BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

TAMMY STEIN, Claimant, vs. LUTHERAN HOME FOR THE AGED ASSOCIATION-EAST d/b/a VINTON LUTHERAN HOME, Employer, and ACCIDENT FUND INSURANCE CO. OF AMERICA, Insurance Carrier, Defendants.	File No. 1625461.01 A P P E A L D E C I S I O N Head Notes: 1402.40; 1801; 1803. 1804; 2502; 2907; 4100

Defendants Lutheran Home for the Aged Association-East, d/b/a Vinton Lutheran Home, employer, and its insurer, Accident Fund Insurance Co. of America, appeal from an arbitration decision filed on July 27, 2021, and from a ruling on motion for rehearing filed on September 3, 2021. Claimant Tammy Stein cross-appeals. The case was heard on February 2, 2021, and it was considered fully submitted in front of the deputy workers' compensation commissioner on March 17, 2021.

In the arbitration decision, the deputy commissioner found that as a result of the stipulated April 16, 2016, work injury, claimant sustained 87 percent industrial disability, which entitles claimant to receive 435 weeks of permanent partial disability benefits at the stipulated weekly rate of $433.80, commencing on February 17, 2017. The deputy commissioner found defendants are entitled to a credit for temporary benefits paid through February 17, 2017, and a credit for permanent benefits paid after February 17, 2017. The deputy commissioner found that pursuant to Iowa Code section 85.39, claimant is entitled to reimbursement for the cost of the independent medical examination (IME) of claimant performed by Charles Wenzel, M.D., along with claimant's filing fee, and the cost of a consultation with David Hart, M.D.

In the ruling on motion for rehearing, the deputy commissioner found claimant waived the issue of entitlement to healing period benefits by failing to raise the issue at hearing. In the ruling on motion for rehearing, the deputy commissioner affirmed the award of 87 percent industrial disability with substituted analysis. In the ruling on motion for rehearing, the deputy commissioner found defendants are entitled to a credit for temporary benefits paid through August 29, 2018, and for permanent benefits paid after August 30, 2018.

On appeal, defendants assert the deputy commissioner erred in refusing to admit Exhibit I, treatment records from Lisa Coester, M.D., Exhibit J, treatment records from Barron Chiropractic, and the entirety of Exhibit 13, the unredacted deposition of Dr. Hart defendants offered after the hearing. Defendants allege the deputy commissioner erred in finding claimant sustained 87 percent industrial disability. Defendants allege the deputy commissioner erred in finding the commencement date for PPD benefits is February 17, 2017. Defendants allege the deputy commissioner erred in finding claimant should be reimbursed $1,000.00 for the cost of the consultation with Dr. Hart.

On cross-appeal, claimant alleges the deputy commissioner erred in finding claimant is not permanently and totally disabled under the statute or under the common law odd-lot doctrine. Claimant alleges if she is not permanently and totally disabled, she is entitled to additional healing period benefits from December 31, 2016, through February 16, 2017. Claimant asserts the remainder of the arbitration decision should be affirmed.

I performed a de novo review of the evidentiary record and the detailed arguments of the parties. Pursuant to Iowa Code sections 86.24 and 17A.15, the arbitration decision filed on July 27, 2021, and the ruling on motion for rehearing filed on September 3, 2021, are affirmed in part, modified in part, and reversed in part.

After filing their appeal, defendants filed a motion for taking additional evidence on September 28, 2021, requesting the commissioner allow submission of Exhibit I, treatment records from Dr. Coester, Exhibit J, treatment records from Barron Chiropractic, and the entirety of Exhibit 13, the unredacted deposition of Dr. Hart which defendants offered after the hearing. In their appeal brief defendants raised the same argument. Pursuant to a standing order of delegation to enter final agency action on appeal motions, a deputy commissioner denied the motion for taking additional evidence and defendants' subsequent application for rehearing denying their request for admission of Exhibits I, J, and the unredacted Exhibit 13. There is no right of appeal of the ruling to the workers' compensation commissioner under Iowa Code section 86.3. Final agency action has previously been determined on this particular issue.

