BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

CARLOS CESAR DOMINGUEZ, Claimant, vs. HY-VEE DISTRIBUTION CENTER, Employer, and UNION INSURANCE COMPANY OF PROVIDENCE, Insurance Carrier, Defendants.	:	File No. 1660837.01, 20700397.01 ARBITRATION DECISION Head Note Nos.: 1803, 1802, 2502

STATEMENT OF THE CASE

Claimant, Carlos Cesar Dominguez filed a petition for arbitration seeking workers' compensation benefits against Hy-Vee Distribution Center, employer, and Union Insurance Company of Providence, insurance carrier.

In accordance with agency scheduling procedures and pursuant to the Order of the Commissioner in the matter of the Coronavirus/COVID-19 Impact on Hearings, the hearing was held on April 23, 2021, via CourtCall. The case was considered fully submitted on May 17, 2021, upon the simultaneous filing of briefs.

The record consists of Joint Exhibits 1-5, Claimant's Exhibits 1-7, Defendants' Exhibits A-G, and the testimony of claimant.

ISSUES

File No. 1660837.01 (DOI October 6, 2018)

1. Whether claimant has sustained a permanent disability and if so, the extent of the functional impairment sustained to the right arm;

2. The commencement date of PPD benefits;

3. Whether claimant is entitled to reimbursement of an independent medical examination under Iowa Code section 85.39;

4. The assessment of costs.

File No. 20700397.01 (DOI July 7, 2019)

1. Whether claimant sustained a permanent disability and, if so, the extent of the functional impairment sustained to the left leg;

2. Rate;

3. Whether claimant is entitled to reimbursement of an independent medical examination under Iowa Code section 85.39;

4. The assessment of costs.

STIPULATIONS

The parties filed a hearing report at the commencement of the arbitration hearing. On the hearing report, the parties entered into various stipulations. All of those stipulations were accepted and are hereby incorporated into this arbitration decision and no factual or legal issues relative to the parties' stipulations will be raised or discussed in this decision. The parties are now bound by their stipulations.

The parties stipulated claimant sustained an injury arising out of and in the course of his employment on October 6, 2018, and July 7, 2019.

While the parties dispute the extent of disability, they agree that the disability is a scheduled number disability to the right arm. At the time of the October 6, 2018, injury, claimant's gross earnings were $911.34 per week. Claimant was married and entitled to four exemptions. Based on the foregoing, the weekly benefit rate is $609.85.

Prior to the hearing, claimant was paid $2330.29 in temporary partial disability benefits based on an average weekly wage of $926.55 and a corresponding benefit rate of $619.23. Defendants assert a credit for the overpayment of temporary benefits.

At the time of the July 7, 2019 injury, the parties stipulate claimant's was married and entitled to four exemptions. The parties stipulate claimant sustained a scheduled member disability to the left leg with a commencement date of September 17, 2019 for permanent partial disability benefits, if any are awarded.

No benefits were paid for this injury prior to the hearing and the defendants are asserting no credit against any award.

FINDINGS OF FACT

Claimant was a 51-year-old person at the time of the hearing. His educational background includes studying through the eighth grade and English classes at Iowa Center Community College. (DE E:23) Claimant speaks some English but did not feel comfortable enough with the language to proceed in the hearing without an interpreter.

His past medical history is significant for a broken finger suffered at the age of

seventeen and a left knee injury. At the time of the October 6, 2018 injury claimant was earning $18.50 per hour. (CE 3:32) Claimant testified credibly and without rebuttal that he was able to work without restrictions pertaining to that broken finger.

On October 6, 2018, a box fell causing claimant to twist his right hand and wrist. He described the pain as on the top part of his wrist between the two prominent bones, extending over the base of his thumb. Two days later, on October 8, 2018, claimant saw Timothy G. Rice, D.O., for right wrist pain developed at work. (JE 1:2) He reported swelling in the right wrist. Id. Dr. Rice diagnosed claimant with tendonitis and placed claimant on restricted duty with no lifting over 15 pounds and an order to keep a splint on his right wrist. (JE 1:1) Claimant was to start occupational therapy ("OT") and medicate with 800 mg of Motrin as needed. Id.

