BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

NATHAN LEE LAND,

Claimant,

vs.

TRI-CITY ELECTRIC,

Employer,

and

OLD REPUBLIC INSURANCE COMPANY,

Insurance Carrier,
Defendants.

FILED
MAY 16 2019
WORKERS COMPENSATION

File No. 5061334

ARBITRATION DECISION

Head Note Nos.: 1402.40, 1803, 2907

STATEMENT OF THE CASE

Nathan Land, claimant, filed a petition for arbitration against Tri-City Electric, as the employer, and Old Republic Insurance Company, as the insurance carrier. The undersigned heard this case on April 16, 2019, in Des Moines. At the commencement of hearing, defendants noted that the proper insurance carrier for this claim should be Old Republic Insurance Company. The undersigned granted a motion to amend the pleadings to reflect Old Republic Insurance Company as the proper insurance carrier. (Transcript, pages 4-5)

The parties filed a hearing report at the commencement of the hearing. On the hearing report, the parties entered into numerous stipulations. Those stipulations were accepted and no factual or legal issues relative to the parties' stipulations will be made or discussed. The parties are now bound by their stipulations.

The evidentiary record includes Joint Exhibits 1 through 10, Claimant's Exhibits 1 through 4 and Defendants' Exhibits A through E. All exhibits were received without objection. Claimant testified on his own behalf. No other witnesses were called to testify. The evidentiary record closed at the conclusion of the arbitration hearing.

However, counsel for the parties requested the opportunity to file post-hearing briefs. Their request was granted. All parties filed their post-hearing briefs on April 30, 2019, at which time the case was deemed fully submitted to the undersigned.

ISSUES

The parties submitted the following disputed issues for resolution:

1. Whether the December 20, 2016 work injury caused permanent disability and, if so, the extent of claimant's entitlement to permanent disability benefits.

2. Whether claimant is entitled to payment of past medical expenses.

3. Whether costs should be assessed against either party.

At the commencement of hearing, the parties agreed that there are voluminous medical bills. Rather than introduce all medical bills at the arbitration hearing, the parties agreed that the majority of the medical bills would be related to claimant's medical condition. If the medical treatment related to sarcoidosis is found work related, counsel believed they could work out an agreement between the parties as to any medical bills owed.

Therefore, the parties agreed to bifurcate the issue of medical bills. The parties agreed to try to work out an agreement regarding medical bills within 60 days of the issuance of my written decision, if necessary. The bifurcation was ordered verbally at the time of hearing. Therefore, the issue of specific medical bills will not be specifically addressed in this decision.

FINDINGS OF FACT

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

Nathan Land is a 38-year-old gentleman. (Transcript, page 15) Mr. Land is a union journeyman electrician. He completed an apprenticeship from 2000 to 2005 and has worked as an electrician since 2000. (Tr., pp. 19-22)

Mr. Land is a high school graduate. He has no post-secondary education, other than his electrical apprenticeship. (Tr., p. 16) Mr. Land's employment history includes work as a telemarketer for credit card sales while in high school. After high school, Mr. Land moved from Iowa to Texas and worked as a gas station attendant or cashier. He also held a position cutting sheet metal and performing loading and unloading duties for a metal building sales company. Again, since 2000, claimant has worked, through his union, for various employers as an electrician. (Tr., pp. 17-19)

As a journeyman electrician, Mr. Land performs mainly commercial and industrial electrical work. His job requires physical labor such as installation of electrical panel boards, installation of safety equipment, grounding, installation of fire alarms, installation of data communication equipment, pulling wire, installing conduit, carrying and hoisting of tools. Claimant described running numerous flights of stairs per workday to move

tools and obtain equipment. Mr. Land also described significant lifting duties as a journeyman electrician and testified that he worked on scaffolds and ladders approximately 80 percent of the time. (Tr., pp. 23-25)