With additional analysis, I affirm the deputy commissioner's finding that the commencement date for permanent partial disability benefits is February 17, 2017. With additional analysis, I affirm the deputy commissioner's finding that claimant waived

the issue of entitlement to additional healing period benefits from December 31, 2016, through February 16, 2017. With additional analysis, I affirm in part, modify in part, and reverse in part, the deputy commissioner's finding that defendants are entitled to a credit for temporary disability benefits paid through August 29, 2018, and a credit for permanent partial disability benefits paid after August 30, 2018. With additional analysis, I modify and reverse the deputy commissioner's finding that claimant sustained 87 percent industrial disability. With additional analysis I reverse the deputy commissioner's finding that claimant should be reimbursed $1,000.00 for the cost of the consultation with Dr. Hart.

Prior to the hearing the parties prepared a hearing report. At the start of the hearing, the deputy commissioner went over the hearing report and noted claimant was seeking additional healing period benefits due to an underpayment of $57.52 per week for the periods of "November 14, 2016, through December 15, 2016, and November 29, 2017, through August 29, 2018." (Transcript, page 5) The deputy commissioner asked defendants' attorney what the dispute was concerning temporary benefits, and defendants' attorney responded, "[t]here is none, Judge. We just had a recalculation. It is no longer in dispute. My client is agreeing to pay those underpayment benefits." (Tr., p. 5) The deputy commissioner stated she was going to record on the hearing report temporary benefits were no longer in dispute. (Tr., pp. 5-6) The deputy commissioner asked claimant's counsel whether that was fine with her and she replied, "[t]hat's fine." (Tr., p. 6) The parties documented on the hearing report order that temporary benefits were no longer in dispute. The hearing report order was approved at the conclusion of the hearing.

Claimant asserts the deputy commissioner erred in awarding additional healing period benefits from December 31, 2016, through February 16, 2017. Claimant asserts she alleged at hearing she is permanently and totally disabled and, in the alternative, raised the issue of entitlement to additional temporary benefits at hearing.

At the start of the hearing the parties agreed entitlement to temporary benefits was not in dispute. The parties signed the hearing report, agreeing there was no dispute concerning temporary benefits. The hearing report order was filed on February 2, 2021. After the hearing report was filed claimant did not submit a motion or other document alleging she is entitled to additional temporary benefits. In her 37-page post-hearing brief, claimant did not allege she was entitled to additional temporary benefits. It was not until after the deputy commissioner issued the arbitration decision, over seven months later, that claimant alleged she was entitled to additional temporary benefits.

This agency relies on hearing reports to determine the issues to be decided by the presiding deputy commissioners. Claimant waived her argument by signing the hearing report and by failing to raise the issue with the deputy commissioner at the start

of the hearing. Bos v. Climate Eng'rs, 2016 WL 1178116, File No. 5044761 (App. Dec. March 22, 2016) (finding claimant waived issue by agreeing there was a dispute as to whether claimant was permanently and totally disabled on the hearing report and failing to raise the issue of defendants' response to request for admission regarding the issue until he filed his post-hearing brief) (citing to McSpadden v. Big Ben Coal Co., 288 N.W.2d 181, 186-87 (Iowa 1980) (concluding claimant's attorney failed to preserve error on foundation objection by failing to object when the deposition was offered into evidence before the deputy, and by failing to afford "his adversary [with the opportunity] to remedy the alleged defect"); Hawkeye Wood Shavings v. Parrish, No. 08-1708, 2009 WL 3337613, at *4 (Iowa Ct. App. 2009) (concluding the defendants waived the issue of whether they were entitled to a credit for benefits already paid for the September 2000 injury because on the hearing report signed by the defendants, the defendants stipulated "0 weeks" of credit); Burtnett v. Webster City Custom Meats, Inc., No. 05-1265, 2007 WL 254722, at *3-4 (Iowa Ct. App. Jan. 31, 2007) (concluding the deputy commissioner did not commit an abuse of discretion by refusing the claimant's request to change dates in the joint hearing report, and noting the agency's approach requiring claimants to list dates prior to hearing in a hearing report "is more than reasonable").