Because of his work restrictions, claimant was assigned to dust between the food aisles and remove stickers on totes.

On October 10, 2018, claimant began OT. During the visit, he expressed pain over the ulnar styloid along with pain with pronation and supination. (JE 1:7) He attended a number of sessions but did not have relief. On October 30, 2018, massage and ultrasound was applied to the ulnar wrist region along with iontophoresis. (JE 1:15) On November 13, 2018, claimant underwent imaging which showed no evidence of fractures. (JE 1:22, 1:31) He was directed to continue to wear his brace and work under restrictions. Id.

On December 4, 2018, claimant returned to Dr. Rice for follow-up. (JE 1:23) He exhibited good range of motion with mild tenderness and no swelling. (JE 1:26) According to the medical note, claimant was doing well in OT and could return to regular duties. Id. Dr. Rice returned claimant to work with a 50-pound lifting restriction for two weeks followed by a return to full duty work. (JE 1:26)

After he was released by Dr. Rice, claimant worked in an area called GM. It was an area that required less carrying and he was paid less.

On January 14, 2019, claimant was discharged from OT based on goals met. (JE 1:29) His pain was 1/10 in the right ulnar wrist, no pain upon palpation and an increase in grip strength to 119 pounds. (JE 1:28) The therapist noted that claimant had not been back to work in his regular job and so it was undetermined how claimant would perform with his pain. (JE 1:29) Additionally, he was able to open a jar and flush a toilet with no complaints of pain. Id. During that appointment, claimant received ultrasound treatment to the right ulnar wrist and manual therapy to the FCU tendon, proximally and distally to the wrist, small strokes along the FCU tendon, dorsal SF metacarpal, and proximally into the mid forearm. (JE 1:29)

On July 7, 2019, claimant sustained a crush injury to his left lower extremity when a pallet jack malfunctioned, striking claimant in the left ankle area and squeezing claimant's left ankle between the wood pallets and the pallet jack. (JE 1:36) He was seen in the ER with reports that the pain in the left tibia and left foot/arch region was moderate and increased upon movement. (JE 1:36) He was positive for arthralgias and gait problems but negative for all else. There was no mention of his hand or wrist pain.

(JE 1:37) He was taken off of work but could return with no restrictions three days later. (JE 1:40)

He was seen by Dr. Rice on July 12, 2019, in follow up to the ER visit. (JE 1:44) New work restrictions of standing and walking only as tolerated were issued on July 12, 2019. (JE 1:44)

Claimant began physical therapy on July 22, 2019. (JE 1:46) Pain in his ankle was five out of ten on a ten scale. Id. He had impaired ROM, impaired strength, and impaired function. (JE 1:48) At this time, he was working in the distribution center and was on his feet all day at work. (JE 1:46) During his August 5, 2019 visit with Dr. Rice, claimant expressed difficulty at work and that Hy-Vee was not following the work restrictions. (JE 1:51) X-rays showed no signs of fracture. (JE 1:57) An MRI was normal. (JE 1:60, 1:69) Dr. Rice placed claimant on sit down duties only for work. (JE 1:59)

After the normal MRI, Dr. Rice referred claimant to an orthopedic specialist given claimant was not healing and remained tender in the left ankle. (JE 1:73) Claimant continued with physical therapy. (JE 1:75)

On September 11, 2019, claimant was terminated for excessive absenteeism. Claimant maintained that the absences were due to his injury. Claimant applied for and received unemployment benefits.

