BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

BRIAN AULWES,	:	
Claimant,	:	File No. 5065781.02
vs.	:	
JOHN DEERE DUBUQUE WORKS,	:	REVIEW-REOPENING DECISION
Employer,	:	
Self-Insured,	:	Head Note: 2905, 1804
Defendant.	:	

STATEMENT OF THE CASE

The claimant, Brian Aulwes, filed a petition for review-reopening on July 19, 2021. He seeks workers' compensation benefits from John Deere Dubuque Works, a self-insured employer. The claimant was represented by Mark Sullivan. The defendant was represented by Dirk Hammel.

The matter came on for hearing on October 13, 2022, before Deputy Workers' Compensation Commissioner Joe Walsh in Des Moines, Iowa via Zoom videoconferencing system. The record in the case is voluminous. The medical records alone include well over 500 pages. It consists of Joint Exhibits 1 through 19; Claimant's Exhibits 1 through 19; and Defense Exhibits A through I. The claimant testified at hearing, in addition to his wife, Christine Aulwes. Janice Doud served as the court reporter. The matter was fully submitted on November 14, 2022, after helpful briefing by the parties.

ISSUES

The parties submitted the following issues for determination:

1. Whether the elements of Section 86.14 have been met for claimant to prove entitlement to an increase in benefits.

2. If so, the extent of disability.

3. Whether the claimant has proven the following conditions are causally connected to his work injury:

    a. Left Hip;
    b. Right Elbow;
    c. Bilateral Arms (including diagnosis of CRPS)

d. Left Shoulder (sequela);
e. Sleep Apnea.

STIPULATIONS

Through the hearing report, the parties stipulated to the following:

1. The parties had an employer-employee relationship.

2. Claimant sustained an injury which arose out of and in the course of employment on March 26, 2015.

3. Temporary disability/healing period and medical benefits are no longer in dispute.

4. The parties stipulate that the following conditions were causally connected to claimant's work injury: low back, left foot/leg (including CRPS diagnosis), left buttock, mental health, right hip.

5. The weekly rate of compensation is $747.23.

6. Affirmative defenses have been waived.

FINDINGS OF FACT & PROCEDURAL HISTORY

Claimant Brian Aulwes sustained a catastrophic work injury on March 26, 2015. He filed a petition and proceeded to an arbitration hearing on June 28, 2019. An arbitration decision dated November 15, 2019, awarded Mr. Aulwes a 70 percent industrial disability. The findings in that arbitration decision represent a preclusive snapshot of claimant's condition as of June 28, 2019.

Claimant's Condition on June 28, 2019

Mr. Aulwes was a long-term employee of Deere. He had a strong work ethic. In 2004, he began working on knuckle boom loaders (KBL) in the forestry department. On March 26, 2015, Mr. Aulwes was climbing down from a KBL and fell. He sustained an injury to his low back on the left side, his right elbow and hip. (Arbitration Decision, page 2) The low back symptoms were severe and included bladder dysfunction. Initial treatment focused on his low back, and claimant underwent surgery on September 25, 2015. (Arb. Dec. p. 2) While the surgery corrected some of his symptoms, including the bladder dysfunction, it was ultimately not successful; in particular he continued to have severe SI pain and left thigh and calf pain. Mr. Aulwes underwent additional treatment and was eventually referred to the University of Iowa Hospitals and Clinics (UIHC). (Arb. Dec. p. 3) He participated in a two week comprehensive Spine Rehabilitation Program. The program was helpful. In August 2016, his physician released him with significant restrictions, and he attempted to return to his job on the KBL machines. He was unable to perform this work and was referred back to UIHC to the pain clinic. He received injections and a referral to a pain psychologist. (Arb. Dec.

p. 4)

He continued undergoing pain management treatment throughout 2017 and 2018. In June 2018, a spinal cord stimulator was implanted. (Arb. Dec. p. 5) Mr. Aulwes testified this provided some relief. In September 2018, one of his treating physicians placed restrictions on him which precluded him from performing his job in KBL. In January 2019, he transferred to a position in the small crawler department doing engine subassembly. He testified that he was provided accommodations which enabled him to work in this area with significant difficulties. (Arb. Dec. p. 6)