In addressing the issue of credit in the ruling on motion for rehearing, the deputy commissioner found the benefits claimant received through August 29, 2018, are temporary benefits, and the benefits from August 30, 2018, on are permanent benefits. The deputy commissioner awarded defendants a credit for temporary benefits received through August 29, 2018, and for permanent benefits paid from August 30, 2018, on. Defendants allege the benefits paid after February 17, 2017, should be construed as permanent partial disability benefits for purposes of their credit. On the hearing report defendants alleged they were entitled to a credit for the benefits paid as set forth in Exhibit B. Exhibit B documents defendants paid claimant temporary benefits from December 12, 2016, through December 15, 2016, and from November 29, 2017, through August 21, 2018. Exhibit B also documents defendants paid claimant permanent partial disability benefits from August 22, 2018, through September 18, 2020. At hearing the deputy commissioner inquired whether there was a dispute concerning temporary benefits. Defendants agreed to pay the underpaid temporary benefits from November 14, 2016, through December 16, 2016, and November 29, 2017, through August 29, 2018 and stated there was no dispute concerning the benefits.

The injury in this case occurred in 2016, before the changes to the statute in 2017. Iowa Code section 85.33 (2016) governs temporary disability benefits, and Iowa Code section 85.34 governs healing period and permanent disability benefits. Dunlap v. Action Warehouse, 824 N.W.2d 545, 556 (Iowa Ct. App. 2012).

An employee has a temporary partial disability when because of the employee's medical condition, "it is medically indicated that the employee is not capable of returning

to employment substantially similar to the employment in which the employee was engaged at the time of the injury, but is able to perform other work consistent with the employee's disability." Iowa Code § 85.33(2). Temporary partial disability benefits are payable, in lieu of temporary total disability and healing period benefits, due to the reduction in earning ability as a result of the employee's temporary partial disability, and "shall not be considered benefits payable to an employee, upon termination of temporary partial or temporary total disability, the healing period, or permanent partial disability, because the employee is not able to secure work paying weekly earnings equal to the employee's weekly earnings at the time of the injury." Id.

As a general rule, "temporary total disability compensation benefits and healing-period compensation benefits refer to the same condition." Clark v. Vicorp Restaurants, Inc., 696 N.W.2d 596, 604 (Iowa 2005). The purpose of temporary total disability benefits and healing period benefits is to "partially reimburse the employee for the loss of earnings" during a period of recovery from the condition. Id. The appropriate type of benefit depends on whether or not the employee has a permanent disability. Dunlap, 824 N.W.2d at 556. Claimant in this matter has sustained a permanent disability, so any temporary benefits paid to her are healing period benefits

In Evenson v. Winnebago Indus., Inc., 881 N.W.2d, 360, 372-74 (Iowa 2016), the Iowa Supreme Court held the healing period set forth in the statute lasts until the claimant has returned to work, has reached maximum medical improvement, or until the claimant is medically capable of returning to substantially similar employment, "whichever occurs first." The deputy commissioner found the commencement date was February 17, 2017, when Meiying Kuo, M.D., released claimant to return to work without restrictions. After this date, claimant underwent additional healing periods, including two shoulder surgeries performed by Dr. Hart on November 29, 2017, and on June 19, 2018. (JE 4, pp. 3-4; JE 9, pp. 1-2). Exhibit B documents defendants paid claimant temporary benefits from November 29, 2017, through August 21, 2018. Defendants construed the benefits as temporary benefits, consistent with their counsel's admission at hearing when defendants' counsel agreed defendants owed claimant an additional $57.52 per week from December 12, 2016, through December 15, 2016, and from November 29, 2017 through August 29, 2018.

Temporary total, temporary partial, and healing period benefits can be interrupted or intermittent. Teel v. McCord, 394 N.W.2d 405 (Iowa 1986); Stourac-Floyd v. MDF Endeavors, File No. 5053328 (App. Sept. 11, 2018); Stevens v. Eastern Star Masonic Home, File No. 5049776 (App. Dec. Mar. 14, 2018). Even though permanent partial disability benefits commenced on February 17, 2017, under Evenson, claimant was entitled to additional intermittent healing period benefits payable concurrently with permanent partial disability benefits during the subsequent treatment claimant received to her right shoulder. Stourac-Floyd, 2018 WL 4686140, File No. 5053328 (App. Dec. Sept. 11, 2018). Dr. Hart found claimant reached maximum medical improvement as of

August 13, 2018. (JE 2, p. 68). Thus, the benefits paid from November 29, 2017, through August 13, 2018, are properly construed as healing period benefits. There is no evidence claimant entered into an additional healing period after this date. The benefits paid to claimant from August 14, 2018, are permanent partial disability benefits. Defendants are entitled to a credit for healing period benefits paid through August 13, 2018, and for permanent partial disability benefits paid from August 14, 2018, through September 18, 2020.