On September 17, 2019, he saw David D. Rettedal, DPM, at CNOS who concluded there was no surgical care he could provide and that crush injuries take some time to heal. (JE 2:100-101) Dr. Rettedal wrote "I am not completely surprised that he still has some pain and swelling at times." (JE 2:101) Dr. Rettedal advised claimant to continue with restrictions assigned by Dr. Rice and continue to follow up with Dr. Rice for nonsurgical treatment. (JE 2:101)

Claimant returned to Dr. Rice on September 25, 2019, who agreed with Dr. Rettedal and continued claimant on physical therapy. (JE 1:79) Claimant continued to have pain and reduced function as documented in his physical therapy records and visits with Dr. Rice in October and November 2019. (JE 1:80 et seq.)

On November 13, 2019, Dr. Rice felt he had nothing further to offer claimant and considered claimant at MMI. (JE 1:91) Dr. Rice opined that claimant's uncontrolled diabetes was impacting claimant's ability to heal. (JE 1:91) Dr. Rice returned claimant to full duty work with no restrictions. (JE 1:97) Claimant was released from PT due to Dr. Rice's determination claimant had reached maximum medical improvement. (JE 1:99) At that time, claimant still had calf pain and walked with an antalgic gait. His range of motion and strength had improved. (JE 1:99)

Claimant testified at hearing that when one is injured, it is difficult to do exercises that help control the diabetes.

On December 7, 2020, claimant was seen at UnityPoint Clinic for right wrist pain which developed when he was lifting a water bottle, which he testified weighed approximately 20 pounds, out of the trunk of his car. (JE 3:104) Because claimant was

taking nabumetone for sciatica/back pain, no further medications were ordered. (JE 3:104) There was no mention of the left lower extremity issues. (JE 3:104)

Pain persisted in his right wrist, and he saw Michael Luft, D.O., on April 5, 2021. (JE 4:107) Dr. Luft ordered an MRI to rule out De Quervain's disease. (JE 4:108) The MRI revealed degenerative joint changes and a suspected synovial cyst at the volar aspect of the distal radius at the level of the navicular bone. (JE 5:111)

Claimant testified that he does not want injections in the ankle and that he has no pain in the right wrist at rest. He experiences pain with movements, principally moving side to side, up and down, and while carrying things. He has pain when he walks a lot or climbs stairs.

On January 21, 2020, claimant underwent a medical examination with Sunil Bansal, M.D. (CE 1) During the examination claimant exhibited mild tenderness to palpation over the extensor aspect of the right wrist and a positive Finkelstein's test. (CE 1:6) He also had some reduced range of motion. (CE 1:6) His left knee was tender at the medial lateral joint line and his left ankle had tenderness to palpation over the distribution of the anterior tibiofibular ligament with lateral malleolar swelling. (CE 1:7) Range of motion of the left ankle was reduced. (CE 1:7)

Dr. Bansal opined claimant sustained a right wrist injury as a result of lifting heavy boxes on October 6, 2018. (JE 1:9) Dr. Bansal said the maximum medical improvement date for the right wrist was January 2, 2020, the date of the evaluation. (CE 1:8) He also opined the claimant sustained a left lower extremity injury upon being struck on the left ankle and lower leg by a pallet jack. (CE 1:9)

For the right wrist, Dr. Bansal's issued a 2% total upper extremity rating and 4% for the lower extremity impairment. (CE 1:9) Dr. Bansal recommended work restrictions of no lifting greater than 20 pounds with the right hand, no prolonged walking greater than 60 minutes at a time, no frequent kneeling or squatting, and avoidance of multiple stairs. (CE 1:10-11)

Dr. Douglas Martin performed an IME at the request of the defendants on March 1, 2021. (DE A) Dr. Martin diagnosed claimant with right hand and wrist contusion with some wrist tendinitis as well as impact trauma to the left extensor hallucis longus tendon. (DE A:5-6) Dr. Martin opined claimant's right wrist pain was attributable to the fifth metacarpal fracture. (DE A:4) He further opined that claimant was at MMI for the right wrist but not for the left ankle. (DE A:5-6) Dr. Martin recommended claimant undergo a corticosteroid injection into the EHL tendon. (DE A:4) Claimant has expressed desire not to undergo an injection.

