BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

DARREN ROSS,

Claimant,

vs.

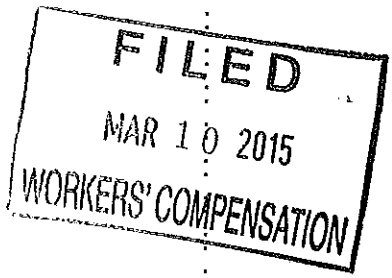
JARVIS PAINTING, INC.,

Employer,

and

ACCIDENT FUND INSURANCE COMPANY,

Insurance Carrier,
Defendants.



File No. 5046638

ARBITRATION

DECISION

Head Note Nos.: 1803; 1804; 2502; 4100

STATEMENT OF THE CASE

Darren Ross, claimant, filed a petition in arbitration seeking worker's compensation benefits from Jarvis Painting, Inc., as his employer, and Accident Fund Insurance Company, as the insurance carrier. This case proceeded to an arbitration hearing on January 6, 2015 in Cedar Rapids, Iowa.

Claimant testified on his own behalf and defendants called a vocational expert, Lana Sellner, to testify. Claimant offered exhibits 1 through 4 and 6 through 12. Defendants offered exhibits A through M. All exhibits were received into the evidentiary record without objection.

The parties also submitted a hearing report, which contains stipulations. The parties' stipulations are accepted and relied upon in entering this decision. No findings or conclusions will be entered with respect to the parties' stipulations and the parties are bound by those agreements.

Counsel for the parties requested the opportunity to file post-hearing briefs. This case was considered fully submitted upon the simultaneous filing of post-hearing briefs on February 2, 2015.

ISSUES

The parties submitted the following disputed issues for resolution:

1. The extent of claimant's entitlement to permanent disability benefits, including a claim for permanent total disability benefits and/or odd-lot status.

2. Whether claimant is entitled to reimbursement of his independent medical evaluation fees and transportation expenses pursuant to Iowa Code section 85.39.

Although noted as a disputed issue on the hearing report, defendants state in their post-hearing brief, "Defendants do not dispute that the fee for Dr. McGuire's IME is owed to Claimant and/or his counsel. Defendants are making arrangements for the payment of the same without further order." (Defendants' Post-Hearing Brief, p. 12) Given this concession by defendants, I will not be entering any findings or conclusions with respect to claimant's request for an independent medical evaluation fee. Instead, I will simply order that fee be reimbursed pursuant to defendants' agreement to do so in their post-hearing brief.

FINDINGS OF FACT

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

Darren Ross is a 49 year old gentleman, who lives in Cedar Rapids. He is a high school graduate with additional training obtained at the Institute of Security Technology in the late 1980s. Mr. Ross served two years in the United States Navy, but was other than honorably discharged due to a military criminal charge for fighting.

Mr. Ross has worked in numerous different positions since graduation from high school. After leaving the Navy, Mr. Ross worked a short-term position packaging hot dogs and hamburgers in a factory setting in his home town of Philadelphia, Pennsylvania. While residing in Philadelphia, Mr. Ross also worked for a short period of time as a security guard.

He then moved to California in the early 1990s. In California, Mr. Ross worked as a construction laborer for a firm building a motel. He performed concrete removal and served on the cleaning crew. Again, this was short-term employment lasting only a few months. After his short-term employment, Mr. Ross ended up homeless in California and worked only odd-jobs, such as painting jobs or helping people move, for cash paid "under the table."

Mr. Ross ultimately moved back to Philadelphia and obtained employment working for a liquidation business. He worked in this job for approximately three years, performing physical labor such as placing signs and assisting with going out of business type sales in various businesses.

In approximately 1994, Mr. Ross moved to Buffalo, New York. He obtained employment through the city and worked at the local baseball stadium. He served on the grounds crew, moving the field tarp and caring for the baseball field and cleaning the spectators' stands. This was a seasonal and temporary position.

However, when the seasonal job ended, Mr. Ross was able to transfer within the city's employment structures and worked in its sanitation department. Mr. Ross collected garbage for the city for approximately seven or eight years, earning approximately $11.25 per hour. Mr. Ross described this work as being very physically intensive.