The deputy commissioner found claimant sustained 87 percent industrial disability, first relying on Dr. Hart's restrictions, and then in the motion for rehearing on Dr. Wenzel's restrictions. Claimant asserts she is permanently and totally disabled under the statute and under the odd-lot doctrine. Defendants contend claimant has sustained no, or very little, industrial disability.

Industrial disability is determined by an evaluation of the employee's earning capacity." Cedar Rapids Cmty. Sch. Dist. v. Pease, 807 N.W.2d 839, 852 (Iowa 2011). In considering the employee's earning capacity, the deputy commissioner evaluates several factors, including "consideration of not only the claimant's functional disability, but also [his] age, education, qualifications, experience, and ability to engage in similar employment." Swiss Colony, Inc. v. Deutmeyer, 789 N.W.2d 129, 137-38 (Iowa 2010). The inquiry focuses on the injured employee's "ability to be gainfully employed." Id. at 138.

The determination of the extent of disability is a mixed issue of law and fact. Neal v. Annett Holdings, Inc., 814 N.W.2d 512, 525 (Iowa 2012). Compensation for permanent partial disability shall begin at the termination of the healing period. Iowa Code § 85.34(2). Compensation shall be paid in relation to 500 weeks as the disability bears to the body as a whole. Id. § 85.34(2)(u) (2016). When considering the extent of disability, the deputy commissioner considers all evidence, both medical and nonmedical. Evenson, 881 N.W.2d at 370.

The Iowa Supreme Court has held, "it is a fundamental requirement that the commissioner consider all evidence, both medical and nonmedical. Lay witness testimony is both relevant and material upon the cause and extent of injury." Evenson, 881 N.W.2d 360, 370 (Iowa 2016) (quoting Gits Mfg. Co. v. Frank, 855 N.W.2d 195, 199 (Iowa 2014)).

In Iowa, a claimant may establish permanent total disability under the statute, or through the common law odd-lot doctrine. Michael Eberhart Constr. v. Curtin, 674 N.W.2d 123, 126 (Iowa 2004) (discussing both theories of permanent total disability under Idaho law and concluding the deputy's ruling was not based on both theories, rather, it was only based on the odd-lot doctrine). Under the statute, the claimant may establish the claimant is totally and permanently disabled if the claimant's medical impairment together with nonmedical factors totals 100 percent. Id. The odd-lot

doctrine applies when the claimant has established the claimant has sustained something less than 100 percent disability, but is so injured that the claimant is "unable to perform services other than 'those which are so limited in quality, dependability or quantity that a reasonably stable market for them does not exist.'" Id. (quoting Boley v. Indus. Special Indem. Fund, 130 Idaho 278, 281, 939 P.2d 854, 857 (1997)).

"Total disability does not mean a state of absolute helplessness." Wal-Mart Stores, Inc. v. Caselman, 657 N.W.2d 493, 501 (Iowa 2003) (quoting IBP, Inc. v. Al-Gharib, 604 N.W.2d 621, 633 (Iowa 2000)). Total disability "occurs when the injury wholly disables the employee from performing work that the employee's experience, training, intelligence, and physical capacity would otherwise permit the employee to perform." IBP, Inc., 604 N.W.2d at 633.

Two physicians provided impairment ratings in this case, Matthew Bollier, M.D., an orthopedic surgeon at the University of Iowa Hospitals and Clinics, and Dr. Wenzel, an occupational medicine physician who conducted an IME for claimant.

Dr. Bollier performed two IMEs of claimant, the first on November 2, 2018, and the second on December 21, 2020. (Ex. E) In his first report, Dr. Bollier found claimant sustained ten percent impairment of her right upper extremity, which Dr. Bollier converted to a six percent whole person impairment. (Ex. E, p. 5) The functional capacity evaluation performed before Dr. Bollier's examination was invalid. (Ex. E, p. 5; JE 10) On August 13, 2018, Dr. Hart, the treating orthopedic surgeon who performed two surgeries on claimant, imposed permanent restrictions of no lifting over five pounds with the right upper extremity, no lifting over 20 pounds with both extremities floor to waist, and no overhead lifting. (JE 2, p. 68) Dr. Bollier adopted Dr. Hart's restrictions in his first report. (Ex. E, p. 5)

