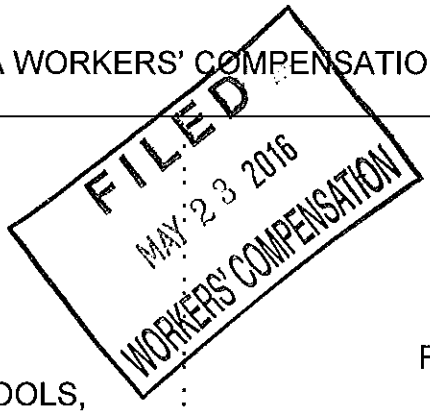
BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER



LISA FITCH, Claimant, vs. DES MOINES PUBLIC SCHOOLS, Employer, and EMC INSURANCE COMPANIES Insurance Carrier, Defendants.	:	File No. 5047711 A R B I T R A T I O N D E C I S I O N Head Note No.: 1803

STATEMENT OF THE CASE

Claimant, Lisa Fitch, has filed a petition in arbitration and seeks workers' compensation benefits from Des Moines Public Schools, employer and EMC Insurance Companies, insurance carrier, defendants. Deputy Workers' Compensation Commissioner, Stan McElderry, heard this matter in Des Moines, Iowa.

ISSUES

The parties have submitted the following issues for determination:

1. Whether the claimant suffered any temporary or permanent disability from the injury arising out of and in the course of employment on October 17, 2013, and if so, the extent;

2. Medical benefits; and

3. Penalty.

FINDINGS OF FACT

The undersigned, having considered all of the evidence and testimony in the record, finds:

The claimant was 56 years old on the date of hearing. She has a lengthy mental health history including PTSD dating at least into the 1980's. She has a relatively extensive education. She was first a nurse with a specialty as a psychiatric nurse beginning in 1981. She received a Bachelor of Arts degree from Upper Iowa University in 1999 and began as a general education teacher. She later received a master's degree in special education in 2007 after which she moved to a special education classroom at Capitol View Elementary School with the Des Moines Public Schools.

At Capitol View Elementary there were continued problems with the claimant's violation of the school district's "no-hands" policy. (Exhibit O, page 10) Eventually the claimant was moved to an academic position. The same school year (2009-2010) the claimant took FMLA from March 29, 2010 to June 15, 2010 following an incident of the claimant being yelled at by a parent. The claimant felt that neither her principal nor her co-teacher did anything to support her over the incident. The claimant also increased her visits with her counselor to twice a week following the incident. (Ex. 25, p. 283)

The following school year (2010-2011) the claimant was moved to Carver Elementary where she taught a behavior disorder (BD) classroom. (Ex. O, pp. 19-20) On November 5, 2010, she reported to Sue Olmstead, D.O. that she was doing fairly well at Carver and that "the new school is not near as stressful as where she was because of the support of her principal and other coworkers." (Ex. 25, p. 284)

Following an incident of improper restraint of a student the claimant was informed that she could not be a special education teacher alone with kids. (Ex. O, p. 29) The claimant perceived this directive and reprimand as unfairly targeting her. (Ex. G3) The claimant also responded by offering to move to Hubbell Elementary School. The move for the 2012-2013 school was allowed and there the claimant had 31 special education students. The claimant continued to receive mental health counseling and continued to complain about the requirement that she co-teach as well as not being allowed to be alone with students. (Ex. G1) On March 4, 2013 she complained of "trouble with peers and workload at school." (Ex. G5) She reported on March 18, 2013 that her depression had worsened over the last year. Also on March 18, 2013 she complained of "lack of support." (Ex. G5) Similar concerns were expressed by the claimant on April 9 and April 23, 2013. (Ex. G15-16)

For the 2013-2014 school year the claimant was still at Hubbell. She volunteered to work with Savion, a high-need special needs student. (Ex. L, p. 27) Savion also was assigned an associate, Darcy Hankenson, who worked one-on-one with Savion throughout the day. Savion had cerebral palsy and a history of physical aggression. The physical aggression was counterbalanced by Savion being about 41 inches tall, 45 pounds, and physically weak. (Ex. P, p. 11; et al)