On December 20, 2016, Mr. Land worked for Tri-City Electric. He was assigned to the "feed house" to install new electrical equipment and troubleshoot existing electrical equipment at Roquette in Keokuk, Iowa. He worked most of his shift. However, shortly before quitting time, Mr. Land was carrying tools down stairs and staging them at the bottom of the stairs while his apprentice finished some electrical work. Claimant testified that he completed the transfer of tools down the stairs and to the company vehicle. He waited for the apprentice for approximately 10 minutes while sitting in the company vehicle. (Tr., pp. 33-36)

After the apprentice arrived, the electricians prepared to leave the work site in the company vehicle. A Roquette employee stopped them from leaving and advised they could not drive through some liquid flowing down the street nearby because the liquid was hydrochloric acid. Mr. Land testified he observed the liquid flowing down the street and estimated it to be no more than 10 feet from his location while he was completing work and sitting in the van at the end of the workday. (Tr., pp. 34-35)

Ultimately, Mr. Land and his apprentice decided to leave the company work vehicle in its location and to exit the area. He testified they walked approximately 50 yards parallel to the hydrochloric acid before turning away from the liquid toward a parking lot to reach their personal vehicles. (Tr., p. 35) Defendants concede the general facts outlined by claimant with respect to the hydrochloric acid, his vicinity to the acid, and his exposure.

Mr. Land testified he experienced some burning in his chest as he walked to his personal vehicle, but did not think much about it because he had just run several flights of stairs. (Tr., pp. 36-37) However, that evening, Mr. Land's condition worsened and he reported his condition the next day to his supervisor at Tri-City. Tri-City sent claimant for evaluation the same day. (Tr., pp. 37-38)

On December 21, 2016, Mr. Land sought treatment in the emergency room. He reported chest pain, which started the prior day after a chemical spill at work. (Joint Exhibit 2, pp. 1-2) The emergency room discharged claimant with a three-day prescription for prednisone. (Joint Ex. 2, p. 4)

Mr. Land returned for further evaluation on December 23, 2016. The nurse practitioner that evaluated claimant on this date returned claimant to work without restrictions because claimant reported feeling somewhat better after use of the steroid. (Joint Ex. 2, p. 5)

On December 28, 2016, Mr. Land sought further care. His symptoms worsened after completing his steroid course. At this evaluation, Mr. Land reported exposure to hydrochloric acid and described chest discomfort especially when climbing stairs at

work. (Joint Ex. 2, p. 8) A new course of prednisone was ordered with an initial burst and taper off the medication. (Joint Ex. 2, pp. 9-10) A chest x-ray performed on December 28, 2016 demonstrated evidence of acute or chronic bronchitis or reactive airway disease. (Joint Ex. 2, p. 12)

By January 4, 2017, claimant was reporting that he was "feeling much better." (Joint Ex. 2, p. 17) The medical note indicates that claimant's chest pain and shortness of breath had resolved after the prednisone taper. (Joint Ex. 2, p. 17)

Mr. Land sought no medical attention for his heart or lungs between January 4, 2017 and March 17, 2017. Then, on March 17, 2017, claimant presented to the Fort Madison Community Hospital Occupational Health Clinic. The evaluating clinician indicated that claimant reported shortness of breath and that claimant's level of function was reduced from his typical baseline. (Joint Ex. 2, p. 19) Referral was made to a pulmonologist at this time. (Joint Ex. 2, p. 21)

Before being evaluated by a pulmonologist, claimant sought further care in the emergency room on April 7, 2017. He was initially evaluated and discharged. However, upon presenting for follow-up in the occupational health clinic, he was sent back to the emergency room and ultimately transferred via ambulance to the University of Iowa Hospitals and Clinics for cardiac workup. (Joint Ex. 2, pp. 23-29; Joint Ex. 3)

At the University of Iowa Hospitals and Clinics, Mr. Land was run through a battery of tests and ultimately diagnosed with sarcoidosis, which was affecting his lungs and heart. Mr. Land submitted to permanent placement of a pacemaker to regulate his heart rate. (Joint Ex. 4, pp. 1-47)