Dr. Martin did not assess any impairment for either the right wrist or left ankle and recommended no restrictions. (DE A:6)

In response to Dr. Bansal's disagreement that claimant's right wrist pain was due to an old pre-work metacarpal fracture, Dr. Martin felt that the fracture healed with some degree of shortening which could cause an ulnar variance, ulnar impaction syndrome, a TFCC abnormality or an ECU wrist tendonitis. (DE A:8)

CONCLUSIONS OF LAW

The party who would suffer loss if an issue were not established has the burden of proving that issue by a preponderance of the evidence. Iowa R. App. P. 6. 904(3).

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

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).

File No. 1660837.01 (DOI October 6, 2018)

The parties are in agreement claimant sustained an injury to his right wrist and that he has ongoing right wrist pain, however, defendants argue that the wrist pain is due to an injury predating October 6, 2018, whereas the claimant attributes the right

wrist pain to his October 6, 2018, injury.

The two competing expert opinions in this case come from Dr. Martin and Dr. Bansal. Dr. Martin opined claimant's fifth metacarpal fracture resulted in some kind of ulnar variance and subsequent tendonitis, ulnar impaction syndrome, or TFCC abnormality. An MRI of claimant's wrist revealed degenerative joint changes and a synovial cyst at the volar aspect of the distal radius at the level of the navicular bone. Claimant testified that he had no problems with his right pinkie fracture and he worked with no restrictions to the right hand or upper extremity prior to the work injury on October 6, 2018. He further testified he still has pain and weakness in his right wrist. While Dr. Martin's test results for claimant show full function, even Dr. Martin acknowledges claimant has lingering problems only he attributes the lingering problems to a pre-work injury. Dr. Martin does not attribute the lingering issues to the December 7, 2020, injury when claimant struck his wrist while lifting water bottles out of the trunk of his car.

Dr. Bansal's opinion is supported by the claimant's testimony of how the injury occurred, the history of the fifth metacarpal fracture, the diagnosis of Dr. Rice, and the recent MRI. Therefore, his opinion is given greater weight. It is more likely than not based on a reasonable degree of medical certainty, that claimant's ongoing wrist pain is connected with claimant's original October 6, 2018 injury and diagnosis of tendonitis.

According to Iowa Code § 85.34(2)(x), for scheduled member injuries, "the extent of loss or percentage of permanent impairment shall be determined solely by utilizing the guides to the evaluation of permanent impairment, published by the American Medical Association, as adopted by the workers' compensation commissioner by rule pursuant to chapter 17A. Lay testimony or agency expertise shall not be utilized in determining loss or percentage of permanent impairment. . . ." (2018).

Dr. Bansal's impairment rating of 2% to the upper right extremity is also adopted herein.

Section 85.34(1) provides that healing period benefits are payable to an injured worker who has suffered permanent partial disability until (1) the worker has returned to work; (2) the worker is medically capable of returning to substantially similar employment; or (3) the worker has achieved maximum medical recovery. The healing period can be considered the period during which there is a reasonable expectation of improvement of the disabling condition. See Armstrong Tire & Rubber Co. v. Kubli, Iowa App., 312 N.W.2d 60 (1981). Healing period benefits can be interrupted or intermittent. Teel v. McCord, 394 N.W.2d 405 (Iowa 1986).

The parties dispute the commencement date of PPD. Claimant asserts the proper commencement date is January 2, 2020, the date of maximum medical improvement ("MMI") set forth by Dr. Bansal. Defendants argue the commencement date is December 18, 2018.

Dr. Bansal provides no explanation as to why the MMI date is the date of claimant's examination with Dr. Bansal.

However, as stated previously, the MMI date is only one of three triggers for the end of healing period benefits.