On October 17, 2013 the claimant was physically assaulted by Savion. The evidence in the record is contradictory regarding the severity of the assault. Ms. Hankenson stated in her deposition that she was not alerted by noise but by the lack of noise and teaching activity that something may be amiss. Ms. Hankenson then

observed that Savion had the claimant by the hair. Ms. Hankenson then evacuated all other students from the classroom. Principal Belt was called and she was able to verbally direct Savion to release the claimant. The Case Investigation Report of the Des Moines Police Department documented an assault with physical injuries to the claimant's head, face, and right hand. (Ex. 1, p. 1) Ms. Hankenson in her deposition testified that during the assault it was like the claimant did not have complete control/hold on her senses and "seemed kind of almost a little trance-like." (Ex. P, p. 55)

The treating nurse at the nurse's station documented "Redness, edema Rt little finger, redness 4 Rt hand knuckles, redness and bruising Rt side face, scratches beside Rt eye. Bruise inner upper corner Lt eyelid>nose. Redness back of neck. Also bite marks Rt little finger." (Ex. 2, p. 2) Later that day the claimant was treated at Methodist Occupational Health and Wellness Clinic. The assessment was "Right hand contusion and puncture wound, right eyebrow contusion and abrasion, neck strain, nose abrasion." (Ex. 3) The only remaining physical permanent residual is a scar on claimant's nose. (Claimant's testimony, and the undersigned's observation of the small scar) Defendants assert this is a mental-mental case. Claimant asserts that it is a physical-mental claim. There was clearly an assault with some physical injuries; the claim is physical-mental.

A meeting was held the next day to discuss how to handle Savion going forward. The plan eventually was to modify the environment in which Savion was working and to have claimant work one-on-one with him. For the next few weeks the claimant continued to work. She struggled to meet her new duties, and the employer did reduce the number of students on claimant's roster. (Ex. K, p. 2; et al) Away from work the claimant was on a downhill spiral and was not eating or sleeping properly. She was also concerned that she was no longer doing a good job at school. (Transcript page 44) On November 8, 2013 Principal Belt sent an email to claimant bringing claimant's performance fears to a head. (Ex. K, p. 8) A meeting regarding those issues took place on November 11, 2013. It also turned out to be the last day the claimant ever worked for the employer. The claimant was presented with a list of compliance concerns. The claimant did not sign the document which indicated termination was possible. After finishing the school day the claimant became suicidal on the way home and was admitted to Iowa Lutheran Hospital the next day in the in-patient mental health program. (Ex. 10) This was the first in-patient mental health treatment of her life. (Ex. 10) She has undergone two in-patient hospitalizations since. (Exs. 14 and 18)

The medical opinions with one dissent assert that the events of October 17, 2013 triggered claimant's preexisting mental conditions and increased the severity to the point she is currently experiencing. Dr. Kamran at Exhibit 13 makes this clear. Kelcee Foss, LMHC, provided counseling to the claimant pre and post-injury. In her deposition (Ex. S) she testified as follows:

Q. So with that standard in mind, is it more likely than not that the assault Miss Fitch experienced at school was a contributing factor in the decline in her function when you saw her after the assault?

A. Yes.

(Ex. S, p. 40)

C. Scott Jennisch, M.D., evaluated the claimant at defendants' request on February 5, 2015. (Ex. J) He noted "a very poor prognosis for return to work regardless of the status of her psychiatric condition." (Ex. J, p. 11) While acknowledging that "Ms. Fitch experienced a further exacerbation of her underlying depression and anxiety disorder after 10/17/13, and that "one could assert that she also had an exacerbation of her underlying posttraumatic stress disorder." (Ex. J. p. 9) He opined that he could not conclude that the work injury was "the principal causal factor in her current psychiatric condition." (Ex. J, p. 11) However, that is the wrong legal standard. On December 15, 2015 Dr. Jennisch updated his opinions. (Ex. J, pp. 13-16) At that time he opined that he was not changing his opinion that "there is no connection between the physical nature of the assault to suggest that it was a substantial contributing factor to an exacerbation of Ms. Fitch's preexisting psychiatric condition." (Ex. J, pp. 13-14)

Catalina D'Achiardi-Ressler, Ph.D., performed a two-day evaluation of the claimant on October 22 and 23, 2014 at claimant's counsel's request. (Ex. 17, pp. 202-210) Dr. D'Achiardi-Ressler opined that the claimant's current mental health concerns are directly related to the assault of October 17, 2013. (Ex. 17) Dr. D'Achiardi-Ressler opined that it would be "very difficult for her to function effectively in any work setting." (Ex. 17, p. 210) On January 7, 2016 Dr. D'Achiardi-Ressler confirmed that her opinions had not changed.