After initial placement of the pacemaker, Mr. Land testified that he was dependent upon the pacemaker for 60 percent of his heartbeats. However, claimant's situation has improved. Currently, he testified that he is dependent upon the pacemaker approximately 2 percent of the time. (Tr., p. 54)

Defendants appear to concede claimant's diagnosis. However, defendants dispute whether the sarcoidosis is causally related to claimant's chemical exposure on December 20, 2016. Defendants also dispute claimant's contention that his sarcoidosis was exacerbated, worsened, or lit up by the hydrochloric acid exposure on December 20, 2016. Therefore, although claimant clearly has some residual symptoms and limits as a result of the sarcoidosis, defendants challenge whether the residual symptoms are causally related to the December 20, 2016 chemical exposure at work.

Three physicians have offered opinions on whether claimant's sarcoidosis is causally related to the December 20, 2016 work event. Mr. Land's treating pulmonologist, Nabeel Y. Hamzeh, M.D., at the University of Iowa Hospitals and Clinics opined that he was "not able to state within a reasonable degree of medical certainty that Mr. Land's sarcoidosis was directly caused by or materially aggravated by the alleged hydrochloric acid exposure." (Joint Ex. 7, p. 1)

Defendants also had claimant evaluated by the medical director of the University of Iowa Occupational and Environmental Health Department. Patrick Hartley, M.D., has experience in pulmonary care and occupational medicine. He evaluated Mr. Land on April 26, 2017. Dr. Hartley opined:

> With regard to his reported exposure to hydrochloric acid spill in an outdoor setting at work in December 2016, given his acute onset of burning chest discomfort and eye irritation, it is my opinion that he had a temporary upper airway and ocular mucosal injury, which I anticipated it would have resolved within 1-2 weeks. While Mr. Land and his wife are convinced that his ongoing pulmonary and cardiac issues are attributable to this occupational exposure, given the temporal association with onset of his symptoms, and apparent lack of pre-existing symptoms with a history of good exercise tolerance, there is no reported association between inhalation of hydrochloric acid vapors/gas and granulomatous pulmonary or cardiac disease. I cannot attribute his sarcoidosis to his occupational exposure on 12/20/16. It is more likely than not that his sarcoidosis was present but asymptomatic and that his upper airway/mucosal injury precipitated symptoms which brought him to medical attention. Furthermore, it is my opinion, that the occupational irritant exposure did not "light up" his sarcoidosis.

(Joint Ex. 6, pp. 4-5)

Mr. Land was not convinced or satisfied with these medical opinions. He was also concerned with the recommendations from the University of Iowa Hospitals and Clinics to commence taking methotrexate, a chemotherapy medication, for his sarcoidosis. Therefore, Mr. Land performed internet research and identified another pulmonologist, Daniel A. Culver, D.O., whom he believes is a sarcoidosis expert. (Tr., pp. 52-53)

Dr. Culver evaluated claimant August 2010, along with several colleagues at the Cleveland Clinic. Dr. Culver's medical team at the Cleveland Clinic confirmed the diagnosis of sarcoidosis and recommended similar but slightly different course of care. (Joint Ex. 5) Dr. Culver again re-evaluated claimant on November 12, 2018. As a result of that evaluation, Dr. Culver noted that claimant meets the criteria for cardiac sarcoidosis and concurred with Dr. Hamzeh that claimant requires some sustained maintenance therapy to avoid further cardiac difficulties related to the sarcoidosis. (Joint Ex. 5, p. 30) Dr. Culver documented relevant sarcoidosis symptoms, including joint pain, shortness of breath, and ongoing fatigue and opined that there is likely ongoing sarcoidosis as of November 2018. (Joint Ex. 5, pp. 30-31)

When asked specifically about causal connection between the December 2016 occupational exposure and claimant's sarcoidosis symptoms, Dr. Culver opined that sarcoidosis can be dormant in a person and symptoms can be triggered by changes

within the immune system. He also opined that chemical exposures could affect the immune system. (Joint Ex. 8, p. 1)