At the time of the June 2019 arbitration hearing, Mr. Aulwes had both temporary and permanent restrictions. His permanent restrictions at that time included the following: No lifting, carrying, pushing or pulling over 40 pounds for one-third of work day or 20 pounds for two-thirds. Must be allowed a short stretch break every hour. No working more than 10 hours per day. No kneeling or climbing. No lifting of either arm or shoulder higher than 65 degrees, three times per day. (Arb. Dec. p. 7) He also had the following temporary restrictions: Needs to rest for one-half hour every two hours. (Arb. Dec. p. 7) Within the parameters of these temporary and permanent restrictions, Deere was able to accommodate him in the small crawler department performing subassembly work. His earnings had been reduced by about a third because of the job change. (Arb. Dec. p. 6) And there is no question that he was still struggling, even with the significant accommodations.

As a result of his physical conditions, Mr. Aulwes developed a mental health condition. He received authorized treatment from Valerie Keffala, Ph.D., a psychologist at UIHC. "Dr. Keffala has diagnosed claimant with adjustment disorder with mixed anxiety and depressed mood." (Arb. Dec. p. 5)

The following is the agency's analysis of claimant's industrial disability as of August 22, 2019:

> John Deere was making accommodations for claimant's impairments, even before his most recent temporary restrictions of 2019 were imposed. There was no evidence that the accommodations John Deere provides are available in the general labor market. The limited lifting above shoulder, no kneeling and crawling as well as the lifting limitations are very significant limitations.
>
> In considering claimant's industrial disability, I consider the claimant's permanent restrictions. While claimant had temporary restrictions at the time of the arbitration hearing they were not considered for the extent of industrial disability evaluation.
>
> I find the restrictions on lifting that Dr. Taylor made in his November 26, 2018 IME to be claimant's lifting restrictions. They are supported by the FCE. These restrictions more accurately reflect claimant's lifting ability than those provided by Dr. Hunt and Dr. Chen. The record showed that

> when using the upper limit of Dr. Chen's restrictions claimant would aggravate his conditions. I find the restrictions in Exhibit C, page 5, as to no work over 10 hours, no kneeling or climbing and no lifting his arm/shoulder higher than 65 degrees three times a day to be his restrictions.
>
> Claimant has a high school diploma. He is not able to perform his past work that required him to be on his feet all day or work that exceeds his work restrictions. Claimant has shown extremely strong motivation to keep working for John Deere. And John Deere tried to keep claimant employed. However, no job that claimant is capable of performing full time without accommodations has been identified.
>
> Claimant works in significant pain. He is on medication, uses the SCS all the time, uses a TENS unit and does home physical therapy, receives counseling, participated in a two-week program at the Spine Rehabilitation Program, and had nerve ablations, injections, and acupuncture.
>
> Considering all of the factors of industrial disability I find claimant has a 70 percent loss of earning capacity. Claimant has a 70 percent industrial disability, entitling him to 350 weeks of PPD. If claimant were not still employed at John Deere the extent of PPD would be greater.

(Arb. Dec. pp. 9-10)

On August 11, 2020, the arbitration decision was affirmed by the Commissioner in its entirety. (Cl. Ex. 2) These decisions are preclusive of Mr. Aulwes' condition at that time.

The permanent conditions that were found to be work-related included the low back condition, the left lower extremity and foot condition, as well as the sequela mental health condition. (Arb. Dec. p. 8)

On July 19, 2021, Mr. Aulwes filed a petition for review-reopening seeking an increase in the award. The matter proceeded to hearing on October 13, 2022.

Claimant's Condition on October 13, 2022

At the time of the review-reopening (RRO) hearing, Mr. Aulwes was 50 years old. He has continued to undergo substantial medical treatment for his work-related conditions. There is a 20-page summary in evidence of all claimant's treatment from the time of his last hearing in August 2019, up through the date of the RRO hearing. (Cl. Ex. 3, pp. 24-45) Calling this treatment "substantial" is, in fact, an understatement. His various conditions have nearly taken over his life. In any given month since July 2019, he has 8 to 12 medical appointments.

He has continued to treat for his low back pain and left leg and foot symptoms.