After Hurricane Katrina hit the Gulf Coast of the United States, Mr. Ross moved to New Orleans and sought work through a contractor to perform construction work and specifically through the Federal Emergency Management Agency performing clean-up duties. Mr. Ross would set up housing trailers for displaced residents, install plumbing for the trailers, level existing structures, and build ramps for access to and from the temporary housing he was constructing for residents. He described that work as being very physically demanding. He earned $15.00 per hour and worked approximately 60 hours per week until the federal government's funding ended.

Mr. Ross then obtained employment from D & J Cabinets, a firm out of Florida. He worked for this company for approximately two to three years and traveled around installing washing machines, cabinets, stoves and similar tasks in rental properties.

After the 2008 flooding in Iowa, Mr. Ross moved to Cedar Rapids to obtain construction work performing demolition work. He began working for Jarvis Painting in November 2008 and began work restoring properties that had been damaged during flooding.

Mr. Ross indicated that he started with Jarvis Painting as an independent contractor, working 60 hours per week at $15.00 per hour. In 2010, he became a full-time employee of Jarvis Painting, performing the same job duties. He explained that he was responsible for demolition work in damaged properties to reduce the property all the way to bare wood studs to permit reconstruction to begin.

Claimant was responsible for carpet cleaning, removal of flooring, removal of damaged drywall, and delivery of materials for the reconstruction phase. Mr. Ross explained the physical nature of this job and that he was required to lift and manipulate 100 to 120 pounds, including items drenched with water.

On January 7, 2011, Mr. Ross was working for Jarvis Painting. On that date, he was painting in a customer's basement. The customer asked him to help move a couch. While assisting to move that couch, the customer dropped her end of the couch and Mr. Ross felt a pull in his low back with a shooting pain down his left leg.

He did not immediately seek medical attention and finished his work duties. On January 10, 2011, Mr. Ross sought treatment at an emergency room. (Ex. 11) After attempts at chiropractic care, physical therapy, an MRI of the back, and injections into his low back, Mr. Ross was eventually referred to a neurosurgeon, Mary Louise Hlavin, M.D., who evaluated him on December 21, 2011. (Ex. 6, p. 1)

Dr. Hlavin recommended a myelogram, which demonstrated degenerative disk disease in claimant's lumbar spine, and suggested compression at the S1 nerve root. Dr. Hlavin recommended surgical intervention. (Ex. 6, p. 2) Mr. Ross consented and Dr. Hlavin performed a left L5-S1 discectomy on April 17, 2012. (Ex. 3)

Surgery initially helped claimant's symptoms, but the symptoms eventually returned. (Claimant's testimony) After a post-operative recovery period, Dr. Hlavin referred claimant to a physiatrist, Stanley Mathew, M.D., for pain management. (Ex. 6, p. 6) Dr. Hlavin opined that Mr. Ross sustained a 13 percent permanent impairment of the whole person as a result of his low back injury and resulting surgery. (Ex. 6, p. 6)

Dr. Mathew first evaluated Mr. Ross on January 11, 2013. (Ex. 4, pp. 1-2) He recommended medication management, use of a TENS unit, and a series of epidural steroid injections for claimant's low back. Dr. Mathew also imposed work restrictions that preclude return to work in employment similar to that performed on the date of injury. (Ex. 4; Claimant's testimony)

Dr. Mathew declared maximum medical improvement on May 31, 2013. His diagnosis of claimant's condition is "chronic low back pain, LS radiculopathy, and post laminectomy syndrome." (Ex. 4, p. 6)

Mr. Ross sought an independent medical evaluation performed by Daniel J. McGuire, M.D., on October 14, 2014. Dr. McGuire is an orthopaedic spine surgeon. He assigns a 13 percent permanent impairment as a result of Mr. Ross' low back injury. (Ex. 1, p. 2) Dr. McGuire opines:

> I do not see Mr. Ross working 8 to 9 hours per day, day after day, week after week, month after month related to his chronic low back pain. Granted, he may be able to do some voluntary work for 2 or 3 hours at a time, but I do not see him working 8 hours per day, day after day, week after week.