The opinions of the treating medical professionals and Dr. D'Achiardi-Ressler are accepted. The physical assault of October 17, 2013 combined with the claimant's existing mental illness combined to result in increased mental symptoms to the point that the claimant left work and is unable to work. Even dissenting Dr. Jennisch is in agreement with the inability to work. Dr. Jennisch's opinions are rejected at least in part because they are inconsistent with the claimant's lengthy work history (even with the pre-existing mental issues) right up to shortly after the physical assault from which the claimant within a month was suicidal, hospitalized, and no longer able to work or even perform all functions of daily living activities. The claimant has suffered a 100 percent loss of industrial earnings capacity as a result of the October 17, 2013 work injury.

On that date of injury the claimant was single, entitled to one exemption, and had gross weekly earnings of $1,528.82. As such, her weekly benefits rate is $846.60. The parties stipulated to a January 7, 2015 commencement date for permanent benefits for both injuries. However, the commencement date for an injury resulting in permanent total disability is the date of injury and continuing for all periods of disability.

The claimant has unpaid/unreimbursed medical bills for this work injury. Those bills are detailed in an itemization of medical expenses, attached to the hearing report. Those expenses were reasonable and necessary for the treatment of the claimant's work injuries herein. Claimant seeks costs of $1,177.26 as itemized in claimant's itemization of requested costs.

REASONING AND CONCLUSIONS OF LAW

The first issue is whether the claimant suffered an injury arising out of and in the course of employment.

The party who would suffer loss if an issue were not established has the burden of proving that issue by a preponderance of the evidence. Iowa R. App. P. 14(f).

The claimant has the burden of proving by a preponderance of the evidence that the alleged injury actually occurred and that it arose out of and in the course of employment. McDowell v. Town of Clarksville, 241 N.W.2d 904 (Iowa 1976); Musselman v. Cent. Tel. Co., 261 Iowa 352, 154 N.W.2d 128 (1967). The words "arising out of" refer to the cause or source of the injury. The words "in the course of" refer to the time, place and circumstances of the injury. Sheerin v. Holin Co., 380 N.W.2d 415 (Iowa 1986); McClure v. Union County, 188 N.W.2d 283 (Iowa 1971).

The claimant has the burden of proving by a preponderance of the evidence that the injury is a proximate cause of the disability on which the claim is based. A cause is proximate if it is a substantial factor in bringing about the result; it need not be the only cause. A preponderance of the evidence exists when the causal connection is probable rather than merely possible. Blacksmith v. All-American, Inc., 290 N.W.2d 348 (Iowa 1980); Holmes v. Bruce Motor Freight, Inc., 215 N.W.2d 296 (Iowa 1974).

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. The weight to be given to any expert opinion is determined by the finder of fact and may be affected by the accuracy of the facts relied upon by the expert as well as other surrounding circumstances. The expert opinion may be accepted or rejected, in whole or in part. Sondag v. Ferris Hardware, 220 N.W.2d 903 (Iowa 1974); Anderson v. Oscar Mayer & Co., 217 N.W.2d 531 (Iowa 1974); Bodish v. Fischer, Inc., 257 Iowa 516, 133 N.W.2d 867 (1965).

Nontraumatically caused mental injuries are compensable under Iowa Code section 85.3(1). Dunlavey v. Economy Fire and Cas. Co., 526 N.W.2d 845 (Iowa 1995). Mental injuries are also compensable when the event or events giving rise to the claim is based upon the happening of a sudden, traumatic nature from an unexpected cause or unusual strain. Brown v. Quik Trip Corp., 641 N.W.2d 725 (Iowa 2002). That is not the case here. The proper standard for this case is Dunlavey.

Under Dunlavey, mental injuries caused by work-related stress are compensable if, after demonstrating medical causation, the employee shows that the mental injury was caused by work place stress of greater magnitude than the day-to-day mental stresses experienced by other workers employed in the same or similar jobs, regardless of their employer. Id. at 857.