On December 4, 2018, Dr. Rice returned claimant to work with a 50-pound lifting restriction for two weeks. Following those two weeks, claimant would be returned to his full duty work. Claimant testified that he returned to an area of work that required less lifting, however, other than the less lifting and lower rate of pay, there was no other evidence that would indicate the position in GM was not "substantially similar employment." Thus, based on Dr. Rice's orders and claimant's return to work, it is determined the commencement date for permanent partial disability benefits arising out of the October 6, 2018 injury is December 18, 2018.

Claimant seeks reimbursement of an independent medical examination according to Iowa Code section 85.39, which requires the triggering event of claimant receiving a low evaluation from a doctor retained by the defendants.

Section 85.39 permits an employee to be reimbursed for subsequent examination by a physician of the employee's choice where an employer-retained physician has previously evaluated "permanent disability" and the employee believes that the initial evaluation is too low. The section also permits reimbursement for reasonably necessary transportation expenses incurred and for any wage loss occasioned by the employee attending the subsequent examination.

Defendants are responsible only for reasonable fees associated with claimant's independent medical examination. Claimant has the burden of proving the reasonableness of the expenses incurred for the examination. See Schintgen v. Economy Fire & Casualty Co., File No. 855298 (App. April 26, 1991). Claimant need not ultimately prove the injury arose out of and in the course of employment to qualify for reimbursement under section 85.39. See Dodd v. Fleetguard, Inc., 759 N.W.2d 133, 140 (Iowa App. 2008).

In this particular case, the doctor retained by the defendants was Dr. Rice, an authorized treating physician, and Dr. Martin, an independent medical examiner. Dr. Rice returned claimant to work full duty in December 2018 but was not asked to provide, nor did he provide any opinions on the permanent disability of claimant. Therefore, claimant's right to reimbursement was not triggered according to the provisions of the statute.

However, under 876 IAC 4.33, the expenses and fees of witnesses or of obtaining doctors' or practitioners' reports can be assessed as a cost. Because the claimant has prevailed, the report of Dr. Bansal is assessed as a cost along with the other costs requested in Claimant's Exhibit 7.

File No. 20700397.01 (DOI July 7, 2019)

The parties dispute whether claimant sustained a permanent disability and, if so, the extent of the functional impairment sustained to the left leg. Claimant suffered a sprain and contusion injury on July 7, 2019. Claimant has not fully healed from this

injury according to Dr. Martin, however, the parties have stipulated that the PPD for the left leg injury is September 17, 2019. Defendants argue that the range of motion measurements taken by Dr. Martin should be adopted over those of Dr. Bansal as Dr. Martin's are more recent.

Claimant underwent examination with Dr. Bansal on January 21, 2020, while Dr. Martin performed his examination on March 1, 2021. Defendants argue that the measurements of Dr. Martin show that claimant's condition has improved. For instance, Dr. Martin's measurements show that claimant's inversion increased by 12 degrees and his eversion increased by 11 degrees. (See DE A:4 v. CE 1:9)

Defendants cite Fleetwood v. Wellman Fansteel, File No. 5022736 (App. Dec. Dec. 5, 2008) in support. In that case, the commissioner affirmed the deputy's decision to give greater weight to an assessment closer in time to the hearing. However, that was not a bright line rule to be imposed in all cases, but rather a decision applicable given the facts in that case.

In this matter, Dr. Martin, while a respected physician, has found almost no deficits in claimant's left leg while also finding claimant to not be at MMI and recommending injection treatment. The recommendation for further treatment seems to contradict the conclusion that claimant has sustained no ongoing disability as a result of his leg injury.

Dr. Bansal's opinions are more internally consistent. Dr. Bansal opined claimant sustained an injury arising out of a pallet jack incident on July 7, 2019, and that claimant continues to have a disability from that injury. This is also consistent with claimant's medical treatment wherein it was found that he had not met his treatment goals.

Therefore, it is found claimant has sustained a permanent disability arising out of the July 7, 2019 injury. Dr. Bansal found that claimant sustained a 4% impairment to the left lower extremity and that impairment is adopted herein.