(Ex. 1, p. 3)

Dr. McGuire limited claimant's lifting on a rare to occasional basis and opined claimant should not lift more than 8 to 12 pounds.

Defendants also obtained an independent medical evaluation performed by Robert Broghammer, M.D., on September 8, 2014. Dr. Broghammer opined that the date of maximum medical improvement is October 31, 2012, which is the date that Dr. Hlavin offered no further recommendations for neurosurgical treatment. (Ex. B, p. 11) Dr. Broghammer concurred with prior impairment ratings, indicating that claimant sustained a 13 percent permanent impairment of the whole person as a result of his work injury. (Ex. B, p. 12)

Dr. Broghammer, however, differed with other physicians on permanent restrictions and recommendations for further medical care. Dr. Broghammer noted that claimant had submitted to a functional capacity evaluation (FCE), which was declared to be invalid due to claimant's failure to give maximum voluntary effort. Given this invalid FCE, Dr. Broghammer declined to impose any permanent work restrictions and recommended a work hardening program over an 8 to 12 week period. (Ex. B, p. 12) Dr. Broghammer recommended no additional medical care for claimant's work injury. (Ex. B, p. 13)

Following receipt of Dr. Broghammer's report, defendants offered claimant work hardening. Claimant declined to participate in any work hardening efforts. Instead, claimant requested clarification of Dr. Mathew's opinions on the issue of work hardening.

Dr. Mathew responded to inquiries from claimant's attorney in a report he signed on October 15, 2014. In that report, Dr. Mathew concurs with Dr. McGuire's physical restrictions and opines that work hardening was not reasonable or appropriate for Mr. Ross. (Ex. 4, p. 13) Defense counsel solicited a separate report of Dr. Mathew. In a report authored by Dr. Mathew and dated October 23, 2014, he opined that the "work hardening program recommended by Dr. Broghammer may be beneficial though I do feel the patient will have difficulty returning to work due to his chronic low back pain and radiculopathy." (Ex. 4, p. 14) In this supplemental report, Dr. Mathew recommends avoidance of prolonged standing, repetitive lifting, prolonged walking or sitting, and no lifting more than 20 pounds. He also recommended against any ladder work or work at heights. (Ex. 4, p. 14)

Upon receipt of the report from Dr. Mathew to defense counsel, claimant's counsel again wrote for clarification of Dr. Mathew's opinions. In another report signed by Dr. Mathew on November 7, 2014, he opined that he did not recommend work hardening for Mr. Ross. (Ex. 4, p. 17)

Ultimately, the parties deposed Dr. Mathew to clarify his opinions. Dr. Mathew conceded that he offered contradictory opinions pertaining to the issue of work hardening in his reports. (Ex. I, p. 2 (Deposition Transcript, p. 8)) He opined that work hardening would not likely be beneficial for Mr. Ross. (Ex. I, p. 3 (Depo. Tr., p. 10)) However, Dr. Mathew qualified that statement in his deposition indicating that work hardening "could help," but that he did not "think he will be able to return to his sort of work due to his type of pain." (Ex. I, p. 3 (Depo. Tr., p. 9))

When asked about a potential for Mr. Ross to return to any type of work, Dr. Mathew conceded it was possible that Mr. Ross might be capable of returning to other types of work. He also conceded that work hardening would not have a negative impact on Mr. Ross' physical recovery from his low back injury. (Ex. I, p. 3 (Depo. Tr., p. 10)) Mr. Ross has made no attempt to return to gainful employment since his employment at Jarvis Painting ended.

All parties submitted vocational expert analyses and opinions pertaining to claimant's ability to return to substantial gainful employment. Mr. Ross retained the services of Kent Jayne, M.A. Mr. Jayne performed a personal interview of claimant, testing on claimant, and rendered an assessment of claimant's vocational potential and earning capacity. (Ex. 2)

Mr. Jayne found that Mr. Ross scored below the 1st percentile on a test of fine motor coordination and also below the 1st percentile on manual dexterity in his dominant right hand. (Ex. 2, p. 10) Neither of these testing scores should have been affected by claimant's low back injury or surgery. Both of these findings seem quite odd given claimant's work history in the construction industry and in food packaging.