Both medical and legal causation must be resolved in the claimant's favor before an injury arising out of and in the course of employment can be established. To establish medical causation, the employee must show that the stresses and tensions arising from the work environment are a proximate cause of the employee's mental difficulties. If the medical causation issue is resolved in favor of the employee, legal causation is examined. Legal causation involves a determination of whether the work stresses and tensions the employee experienced, when viewed objectively and not as the employee perceived them, were of greater magnitude than the day-to-day mental stresses workers employed in the same or similar jobs experience routinely regardless of their employer.

The employee has the burden to establish the requisite legal causation. Evidence of stresses experienced by workers with similar jobs employed by a different employer is relevant; evidence of the stresses of other workers employed by the same employer in the same or similar jobs will usually be most persuasive and determinative on the issue. Id. at 858.

The Iowa Supreme Court in Brown v. Quik Trip Corp., 641 N.W.2d 725 (Iowa 2002), held "when a claim is based on a manifest happening of a sudden traumatic nature from an unexpected cause or unusual strain, the legal-causation test is met irrespective of the absence of similar stress on other employees." Brown, 641 N.W.2d at 729. The October 17, 2013 assault was a happening of a sudden traumatic nature from an unexpected cause. Thus, the Brown standard applies in this case. A physical assault is not a typical event. It was unexpected and unusual.

In Iowa, when physical trauma causes or aggravates a mental condition (physical-mental) which increases or prolongs disability, all disability, including the effects of the nervous disorder, is compensable. Gosek v. Garmer and Stiles Company, 158 N.W.2d 731, 733 (Iowa 1968). No special legal causation test showing unusual stress exists in such cases. Only medical causation need be shown as would be the case in other workers' compensation claims. See generally, Lawyer and Higgs, Workers' Compensation, section 4-6 (2010-2011). The claimant suffered an assault with physical injuries

It has long been the law of Iowa that Iowa employers take an employee subject to any active or dormant health problems and must exercise care to avoid injury to both the weak and infirm and the strong and healthy. Hanson v. Dickinson, 188 Iowa 728, 176 N.W. 823 (1920) A material aggravation, worsening, lighting up, or acceleration of any prior condition has been viewed as a compensable event ever since initial enactment of our workers' compensation statutes. Ziegler v. United States Gypsum

Co., 252 Iowa 613; 106 N.W.2d 591 (1961) While a claimant must show that the injury proximately caused the medical condition sought to be compensable, it is well established in Iowa that a cause is "proximate" when it is a substantial factor in bringing about that condition. It need not be the only causative factor, or even the primary or the most substantial cause to be compensable under the Iowa workers' compensation system. Miller v. Lauridsen Foods, Inc., 525 N.W.2d 417 (Iowa 1994); Blacksmith v. All-American, Inc., 290 N.W.2d 348 (Iowa 1980)

In Coghlan v. Quinn Wire & Iron Works, 164 N.W.2d 848 (Iowa 1969) the Iowa Supreme Court affirmed an award of permanent total disability based upon a mental injury. The court noted that a board certified psychiatrist and a psychiatric social worker opined that the claimant's injury aggravated an already precarious emotional status to the point of disability. Coghlan, Id. p. 852

The claimant has a number of mental health issues, some predating the physical injury, but substantially aggravated by the physical injury. There was a physical work injury, and the claimant has met the burden of establishing causation of the physical work injury.

Permanent benefits.

The party who would suffer loss if an issue were not established has the burden of proving that issue by a preponderance of the evidence. Iowa Rule of Appellate Procedure 6.14(6).

The claimant has the burden of proving by a preponderance of the evidence that the alleged injury actually occurred and that it both arose out of and in the course of the employment. Quaker Oats Co. v. Ciha, 552 N.W.2d 143 (Iowa 1996); Miedema v. Dial Corp., 551 N.W.2d 309 (Iowa 1996). The words "arising out of" referred to the cause or source of the injury. The words "in the course of" refer to the time, place, and circumstances of the injury. 2800 Corp. v. Fernandez, 528 N.W.2d 124 (Iowa 1995). An injury arises out of the employment when a causal relationship exists between the injury and the employment. Miedema, 551 N.W.2d 309. The injury must be a rational consequence of a hazard connected with the employment and not merely incidental to the employment. Koehler Elec. v. Wills, 608 N.W.2d 1 (Iowa 2000); Miedema, 551 N.W.2d 309. An injury occurs "in the course of" employment when it happens within a period of employment at a place where the employee reasonably may be when performing employment duties and while the employee is fulfilling those duties or doing an activity incidental to them. Ciha, 552 N.W.2d 143.