Dr. Culver specifically opined, "the exposure to hydrochloric acid was a substantial factor in allowing the sarcoidosis to become manifest. But once it became manifest it then began causing significant problems for Mr. Land." (Joint Ex. 8, p. 1) More specifically, Dr. Culver explained, that the "sarcoidosis may have existed before his exposure to hydrochloric acid. However, the hydrochloric acid exposure and the effects on Mr. Land's immune system and body more likely than not unmasked and exacerbated sarcoidosis to the point where it manifested itself and began causing him significant health problems." (Joint Ex. 8, p. 1)

Dr. Culver also diagnosed claimant with reactive airway dysfunction syndrome (RADS) and opined that claimant's "exposure to the hydrochloric acid more likely than not resulted in the RADS for which he now needs to use inhalers as well as medications." (Joint Ex. 8, p. 1) Dr. Culver explained that claimant's RADS likely explains his ongoing fatigue and chest discomfort. (Joint Ex. 8, p. 1)

Addressing whether claimant's condition is permanent in nature, Dr. Culver opined that claimant's symptoms will wax and wane over time. However, because the symptoms have not completely remitted in over two years and given that claimant has required the implantation of a pacemaker, Dr. Culver opines that claimant is likely to be left with some permanency as a result of the work related incident. (Joint Ex. 8, p. 2) Dr. Culver did not offer a permanent impairment rating or specific permanent work restrictions. However, he opined that claimant "will have to govern himself based upon his symptoms and depending upon the severity of those symptoms there will be significant effects on his physical capabilities and work activities." (Joint Ex. 8, p. 2)

Each of the three physicians rendering opinions in this case appear to be highly qualified physicians with credentials that give them credibility. However, review of Dr. Culver's curriculum vitae demonstrates that he is a sarcoidosis expert. He has published significant research articles, book chapters and given numerous seminars on the treatment of sarcoidosis. He has served on the executive committee of the World Association of Sarcoidosis. Dr. Culver has been the chair of the Scientific Advisory Board for the Foundation for Sarcoidosis Research and served on its board of directors. Dr. Culver has served on the executive committee of the American Association of Sarcoidosis and is the president-elect for the World Association of Sarcoidosis. (Claimant's Ex. 2, 3) It is clear that Dr. Culver is a sarcoidosis expert and that he has devoted a significant portion of his professional career to research and treatment of this disease. For this reason, his opinions carry a significant amount of weight.

Moreover, Dr. Culver's explanation is reasonable and convincing. Dr. Culver does not opine that the December 20, 2016 chemical exposure caused claimant's sarcoidosis. However, he opines that the incident exacerbated claimant's underlying sarcoidosis or manifested the condition. Dr. Culver also causally relates claimant's RADS diagnosis to the December 2016 chemical exposure. Temporally, there does

appear to be a relationship between claimant's exposure to hydrochloric acid on December 20, 2016 and his development of both pulmonary and cardiac symptoms and difficulties.

As a journeyman electrician, claimant was physically active and capable of significant physical work prior to December 20, 2016. He credibly testified that he did not have cardiac or pulmonary symptoms prior to the December 20, 2016 incident. However, immediately after the December 20, 2016 incident, claimant experienced symptoms and immediately reported the exposure to his employer and during his medical care. After that date, his condition deteriorated and he has not returned to baseline.

While I acknowledge Dr. Hartley and Dr. Hamzeh's opinions and give them some weight given their credentials, I find that the expertise of Dr. Culver and the temporal relationship between claimant's work exposure and development of his symptoms is most persuasive in this case. I acknowledge the gap in treatment from January 2017 until March 2017, but find claimant's testimony that he continued to have symptoms during this period of time credible and convincing.

Ultimately, I accept Dr. Culver's opinions and find that claimant has proven that the December 20, 2016 exposure to hydrochloric acid substantially exacerbated, lit up, and accelerated his sarcoidosis and caused his RADS. Therefore, I find that claimant has proven by a preponderance of the evidence that his treatment for RADS and sarcoidosis symptoms to date are causally related to, or at least materially aggravated by, the December 20, 2016 work event.