While the report of Dr. Bansal has been previously awarded, the examination fee has not. The defendants did not obtain an impairment rating as they denied the injury was work related on November 26, 2019. (CE 5:45) This denial is determined to be consistent with a zero impairment rating which triggered claimant's right to obtain his own examination.

Thus, the examination fee of Dr. Bansal is awarded in File. No. 20700397.01.

The parties also dispute the rate. Claimant asserts his gross weekly wages were $643.42 per week and defendants argue it is $616.59 per week.

Section 85.36 states the basis of compensation is the weekly earnings of the employee at the time of the injury. The section defines weekly earnings as the gross salary, wages, or earnings to which an employee would have been entitled had the employee worked the customary hours for the full pay period in which injured as the employer regularly required for the work or employment. The various subsections of section 85.36 set forth methods of computing weekly earnings depending upon the type

of earnings and employment.

If the employee is paid on a daily or hourly basis or by output, weekly earnings are computed by dividing by 13 the earnings over the 13-week period immediately preceding the injury. Any week that does not fairly reflect the employee's customary earnings is discarded. Section 85.36(6).

Claimant's wage records reflect that his earnings varied significantly from week to week. (CE 4:42-43). His earnings in the six months leading up to his injury ranged from $296 per week to $813.20 per week. (CE 4:43). There is no explanation for the significant difference in his earnings and hours worked each week. There was no testimony regarding this variance. In his brief, Claimant argues that the most representative weeks are those wherein he worked at least 35 hours per week. In Claimant's rate exhibit, eighteen weeks were submitted and during nine of the weeks, claimant worked under 35 hours. Thus, a customary workweek varied a great deal including under 35 hours.

However, defendants excluded payments that included overtime with the justification that overtime pay is beyond the weekly rate. Overtime pay can be part of a customary workweek. There is no testimony indicating that overtime paid in the thirteen weeks prior to the injury were not customary.

The greater weight of the evidence supports a calculation that takes the thirteen weeks prior to the injury as the statute mandates. $8067.14/13 = $620.55.

Claimant was married and entitled to four exemptions. The appropriate benefit rate is $436.12.

Given that claimant has prevailed, the costs are awarded to claimant.

ORDER

THEREFORE, it is ordered:

File No. 1660837.01 (DOI October 6, 2018)

That defendants are to pay unto claimant five (5) weeks of permanent partial disability benefits at the rate of six hundred nine and 85/100 dollars ($609.85) per week from December 18, 2018.

That defendants shall pay accrued weekly benefits in a lump sum.

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

That defendants are to be given credit for benefits previously paid.

That defendant shall pay the costs of this matter pursuant to rule 876 IAC 4.33, including the report of Dr. Bansal.

File No. 20700397.01 (DOI July 7, 2019)

That defendants are to pay unto claimant eleven (11) weeks of permanent partial disability benefits at the rate of four hundred thirty-six and 12/100 dollars ($436.12) per week from September 17, 2019.

That defendants shall pay accrued weekly benefits in a lump sum.

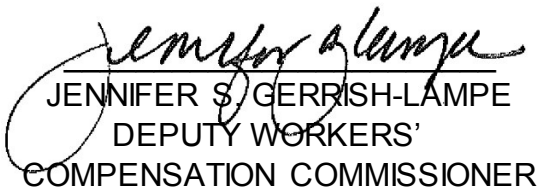
That defendants shall pay interest on unpaid weekly benefits awarded herein as set forth in Iowa Code section 85.30.

That defendants shall pay the examination portion of Dr. Bansal's IME pursuant to Iowa Code section 85.39.

That defendants are to be given credit for benefits previously paid.

That defendant shall pay the costs of this matter pursuant to rule 876 IAC 4.33.

Signed and filed this 26th day of October, 2021.



JENNIFER S. GERRISH-LAMPE
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

The parties have been served, as follows:

James Byrne (via WCES)

Lindsey Mills (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.