Since claimant has an impairment to the body as a whole, an industrial disability has been sustained. Industrial disability was defined in Diederich v. Tri-City R. Co., 219 Iowa 587, 258 N.W.2d 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, but consideration must also be given to the injured employee's age, education, qualifications, experience, motivation, loss of earnings, severity and situs of the injury, work restrictions, inability to engage in employment for which the employee is fitted and the employer's offer of work or failure to so offer. McSpadden v. Big Ben Coal Co., 288 N.W.2d 181 (Iowa 1980); Olson v. Goodyear Service Stores, 255 Iowa 1112, 125 N.W.2d 251 (1963); Barton v. Nevada Poultry Co., 253 Iowa 285, 110 N.W.2d 660 (1961).

Compensation for permanent partial disability shall begin at the termination of the healing period. Compensation shall be paid in relation to 500 weeks as the disability bears to the body as a whole. Section 85.34.

While a claimant is not entitled to compensation for the results of a preexisting injury or disease, its mere existence at the time of a subsequent injury is not a defense. Rose v. John Deere Ottumwa Works, 247 Iowa 900, 76 N.W.2d 756 (1956). If the claimant had a preexisting condition or disability that is materially aggravated, accelerated, worsened or lighted up so that it results in disability, claimant is entitled to recover. Nicks v. Davenport Produce Co., 254 Iowa 130, 115 N.W.2d 812 (1962); Yeager v. Firestone Tire & Rubber Co., 253 Iowa 369, 112 N.W.2d 299 (1961). 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).

Due to the finding of a 100 percent loss of earnings capacity the claimant is entitled as a matter of law to permanent total industrial disability pursuant to Iowa Code section 85.34(3). This entitles the claimant to weekly benefits for life absent a change of condition.

Next is the issue of medical expenses.

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 1975).

The claimant has unpaid/unreimbursed medical bills for this work injury. The defendants are responsible for those expenses as detailed in the attachment to the hearing report.

Penalty.

In Christensen v. Snap-on Tools Corp., 554 N.W.2d 254 (Iowa 1996), and Robbennolt v. Snap-on Tools Corp., 555 N.W.2d 229 (Iowa 1996), the supreme court said:

> Based on the plain language of section 86.13, we hold an employee is entitled to penalty benefits if there has been a delay in payment unless the employer proves a reasonable cause or excuse. A reasonable cause or excuse exists if either (1) the delay was necessary for the insurer to investigate the claim or (2) the employer had a reasonable basis to contest the employee's entitlement to benefits. A "reasonable basis" for denial of the claim exists if the claim is "fairly debatable."
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> Christensen, 554 N.W.2d at 260.

The supreme court has stated:

> (1) If the employer has a reason for the delay and conveys that reason to the employee contemporaneously with the beginning of the delay, no penalty will be imposed if the reason is of such character that a reasonable fact-finder could conclude that it is a "reasonable or probable cause or excuse" under Iowa Code section 86.13. In that case, we will defer to the decision of the commissioner. See Christensen, 554 N.W.2d at 260 (substantial evidence found to support commissioner's finding of legitimate reason for delay pending receipt of medical report); Robbennolt, 555 N.W.2d at 236.
>
> (2) If no reason is given for the delay or if the "reason" is not one that a reasonable fact-finder could accept, we will hold that no such cause or excuse exists and remand to the commissioner for the sole purpose of assessing penalties under section 86.13. See Christensen, 554 N.W.2d at 261.
>
> (3) Reasonable causes or excuses include (a) a delay for the employer to investigate the claim, Christensen, 554 N.W.2d at 260; Kiesecker v. Webster City Meats, Inc., 528 N.W.2d at 109, 111 (Iowa 1995); or (b) the employer had a reasonable basis to contest the claim the "fairly debatable" basis for delay. See Christensen, 554 N.W.2d at 260 (holding two-month delay to obtain employer's own medical report reasonable under the circumstances).
>
> (4) For the purpose of applying section 86.13, the benefits that are underpaid as well as late-paid benefits are subject to penalties, unless the employer establishes reasonable and probable cause or excuse. Robbennolt, 555 N.W.2d at 237 (underpayment resulting from application

of wrong wage base; in absence of excuse, commissioner required to apply penalty).