I find that Mr. Land has not returned to his pulmonary or cardiac baseline following this work exposure. He testified credibly to his ongoing symptoms, including inability to perform sustained heavy physical labor, chronic fatigue that requires him to sleep during his lunch period at work, as well as difficulties with climbing stairs, and needing assistance from time to time from co-workers. I accept claimant's testimony that he has intentionally avoided or declined certain work opportunities due to their location involving chemical or dust environments that would likely exacerbate claimant's pulmonary and/or cardiac condition.

On the other hand, I find that Mr. Land requires no permanent work restrictions. He has not proven he sustained any permanent functional impairment under the AMA Guides to the Evaluation of Permanent Impairment, Fifth Edition. Mr. Land continues to work full-time as a journeyman electrician through his union. He is likely to continue to do so into the foreseeable future. Mr. Land is paid union scale wages for all work and has sustained little, if any, actual reduction in his earnings.

Mr. Land is 38 years of age. He has significant work-life remaining. He has the time and ability to retrain, if necessary. Yet, he is avoiding certain work environments due to his injuries and requires assistance of co-workers to complete his full job duties. Mr. Land would have difficulties performing duties as a commercial or industrial

electrician outside of the confines of his union and without the assistance of an apprentice or other journeyman electricians.

Considering his age, educational background, employment history, lack of permanent impairment, lack of permanent work restrictions, his motivation to continue working, his ability to return to work as a union journeyman electrician, as well as the severity of his injuries requiring a pacemaker and the ongoing fatigue, as well as all other factors of industrial disability outlined by the Iowa Supreme Court, I find that Mr. Land sustained a 20 percent loss of future earning capacity as a result of the December 20, 2016 exposure to hydrochloric acid, development of RADS, and exacerbation of his underlying and previously unknown or undiagnosed sarcoidosis.

Finally, I find that the treatment Mr. Land received for his RADS, sarcoidosis, and related symptoms is causally related to, or substantially aggravated by, his work exposure on December 20, 2016. Therefore, I find that Mr. Land has proven his medical treatment for the direct chemical exposure resulting in his RADS diagnosis, as well as the treatment of subsequent development of symptoms related to sarcoidosis are related to the December 20, 2016 work event. Specific medical bills are not reviewed or considered. If the parties submit disputed medical expenses in a bifurcated hearing, those specific challenges and claims will be considered.

CONCLUSIONS OF LAW

The initial disputed issue is whether the December 20, 2016 exposure to hydrochloric acid resulted in permanent disability and, if so, the extent of claimant's industrial disability. 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).

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).

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).

In this case, I found that Mr. Land proved by a preponderance of the evidence that his exposure to hydrochloric acid substantially aggravated, accelerated, or lit up his sarcoidosis, his RADS, and related symptoms. Therefore, I found that claimant proved his treatment after December 20, 2016 for symptoms related to the initial exposure or treatment of his sarcoidosis and/or RADS are causally related to the initial December 20, 2016 work exposure. Having reached that finding of fact, I conclude that Mr. Land carried his burden of proof to establish a causal connection between the December 20, 2016 work injury and any current symptoms or permanent disability.

Having found that Mr. Land continues to experience chronic fatigue, that he misses time from work periodically related to his symptoms, that he requires the assistance of co-workers to perform his full range of job duties, and that he has a pacemaker permanently installed, I conclude that Mr. Land has proven he sustained permanent disability in some amount as a result of the December 20, 2016 work exposure to hydrochloric acid.

Mr. Land's respiratory and cardiac issues are unscheduled injuries compensated pursuant to Iowa Code section 85.34(2)(u). 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 Ry. Co. of Iowa, 219 Iowa 587, 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, 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.

In this instance, Mr. Land has no proven permanent impairment related to his work injury. Dr. Culver recommends that claimant govern himself based upon the severity of his symptoms at a given moment. However, claimant does not work under permanent and formal work restrictions at the present time.

Nevertheless, Mr. Land has required the installation of a permanent pacemaker and remains at least partially dependent upon the pacemaker. Mr. Land continues to experience respiratory difficulties with heavy exertion levels. Mr. Land has chronic fatigue. He requires assistance of co-workers to complete his daily job duties and misses days from work due to his symptoms.