On October 6, 2020, claimant underwent a valid functional capacity examination with Daryl Short, D.P.T., with WorkWell. (Ex. 5) Short found claimant could lift ten pounds rarely and five pounds occasionally waist to floor, never lift waist to crown, front carry up to 15 pounds rarely and 10 pounds occasionally, and never lift with her right arm overhead and found her capabilities are in the sedentary category. (Ex. 5, pp. 52-54)

Dr. Wenzel conducted his IME on November 10, 2020, and he issued his report on December 1, 2020. Dr. Wenzel assigned claimant eleven percent impairment of the right upper extremity, which Dr. Wenzel converted to seven percent whole person impairment. (Ex. 1, p. 14) Dr. Wenzel imposed restrictions based on the October 6, 2020, FCE including lifting up to ten pounds rarely and five pounds occasionally from floor to waist, lifting up to 15 pounds rarely and up to ten pounds occasionally from waist to shoulder, no over the shoulder lifting, and front carry up to 15 pounds rarely and ten pounds occasionally up to 50 feet, no work on ladders, and no work at or above shoulder level with the right upper extremity. (Ex. 1, p. 14)

Dr. Bollier conducted a second IME on December 21, 2020. (Ex. E, pp. 7-10) Dr. Bollier opined, "after review of her medical record and imaging studies and using an objective basis, I would expect her to be able to perform a light duty job with restrictions. We would suggest she have the following permanent work restrictions: no lifting, pushing or pulling more than 20 pounds below shoulder height, may lift up to 5 pounds above shoulder height." (Ex. E, p. 9) Dr. Bollier did not provide any analysis as to why he changed his prior opinion on restrictions. He affirmed his prior impairment rating of ten percent of the right upper extremity, which he converted to a six percent whole person impairment. (Ex. E, p. 9)

Dr. Bollier did not modify his impairment rating, but modified his permanent restrictions without providing any analysis as to why his opinion changed. Dr. Wenzel adopted his restrictions from the valid FCE. I find the opinion of Dr. Wenzel to be the most persuasive and agree with the deputy commissioner that Dr. Wenzel's restrictions are claimant's permanent restrictions. I do not agree claimant sustained 87 percent industrial disability.

I do not find the vocational rehabilitation opinions and testimony provided by the parties credible or persuasive. Claimant's expert, Kent Jayne, M.A., C.R.C., opined claimant has made a valiant effort in attempting to return to work and opines claimant is not employable. (Ex. 3, pp. 30-31) Defendant's expert, Kara Merkwan, M.A., C.R.C., found using Dr. Wenzel's restrictions results in a loss of access from 136 occupations to 21 occupations or 87 percent, and a loss of access from 136 to 111 occupations or 19 percent. (Ex. F, p. 9) Ms. Merkwan then finds the jobs available to claimant she is capable of engaging in pay more than what she was earning at the time of her work injury and opines claimant sustained no loss of earning capacity. (Ex. F, p. 9) Ms. Merkwan did not identify any actual jobs available in claimant's geographic area that claimant is capable of performing with her functional limitations and residual capacities. (Ex. F) Mr. Jayne did not discuss jobs in claimant's geographic area and why claimant is precluded from engaging in the jobs given her functional limitations and residual capacities. (Ex. 3)

At the time of the hearing claimant was 49 years old. (Tr., p. 17) Claimant lives in Vinton, Iowa. (Tr., p. 18) Claimant dropped out of high school during the 11th grade when she found out she was pregnant. (Tr., pp. 20-21) Claimant struggled in school with reading and math. (Tr., p. 22) Claimant attended regular and special education classes. (Tr., p. 22) She attended special education classes for math and reading. (Tr., p. 22) Claimant attended classes at Kirkwood Community College to obtain a G.E.D., but she did not obtain a G.E.D. (Tr., pp. 23-24) I do agree claimant has difficulties with learning. There is no evidence she has an intellectual disability and no intelligence testing was provided at hearing. Claimant has a computer at home, but she has never created a document with text on a computer, nor has she worked with grafts or spreadsheets. (Tr., p. 30)