In July 2019, Mr. Aulwes was evaluated by Saul Wilson, M.D., in Neurosurgery at the UIHC. The records document that he was having new problems including the sensation that his left leg was "dead," in addition to discoloration, hypersensitivity and cold to the touch. (Jt. Ex. 2, p. 230) These symptoms were new and severe. A full work-up was performed replete with additional diagnostic testing. He consulted with the UIHC Pain Clinic, Justin Wikle, M.D. (Jt. Ex. 2, p. 239) Dr. Wikle ordered desensitization therapy, which is ordinarily utilized for a diagnosis of complex regional pain syndrome (CRPS). (Jt. Ex. 2, p. 245) He prescribed the desensitization therapy through Kepros Physical Therapy. (Jt. Ex. 5) Since this timeframe, multiple physicians have diagnosed CRPS, and Deere has accepted responsibility for this condition at least as it relates to his left leg. (Hearing Report paragraph 10) Over time, however, his symptoms have become more severe and include hair loss and uncontrolled shaking or quivering. The hypersensitivity has become so severe it has caused difficulty wearing shoes or socks, or using his AFO boot prescribed for his drop foot. At the time of hearing, he is now using a walker. His treatment regimen now also includes regular acupuncture. (Jt. Ex. 9)

In September 2019 he was also examined by Cassandra Lange, M.D., for right hip symptoms. Dr. Lange diagnosed end-stage degenerative joint disease. Mr. Aulwes underwent right total hip arthroplasty in October 2019. (Jt. Ex. 6, p. 393) Deere accepted responsibility for this condition at hearing. (Hearing Report paragraph 10) He followed up with Dr. Lange for this condition. In 2022, he sought evaluation for symptoms in his left hip. In September 2022, Mr. Aulwes underwent left hip surgery by Dr. Lange at St. Luke's Hospital. (Jt. Ex. 15, p. 528) Mr. Aulwes contends this surgery is a sequela of his initial injury; Deere denies this. Dr. Lange prepared an opinion generally supporting medical causation. "While it is my opinion that his back injury did not 'cause' his hip arthritis, it made him less mobile . . . then that can aggravate his underlying condition." (Jt. Ex. 15, p. 525) He has incurred significant medical expenses resulting from this surgery. (Cl. Ex. 12, pp. 137-139)

Jonathan Citow, M.D., of the American Center for Spine and Neurosurgery, examined Mr. Aulwes in April 2021. The following is documented:

> He presents with a complicated history beginning with a fall at work 6 years ago at John Deere. He developed severe left-sided sciatica treated initially with microdiscectomy in 2015 followed by spinal cord stimulator in 2018 for reflex sympathetic dystrophy. He believes the spinal cord stimulator is still offering him benefit but he is having progressively worsening symptoms. At this point his midline lower back pain is 9/10 in severity. He has pain extending through the entire left lower extremity towards his toes 10/10 in severity with numbness and weakness without right-sided symptoms. He is having frequent falling episodes. He had a right hip replacement in 2019 due to the change in his ambulation pattern after his injury. He remains at work at a sedentary job but is having difficulty functioning. He is on gabapentin 2400 mg a day. Lyrica did not help. He also is on tizanidine and Lidoderm patch. He takes Tylenol and

ibuprofen daily.

(Jt. Ex. 12, p. 493)

Dr. Citow did not recommend any type of surgery and ultimately agreed with the CRPS diagnosis. (Jt. Ex. 12, p. 495) He attempted to modify the restrictions to allow Mr. Aulwes to continue to work, but this ultimately did not work. Mr. Aulwes has not worked at Deere since May 27, 2021. (Def. Ex. D) Based upon the record before the agency, it is clear that Deere has no gainful work within claimant's physical capabilities. It should be acknowledged that Deere made significant and valiant efforts to keep Mr. Aulwes gainfully employed. Mr. Aulwes applied for and secured Social Security disability benefits. (Tr., p. 94)

Robin Sassman, M.D., performed an IME in August 2022. She reviewed numerous medical records and examined Mr. Aulwes. She documented his current symptoms as follows:

> He notes pain in his low back to his tailbone. The nerve stimulator helps with the radiation of the pain. He notes pain in the inside of his left leg. He does not like anything touching the left leg. He notes shaking in the left leg. He notes a change in the hair growth and sweating of the left lower extremity. He states that [his] toenails look different on that side. He notes atrophy of the left lower extremity. He does not put weight on that leg. His left foot is always numb. His middle toe and Great toe feel like they are being hit by a hammer. He uses a walker or walking stick in the house as well and when he is out. He uses furniture to assist in ambulation in the house. His wife tries to walk on his left side all the time. He tried an AFO brace but this made it worse. He has stairs in his house. He states he recently fell getting in and out of the house. His left leg "flops around" at night. He notes cramping in his left calf and thigh.