I find it difficult to accept Mr. Jayne's testing results given the dexterity and fine motor skills that would be required of someone working in jobs similar to those held by Mr. Ross in his work life. Mr. Jayne certainly identifies no medical evidence to support his findings and offers no explanation of why these odd findings occurred. He offers no comment on these findings and appears to simply accept them as accurate despite the fact that they would seem contradictory to Mr. Ross' previously demonstrated skills and abilities during his work life.

Utilizing the work restrictions offered by Dr. Mathew and Dr. McGuire, Mr. Jayne opines, "it is eminently clear that Mr. Ross is no longer competitively employable at this time. He is precluded from the competitive labor market at the present time given his deficits." (Ex. 2, p. 11) In reaching this conclusion, Mr. Jayne specifically relies upon his own testing and results demonstrating the significant deficits in fine motor coordination and dexterities. (Ex. 2, p. 11) Again, I have a hard time accepting the accuracy of these findings or conclusions given that Mr. Ross' work history suggests a contrary level of fine motor skills.

Defendants offer the vocational opinions of Lana K. Sellner, M.S. Ms. Sellner personally met with claimant at defendants' request and initiate placement services. Ms. Sellner prepared a résumé for claimant to utilize in applying for new employment. She recommended vocational retraining, including computer classes. Ms. Sellner also recommended claimant participate in some volunteer work at Habitat for Humanity to provide some vocational transition, build stamina, and to help claimant's résumé as he looked for alternate employment.

Mr. Ross initially participated and cooperated with Ms. Sellner's efforts. He attended a meeting with her and provided information sufficient to start a resume. However, after Ms. Sellner made specific recommendations about participating in volunteer work at Habitat for Humanity or vocational retraining via computer classes, Mr. Ross' cooperation and participation started to change. He initially agreed to participate in the computer class. However, after enrollment was discussed, he indicated he could not participate until after the Thanksgiving holiday. He resisted any volunteer efforts at Habitat for Humanity. (Claimant's testimony; Lara Sellner's testimony)

Ms. Sellner testified that the recommended computer class would increase claimant's marketability and open additional job opportunities for claimant. The defendants agreed to pay for the recommended computer classes and Ms. Sellner obtained the necessary information for enrollment. Yet, Mr. Ross declined to attend those classes prior to the scheduled arbitration hearing.

In fact, on November 7, 2014, claimant's counsel asserted that Mr. Ross intended to participate in the recommended computer class and also desired to attempt volunteer work recommended by Ms. Sellner. (Ex. H, p. 9) Yet, three days later, when Ms. Sellner contacted claimant to initiate claimant's participation in these computer classes, Mr. Ross indicated that he has other obligations and referred Ms. Sellner to her attorney. (Ex. H, p. 13) Claimant has not shown motivation to seek alternate employment or to pursue vocational retraining. He is of an age at which there is still ample time for retraining, development of new vocational skills, and a new career, if claimant is motivated to pursue such goals.

Ms. Sellner offered a few job opportunities that might be consistent with Dr. Mathew's restrictions at exhibit 4, page 14. She acknowledged during her testimony that some of those positions may not be appropriate and others may require accommodations. Yet, claimant has made no attempt to investigate or apply for any of the recommended positions. I find Ms. Sellner's opinions and recommendations to be reasonable and appropriate in this situation. I find her opinions to be credible. Therefore, I find that defendants have offered reasonable vocational retraining and identified reasonable alternate employment options within the competitive labor market.

I find that claimant is capable of the recommended vocational retraining. I find that the offered vocational retraining would expand claimant's vocational opportunities and open additional job opportunities for him in the competitive labor market. I find that Dr. Mathew's estimate of a 20-pound lifting restriction is likely accurate. Given that type of physical capabilities, I find that claimant remains employable within the competitive labor market and that with retraining, he could pursue alternate employment options, if he was motivated to do so.