On the other hand, Mr. Land remains a union journeyman electrician. He continues to receive assignments from his union hall and earns union scale wages in spite of his work injury. Although Mr. Land has declined certain assignments, he continues to receive regular work and regular wages consistent with his journeyman status. He has sustained little, if any, proven wage loss as a result of this work injury. He intends to continue working as a journeyman electrician into the foreseeable future and is medically cleared to do so.

Mr. Land has some limitations, misses some work periodically, and requires assistance with heavy manual labor. Yet, he has minimal loss of earnings. Having considered claimant's age, the situs and severity of his injuries, the lack of a permanent impairment rating, the lack of permanent work restrictions, claimant's employment history, ability to continue working as a journeyman electrician, his education level, his motivation to continue working, as well as all other factors of industrial disability, I found that Mr. Land proved a 20 percent permanent disability as a result of the December 20, 2016 work injury.

This entitles claimant to an award of 100 weeks of permanent partial disability benefits. Iowa Code section 85.34(2)(u). Pursuant to the parties' stipulation, permanent disability benefits should commence on December 20, 2016. (Hearing Report)

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).

In this case, I found that claimant's sarcoidosis and RADS were materially aggravated, accelerated, or worsened by the December 20, 2016 work incident. Therefore, I conclude that medical care related to treatment of those conditions are causally related and owed by defendants. However, the parties consented at the time

of hearing to bifurcate the medical bill issues. Counsel agreed to work together to identify any disputed medical bills and to ascertain which medical expenses are causally related and should be borne by defendants pursuant to this decision. If counsel are not able to reach an amicable resolution of this issue within 60 days, either party may request (within the 60-day timeframe) the bifurcated medical issue return to formal hearing for introduction of evidence and a formal decision on any disputed medical expenses. If request for a formal hearing pertaining to medical expenses is not filed within 60 days of the filing of this decision, the undersigned will assume the parties have reached agreement on all medical bills owed pursuant to this decision.

Finally, claimant seeks an award of his filing fee as a cost of this contested case proceeding. Costs are assessed at the discretion of the agency. Iowa Code section 86.40. Claimant has prevailed in obtaining an award of permanent disability and medical benefits in this case. I conclude it is appropriate to assess claimant's filing fee ($100.00) pursuant to 876 IAC 4.33(7).

ORDER

THEREFORE, IT IS ORDERED:

Defendants shall pay claimant one hundred (100) weeks of permanent partial disability benefits commencing on December 20, 2016.

All weekly benefits shall be paid at the stipulated rate of seven hundred thirty-six and 64/100 dollars ($736.64) per week.

The employer and insurance carrier shall pay accrued weekly benefits in a lump sum together with interest payable at an annual rate equal to the one-year treasury constant maturity published by the federal reserve in the most recent H15 report settled as of the date of injury, plus two percent, as required by Iowa Code section 85.30.

Defendants are responsible for payment, or reimbursement, of all causally related medical expenses, both in the past and into the future.

The issue of medical expenses is bifurcated.

Counsel for the parties shall work together to determine if the parties can reach stipulation as to the medical bills owed pursuant to this decision.

If counsel cannot reach agreement on behalf of the parties, either party may file a request for hearing within sixty (60) days of the filing of this decision and a new evidentiary hearing will be scheduled to receive any medical evidence related to the disputed medical expenses.

The employer and insurance carrier shall reimburse claimant costs totaling one hundred dollars ($100.00).

The employer and insurance carrier 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 16th day of May, 2019.

WILLIAM H. GRELL
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

Copies to:

Nicholas G. Pothitakis
Attorney at Law
320 North 3rd Street, Suite 100
Burlington, Iowa 52601-5312
niko@iowawc.com

Timothy W. Wegman
Attorney at Law
6800 Lake Drive, Suite 125
West Des Moines, IA 50266
tim@peddicord.law

WHG/kjw

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.