(Cl. Ex. 7, pp. 91-92) She noted his other conditions, including left upper extremity pain, mental, right hip, right elbow, erectile dysfunction and left shoulder, in addition to sleeping difficulties. (Cl. Ex. 7, p. 92)

At the time of his arbitration hearing, Mr. Aulwes had some sexual dysfunction, however, he was sexually active. Since the arbitration decision this condition worsened. He was able to get treatment in August 2021, after addressing the issue with Dr. Keffala. She referred him to Amy Pearlman, M.D., in the Urology Department at UIHC who provided appropriate treatment. (Jt. Ex. 2, pp. 269-280) It appears that this condition is a direct sequela of his work injury. (Jt. Ex. 2, pp. 269, 278)

Dr. Sassman then opined that claimant's condition had changed since his first arbitration decision:

> **1. Has Mr. Aulwes sustained any change in his physical condition causally related to the original 3/26/2015 work injury, since the**

Arbitration Hearing?

Yes, Mr. Aulwes has sustained a change in his physical condition related to the original 3/26/2015 injury since the arbitration hearing of 11/15/2019. Since the arbitration decision he has been diagnosed with CRPS Type 1 in the left lower extremity. He has also started to develop CRPS symptoms in the left upper extremity. Additionally, he has sustained an injury to the left shoulder due to a recent fall that occurred after the left lower extremity gave out. Mr. Aulwes has also undergone a right hip arthroplasty that was necessitated by the gait change brought about by the left lower extremity CRPS symptoms.

At the time of the arbitration decision from a symptom standpoint, Mr. Aulwes states he was not using a walker. He states he could walk much better at that time. After the arbitration decision he began to notice his foot turning blue. This has worsened over time. He states he had some sensitivity at that time, but it has significantly worsened since that time. He also notes that he had some erectile dysfunction symptoms at that time, but these have worsened as well. He states at that time he would fall a couple of times a month. Now he is falling more frequently 5-6 times a week. He is also much more sensitive to weather changes now. He also states that he is anxious now about people seeing him. The above changes in his description of his symptoms represent a worsening of his symptoms since the arbitration decision of 11/15/2019.

In addition to the change in his symptoms, Mr. Aulwes has had an increase in his need for medications since the arbitration decision of 11/15/2019. Specifically, at that time Mr. Aulwes states his medications were Gabapentin 2400 mg and Zolpidem. Currently, his dose of Gabapentin [is] up to 3600 mg. He is also now using Lidocaine patch 5% and a 200 mg testosterone injection weekly.

Mr. Aulwes has also had a change in his impairment rating since the arbitration decision of 11/15/2019 (please see #2). I am also recommending a change in his restrictions as a result of his change in status (please see #3).

(Cl. Ex. 7, p. 96)

She assigned an additional 19 percent whole person rating for the CRPS diagnosis. She assigned a 15 percent whole body rating for the right hip replacement. She also assigned an 8 percent whole person rating for erectile dysfunction. In addition, she provided a massive rating for the CRPS symptoms in claimant's left upper extremity and his alleged shoulder sequela. She recommended prohibitive sedentary restrictions. (Cl. Ex. 7, p. 99)

Mr. Aulwes also underwent a functional capacity evaluation (FCE) with Daryl

Short, DPT, at Short Physical Therapy in June 2022. His various functional deficits were documented in painstaking detail in this report. (Cl. Ex. 4) Mr. Short opined that because of his functional deficits in his low back and left leg, "Mr. Aulwes does not meet the capabilities of the sedentary category of physical demand." (Cl. Ex. 4, p. 47) He recommended a 4-wheeled walker and considered Mr. Aulwes a moderate fall risk.