Therefore, I find that Mr. Ross has proven he sustained a substantial loss of future earning capacity as a result of his January 7, 2011 work injury. He is clearly not capable of returning to his former lines of employment or any other physically demanding employment. I find that Mr. Ross presented substantial evidence that he is not employable in the competitive labor market. However, I also find that defendants produced sufficient evidence to rebut the claimant's prima facie evidence. I find that claimant ultimately did not carry his burden of persuasion to establish that he is unemployable in the competitive labor market.

Mr. Ross has not established that he performed a reasonable effort to find steady employment. He has not established that he made a reasonable effort at vocational retraining, despite a specific recommendation and offer of such training by defendants. I find that Mr. Ross remains employable within the competitive labor market.

Considering Mr. Ross' age, employment and educational backgrounds, the situs and severity of his injury, his permanent impairment ratings, his permanent work restrictions as stated by Dr. Mathew in his October 23, 2014 report at exhibit 4, page 14, claimant's lack of motivation, as well as all other relevant industrial disability factors outlined by the Iowa Supreme Court, I find that Mr. Ross has proven he sustained a 60 percent loss of future earning capacity as a result of his January 7, 2011 low back injury at work.

Claimant seeks an award for his transportation expenses to and from his independent medical evaluation with Dr. McGuire on October 14, 2014. Specifically, claimant requests an award totaling $345.00 for transportation services rendered by "To the Rescue Iowa." (Ex. 1, p. 5) Mr. Ross contends that he needed the services of a transportation service because it was physically difficult for him to drive himself from Cedar Rapids to Des Moines to attend the evaluation.

Defendants dispute the award of the expenses paid for transportation because it was not medically necessary for him to be provided such transportation. Defendants point out that claimant has a valid driver's license and that he drove himself to Des Moines for his deposition only a few months prior to the scheduled evaluation with Dr. McGuire. Therefore, defendants contend the medical transport was neither reasonable nor necessary.

I find that claimant did not offer convincing medical evidence to demonstrate the use of To the Rescue was necessary. Defendants did not agree to the use of To the Rescue in advance of the claimant's evaluation.

CONCLUSIONS OF LAW AND REASONING

Mr. Ross asserts that he is permanently and totally disabled as a result of the January 7, 2011 work injury to his low back. Mr. Ross asserts this claim under both the traditional industrial disability analysis and claims that he is an odd-lot employee. The

odd-lot doctrine includes a burden shifting analysis, which could be advantageous to the claimant. Therefore, the odd-lot claim will be evaluated first.

In Guyton v. Irving Jensen Co., 373 N.W.2d 101 (Iowa 1985), the Iowa court formally adopted the "odd-lot doctrine." Under that doctrine a worker becomes an odd-lot employee when an injury makes the worker incapable of obtaining employment in any well-known branch of the labor market. An odd-lot worker is thus totally disabled if the only services the worker can perform are "so limited in quality, dependability, or quantity that a reasonably stable market for them does not exist." Id., at 105.

Under the odd-lot doctrine, the burden of persuasion on the issue of industrial disability always remains with the worker. Nevertheless, when a worker makes a prima facie case of total disability by producing substantial evidence that the worker is not employable in the competitive labor market, the burden to produce evidence showing availability of suitable employment shifts to the employer. If the employer fails to produce such evidence and the trier of facts finds the worker does fall in the odd-lot category, the worker is entitled to a finding of total disability. Guyton, 373 N.W.2d at 106. Factors to be considered in determining whether a worker is an odd-lot employee include the worker's reasonable but unsuccessful effort to find steady employment, vocational or other expert evidence demonstrating suitable work is not available for the worker, the extent of the worker's physical impairment, intelligence, education, age, training, and potential for retraining. No factor is necessarily dispositive on the issue. Second Injury Fund of Iowa v. Nelson, 544 N.W.2d 258 (Iowa 1995). Even under the odd-lot doctrine, the trier of fact is free to determine the weight and credibility of evidence in determining whether the worker's burden of persuasion has been carried, and only in an exceptional case would evidence be sufficiently strong as to compel a finding of total disability as a matter of law. Guyton, 373 N.W.2d at 106.

