that defendants had a reasonable basis to delay/deny benefits based on Dr. Hitchon's report of December 18, 2015 for benefits thereafter and I conclude that claimant has failed to carry her burden of proof concerning penalty benefits, except for the unexplained underpayment at Exhibit 7, page 15. I calculate the underpayment as follows:

The agreed upon rate (hearing report)	$ 864.30
The underpaid rate of $781.46 (Ex. 7, p. 15)	$ 781.46
The underpayment per week	$ 82.84

The weekly underpayment ($82.84) multiplied by 13 weeks, the number of underpaid weeks at $781.46 (Ex. 7, p. 15), equals $1,076.92.

The agreed upon rate (hearing report)	$ 864.30
The underpaid rate of $764.30 (Ex. 7, p. 15)	$ 764.30
The underpayment per week	$ 100.00

The weekly underpayment ($100.00) multiplied by 2 weeks, the number of underpaid weeks at $764.30 (Ex. 7, p. 15), equals $200.00.

$1,076.92 plus $200.00 equals $1,276.92.

I conclude that based on the unexplained underpayment and the history of penalty against this employer contained at Exhibit 7, page 18, that penalty in the range of 30 percent is appropriate and therefore assess penalty of $350.00.

ORDER

IT IS THEREFORE ORDERED:

Defendants shall pay claimant permanent total disability at the rate of eight hundred sixty four and 30/100 dollars ($864.30) beginning March 1, 2015 and continuing during the period of disability.

Defendants shall reimburse claimant for her out-of-pocket medical expenses set forth in Exhibit 8, page 2 and shall pay, reimburse, and or otherwise satisfy all remaining medical expenses contained therein.

Defendants shall reimburse claimant the mileage expense as set forth in Exhibit 9.

Defendant shall pay claimant penalty benefits of three hundred fifty and no/100 dollars ($350.00).

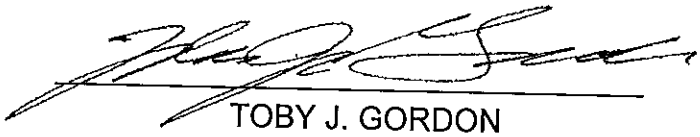
Defendants shall pay interest on any accrued weekly benefits pursuant to Iowa Code section 85.30 and shall be entitled to credit for all weekly benefits paid to date and the stipulated credit in the amount of eighteen thousand six hundred sixty-one and 24/100 dollars ($18,661.24) for sick pay/disability benefits as contained in the hearing report.

Accrued benefits shall be paid in lump sum together with interest pursuant to Iowa Code section 85.30.

Costs as set forth in this decision are taxed to the defendants pursuant to rule 876 IAC 4.33.

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

Signed and filed this 10th day of January, 2017.



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Right to Appeal: This decision shall become final unless you or another interested party appeals within 20 days from the date above, pursuant to rule 876-4.27 (17A, 86) of the Iowa Administrative Code. The notice of appeal must be in writing and received by the commissioner's office within 20 days from the date of the decision. The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday. The notice of appeal must be filed at the following address: Workers' Compensation Commissioner, Iowa Division of Workers' Compensation, 1000 E. Grand Avenue, Des Moines, Iowa 50319-0209.