Mark Mittauer, M.D., performed a psychiatric evaluation in August 2022, and prepared a report in September 2022. (Jt. Ex. 14, p. 520) He diagnosed major depressive disorder, generalized anxiety disorder, insomnia disorder secondary to pain, and obstructive sleep apnea. Dr. Mittauer recommended medication adjustments, continuation of psychotherapy with Valerie Keffala, Ph.D., and avoidance of alcohol. (Cl. Ex. 6, p. 69; Jt. Ex. 14, p. 521) He assigned significant impairment rating for these diagnoses. (Cl. Ex. 6, pp. 70-71) Overall, his mental condition has worsened significantly since the arbitration hearing. He has developed suicidal ideation and panic attacks among other severely disabling symptoms. He has continued to treat with Dr. Keffala up through the date of hearing.

Based upon the snapshot of Mr. Aulwes' condition in October 2022, there is no question that he is no longer capable of gainful employment as he was in June 2019. There has undoubtedly been a change in his physical and economic condition which warrants an increase in his award of disability.

CONCLUSIONS OF LAW

The first and primary question is whether the legal elements for review-reopening have been met in light of the findings of fact set forth above. Mr. Aulwes alleges he has proven that his overall condition has deteriorated since his first hearing, and he has now proven permanent total disability. He argues that some of his conditions have worsened, and he has developed new conditions which were not present at the time of the first hearing. He further alleges an economic change of condition in that he is no longer working at all at the time of hearing. The defendant argues that his condition has not changed significantly and that his activity is limited now because of other non-work-related chronic conditions.

In a proceeding to reopen an award for payments or agreement for settlement as provided by section 86.14, 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. Iowa Code section 86.14(2) (2017). In order to demonstrate eligibility for an increase of compensation under section 86.14(2), the claimant must demonstrate what his physical or economic condition was at the time of the original award or settlement. At a subsequent review-reopening hearing, claimant has the burden to prove that there is a substantial difference in such condition which warrants an increase in compensation. Kohlhaas v. Hog Slat, Inc., 777 N.W.2d 387 (Iowa 2009). The difference can be economic or physical. Blacksmith v. All-American Inc., 290 N.W.2d 348 (Iowa 1980); Henderson v. Iles, 250 Iowa 787, 96 N.W.2d 321 (1959). Essentially, two snapshots of the claimant's condition are taken; one in each hearing or settlement. The claimant must prove that there is something substantially different

between the two snapshots such that it warrants an increase in benefits. Gosek v. Garmer & Stiles Co., 158 N.W.2d 731, 735 (Iowa 1968).

The principles of res judicata apply and the agency should not reevaluate facts and circumstances that were known or knowable at the time of the original action. Kohlhaas at 392. Review-reopening is not intended to provide either party with an opportunity to re-litigate issues already decided or to give a party a "second bite at the apple." The agency, however, is forbidden from speculating as to what was contemplated at the time of the original snapshot. Id.

The burden remains upon the injured worker to prove by a preponderance of the evidence that the current condition is proximately caused by the original injury. Kohlhaas, 777 N.W.2d at 392. When a work-related injury causes another injury to the worker, this new injury (sequela) may also be considered as a work-related injury under Iowa's workers' compensation laws.

When an employee suffers from a compensable injury and another condition or injury arises that is the consequence or result of the previous injury, the sequelae rule applies. If the employee suffers a compensable injury and later suffers further disability, which is the proximate result of the original injury, such further disability is compensable. If the employee suffers a compensable injury and thereafter returns to work and, as a result, the first injury is aggravated and accelerated so that the employee is more greatly disabled than they were before returning to work, the entire disability may be compensable. The employer is liable for all consequences that naturally and proximately flow from the accident. Oldham v. Scofield & Welch, 222 Iowa 764, 767-68, 266 N.W. 480 (1936).

In order to apply the facts to the law, the two snapshots must be compared. The first part of this analysis includes questions of medical causation. The claimant alleges that several conditions developed as a result of the original injury. For example, the defendant has admitted that the claimant's right hip condition was materially aggravated by his original work injury and ultimately resulted in a total hip replacement. This, by itself, is a significant change in claimant's condition since June 2019. The defendant also admits that the diagnosis of CRPS in the left leg and low back is a new condition diagnosed after the June 2019 hearing. This is also a basis for a finding that his condition warrants an increase in benefits. The defendant, however, has denied the following conditions:

1. Left Hip sequela;
2. Right Elbow;
3. Erectile Dysfunction;
4. Bilateral arms and hands CRPS;
5. Sequela Left Shoulder;
6. Sleep Apnea.