After claimant's son was born, claimant did not work for several years and she lived with her parents. (Tr., p. 21) When she started working, claimant worked in a casino as a change carrier and she worked as a cashier and stocker for a convenience store. (Tr., pp. 31-34) Claimant later worked as a home health care provider for an elderly couple, assisting them with sweeping, vacuuming, mopping, bedding, laundry, and buying groceries. (Tr., p. 35) Claimant has worked as a housekeeper for a hotel where she changed bed linens, vacuumed, scrubbed showers, and cleaned mirrors and toilets. (Tr., pp. 36-37)

In 2015, Claimant obtained a certified nursing assistant certificate at Hawkeye Technical Institute. (Tr., p. 24) Claimant has worked as a certified nursing assistant for four employers, including an assisted living facility and nursing facilities, assisting residents with feeding, bathing, dressing, assistance with transfers to and from wheelchairs and beds, and to and from the toilet. (Tr., pp. 28, 38) Claimant testified her positions required her to lift at least 50 pounds. (Tr., p. 28) Claimant received training on computer charting at the facilities where she worked and completed patient charting as part of her job duties. (Tr., p. 31) Claimant was not discharged by any employer for charting problems related to her writing. Claimant was able to use a computer for charting at work, a transferable skill.

Claimant was initially motivated to find work. She has not worked since September 2017. While claimant has not graduated from high school or attained a G.E.D., she has not attempted to obtain her G.E.D. since the work injury. I agree with the deputy commissioner that in the two years leading up to the hearing claimant's job search was not rigorous. I also agree with the deputy commissioner there are entry level positions claimant is capable of engaging in consistent with her functional limitations and residual capacities within her geographic area. I do not find claimant has established she is unable to perform services other than those which are so limited in quality, dependability or quantity that a reasonably stable market for her services does not exist. Claimant lives in Vinton, Iowa, a reasonable driving distance from a major metropolitan area, Cedar Rapids. I do not find claimant is permanently and totally disabled under the odd-lot doctrine. Considering all of the factors of industrial disability, I find claimant has sustained 65 percent industrial disability.

The deputy commissioner found claimant should be reimbursed $1,000.00 for a consultation with Dr. Hart. Iowa Code section 86.40, provides, "[a]ll costs incurred in the hearing before the commissioner shall be taxed in the discretion of the commissioner." Rule 876 IAC 4.33(6), provides,

> [c]osts taxed by the workers' compensation commissioner or a deputy commissioner shall be (1) attendance of a certified shorthand reporter or presence of mechanical means at hearings and evidential depositions, (2) transcription costs when appropriate, (3) costs of service of the original notice and subpoenas, (4) witness fees and expenses as provided by Iowa

> Code sections 622.69 and 622.72, (5) the costs of doctors' and practitioners' deposition testimony, provided that said costs do not exceed the amounts provided by Iowa Code sections 622.69 and 622.72, (6) the reasonable costs of obtaining no more than two doctors' or practitioners' reports, (7) filing fees when appropriate, and (8) costs of persons reviewing health service disputes.

The consultation with Dr. Hart was not deposition testimony nor was it a doctor's report. The administrative rule does not allow for the recovery of the $1,000.00 consultation fee. I therefore respectfully reverse the deputy commissioner's award of the fee for the consultation with Dr. Hart.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on July 27, 2021, and the ruling on motion for rehearing filed on September 3, 2021, are affirmed in part, modified in part, and reversed in part.

Defendants shall pay claimant 325 weeks of permanent partial disability benefits, at the stipulated weekly rate of four hundred thirty-three and 80/100 dollars ($433.80), commencing on February 17, 2017.

Defendants shall pay accrued weekly benefits in a lump sum.

Defendants shall pay interest on unpaid weekly benefits awarded as set forth in Iowa Code section 85.30 (2016).

Defendants shall receive credit for all healing period benefits paid through August 13, 2018.

Defendants shall receive credit for permanent partial disability benefits paid from August 14, 2018, through September 18, 2020.

Pursuant to Iowa Code section 85.39, defendants shall reimburse claimant for the cost of Dr. Wenzel's IME.

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration proceeding in the amount of one hundred and 00/100 dollars ($100.00), and the parties shall split the costs of the appeal, including the cost of the hearing transcript.

Pursuant to rule 876 IAC 3.1(2), defendants shall file subsequent reports of injury as required by this agency.

Signed and filed on this 25th day of April, 2022.

Joseph S. Cortese II

JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

Emily Anderson (via WCES)

Dillon Besser (via WCES)

Lee Hook (via WCES)

Christopher Spencer (via WCES)