> If we were to construe [section 86.13] to permit the avoidance of penalty if any amount of compensation benefits are paid, the purpose of the penalty statute would be frustrated. For these reasons, we conclude section 86.13 is applicable when payment of compensation is not timely . . . or when the full amount of compensation is not paid.

Id.

(5) For purposes of determining whether there has been a delay, payments are "made" when (a) the check addressed to a claimant is mailed (Robbennolt, 555 N.W.2d at 236; Kiesecker, 528 N.W.2d at 112), or (b) the check is delivered personally to the claimant by the employer or its workers' compensation insurer. Robbennolt, 555 N.W.2d at 235.

(6) In determining the amount of penalty, the commissioner is to consider factors such as the length of the delay, the number of delays, the information available to the employer regarding the employee's injury and wages, and the employer's past record of penalties. Robbennolt, 555 N.W.2d at 238.

(7) An employer's bare assertion that a claim is "fairly debatable" does not make it so. A fair reading of Christensen and Robbennolt, makes it clear that the employer must assert facts upon which the commissioner could reasonably find that the claim was "fairly debatable." See Christensen, 554 N.W.2d at 260.

Meyers v. Holiday Express Corp., 557 N.W.2d 502 (Iowa 1996).

Weekly compensation payments are due at the end of the compensation week. Robbennolt, 555 N.W.2d 229, 235.

Penalty is not imposed for delayed interest payments. Davidson v. Bruce, 593 N.W.2d 833, 840 (Iowa App. 1999). Schadendorf v. Snap-On Tools Corp., 757 N.W.2d 330, 338 (Iowa 2008).

When an employee's claim for benefits is fairly debatable based on a good faith dispute over the employee's factual or legal entitlement to benefits, an award of penalty benefits is not appropriate under the statute. Whether the issue was fairly debatable turns on whether there was a disputed factual dispute that, if resolved in favor of the employer, would have supported the employer's denial of compensability. Gilbert v. USF Holland, Inc., 637 N.W.2d 194 (Iowa 2001).

In Schadendorf v. Snap-on Tools Corp., 757 N.W.2d 330, 335 (Iowa 2008) the court held that the delay in paying the award did allow the imposition of a penalty after the defendant no longer had a reasonable excuse for non-payment. The court in Schadendorf affirmed an award of penalty when the defendants did not reasonably pay benefits after an award of benefits.

If the employer fails to show reasonable cause or excuse for the delay or denial, the commissioner shall impose a penalty in an amount up to 50 percent of the amount unreasonably delayed or denied. Christensen v. Snap-on Tools Corp., 554 N.W.2d 254 (Iowa 1996). The factors to be considered in determining the amount of the penalty include the length of the delay, the number of delays, the information available to the employer and the employer's past record of penalties. Robbennolt v. Snap-on Tools Corp., 555 N.W.2d 229, 238 (Iowa 1996).

The defendants had an opinion of no causation and thus penalty is not appropriate on this record.

ORDER

THEREFORE IT IS ORDERED:

That the defendants pay claimant permanent total disability benefits commencing October 17, 2013 at the rate of eight hundred forty-six and 60/100 dollars ($846.60), and continuing for all periods of disability .

Defendants shall reimburse/pay claimant's medical expenses.

Accrued benefits shall be paid in lump sum together with interest pursuant to Iowa Code section 85.30 with subsequent reports of injury pursuant to rule 876 IAC 3.1.

Defendants shall receive credit for all benefits previously paid.

Costs of one thousand one-hundred seventy-seven and 23/100 dollars ($1,177.23) are taxed to the defendants pursuant to rule 876 IAC 4.33.

Signed and filed this 23rd day of May, 2016.

STAN MCELDERRY
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

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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.