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. George A. Hormel & Co. v. Jordan, 569 N.W.2d 148 (Iowa 1997); Frye v. Smith-Doyle Contractors, 569 N.W.2d 154 (Iowa App. 1997); Sanchez v. Blue Bird Midwest, 554 N.W.2d 283 (Iowa App. 1996).

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).

Based upon the expert medical evidence submitted, I find that the claimant's left hip sequela and erectile dysfunction are both causally connected to his original work injury. I find that claimant has failed to meet his burden of proof that the other conditions in his arms are causally connected in any way. While it is possible that the condition of CRPS has developed into his bilateral arms as a result of his work injury, in this record, I find it is not probable. As it relates to his left shoulder, I find he has failed to prove any permanent condition. Also, while the claimant has work-connected sleep dysfunction as documented convincingly by Dr. Mittauer, I cannot find that the specific condition of sleep apnea was substantially caused or aggravated by his work injury. Simply stated, there is little medical support for this in the record.

Therefore, I specifically find that the claimant has met his burden of proof on causation for the following conditions:

Low back (including erectile dysfunction)

Radicular condition from low back, buttocks through his foot

Bilateral hips

CRPS in his low back and lower extremities

Mental health

I find that the claimant has failed to carry his burden as related to the following conditions:

Bilateral arms (CRPS)

Left shoulder

Sleep apnea

The next issue is whether Mr. Aulwes is permanently and totally disabled.

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 Ry. Co. of Iowa, 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).

When comparing the snapshot taken in June 2019, with the snapshot taken in October 2022, there is an obvious difference in the snapshots such that an increase in benefits is warranted. At the outset, it is noted that Deere went to great lengths to keep Mr. Aulwes employed and he was, in fact, employed in June 2019. While his position in June 2019 was highly accommodated, he was able to perform sedentary work at that time. By May 2021, it was obvious to everyone involved that the efforts to keep him employed were futile and potentially harmful. His restrictions had become more stringent, and he was becoming a greater safety risk as he continued to try. Thus, the primary difference in the two snapshots is that in 2019, he was able to perform accommodated sedentary work and in 2022, he was no longer suited even for sedentary employment.

This was because of a combination of factors, including the worsening of his low back symptoms causing radicular symptoms into his leg, the diagnosis of CRPS, the damage to his bilateral hips caused by his altered gait and his worsening psychological condition. I find that his functional inabilities from these conditions are convincingly documented in his functional capacity evaluation. The FCE accurately assessed his functional abilities and lead to the inevitable conclusion that he is not suited for even sedentary work. Therefore, I find that Mr. Aulwes is permanently and totally disabled from July 19, 2021, forward.

ORDER

THEREFORE IT IS ORDERED

Defendant shall pay the claimant permanent total disability benefits from the date

of the filing of the review-reopening petition forward.

Defendant shall pay accrued weekly benefits in a lump sum.

Defendant shall pay interest on unpaid weekly benefits awarded herein as set forth in Iowa Code section 85.30.

Defendant shall be given credit for the weeks previously paid as stipulated by the parties.

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

Costs are taxed to defendant.

Signed and filed this 17th day of April, 2023.

JOSEPH L. WALSH
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

The parties have been served, as follows:

Mark Sullivan (via WCES)

Dirk Hamel (via WCES)

Right to Appeal: This decision shall become final unless you or another interested party appeals within 20 days from the date above, pursuant to rule 876-4.27 (17A, 86) of the Iowa Administrative Code. The notice of appeal must be filed via Workers' Compensation Electronic System (WCES) unless the filing party has been granted permission by the Division of Workers' Compensation to file documents in paper form. If such permission has been granted, the notice of appeal must be filed at the following address: Workers' Compensation Commissioner, Iowa Division of Workers' Compensation, 150 Des Moines Street, Des Moines, Iowa 50309-1836. The notice of appeal must be received by the Division of Workers' Compensation within 20 days from the date of the decision. The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or legal holiday.