In this case, Mr. Ross produced prima facie evidence to establish a claim for permanent total disability. Therefore, the burden of production shifted to the defendants to produce evidence demonstrating the availability of suitable employment. Having found that the employer produced such evidence, the ultimate burden of persuasion rests on claimant to demonstrate that he is not employable in the competitive labor market. Having found that claimant retains residual capabilities that would make him employable within the competitive labor market, I conclude that Mr. Ross failed to establish his odd-lot claim.

Having concluded that Mr. Ross did not establish a claim as an odd-lot employee, I must also evaluate his claim under the more traditional industrial disability analysis. Mr. Ross sustained a low back injury, which is an unscheduled injury 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 R. Co., 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.

There are no weighting guidelines that indicate how each of the factors is to be considered. Neither does a rating of functional impairment directly correlate to a degree of industrial disability to the body as a whole. In other words, there are no formulae which can be applied and then added up to determine the degree of industrial disability. It therefore becomes necessary for the deputy or commissioner to draw upon prior experience as well as general and specialized knowledge to make the finding with regard to degree of industrial disability. See Christensen v. Hagen, Inc., Vol. 1 No. 3 Industrial Commissioner Decisions, 529 (App. March 26, 1985); Peterson v. Truck Haven Cafe, Inc., Vol. 1 No. 3 Industrial Commissioner Decisions, 654 (App. February 28, 1985).

Assessments of industrial disability involve a viewing of loss of earning capacity in terms of the injured workers' present ability to earn in the competitive labor market without regard to any accommodation furnished by one's present employer. Quaker Oats Co. v. Ciha 552 N.W.2d 143, 158 (Iowa 1996); Thilges v. Snap-On Tools Corp., 528 N.W. 2d 614, 617 (Iowa 1995).

Again, Mr. Ross asserts that he is permanently and totally disabled. I found that Mr. Ross has not proven he is permanently and totally disabled. However, I found that Mr. Ross proved by a preponderance of the evidence that he sustained a 60 percent loss of future earning capacity as a result of the January 7, 2011 work injury. Therefore, I conclude that Mr. Ross is entitled to an award of 300 weeks of permanent partial disability benefits. Iowa Code section 85.34(2)(u).

The parties stipulate that the commencement date for permanent partial disability benefits should be May 31, 2013. (Hearing Report) The parties also stipulate that the applicable weekly rate for permanent partial disability benefits is $412.89. (Hearing Report) Both stipulations are accepted.

Claimant seeks reimbursement of travel expenses to attend his independent medical evaluation with Dr. McGuire on October 14, 2014. Defendants have conceded liability for Dr. McGuire's independent medical evaluation fee. Therefore, it is obvious that claimant qualified for a section 85.39 evaluation.

Iowa Code section 85.39 requires defendants to reimburse claimant for "reasonably necessary transportation expenses incurred for the examination." Agency rule 876 IAC 8.1(5) provides that transportation expenses provided for in Iowa Code section 85.39 include, "Ambulance service or other special means of transportation if deemed necessary by competent medical evidence or by agreement of the parties." Having found that claimant offered no medical evidence to establish the necessity for the use of To the Rescue and having found that the parties did not enter into an agreement for the use of that company's transportation services, I conclude that claimant failed to establish entitlement to reimbursement of the To the Rescue charges. Iowa Code section 85.39; 876 IAC 8.1(5).

ORDER

THEREFORE, IT IS ORDERED:

Defendants shall pay claimant three hundred (300) weeks of permanent partial disability benefits commencing on May 31, 2013 at the stipulated weekly rate of four hundred twelve and 89/100 dollars ($412.89).

Defendants shall pay all accrued weekly benefits in lump sum with applicable interest pursuant to Iowa Code section 85.30.

Defendants shall be entitled to credit for any weekly benefits paid to date.

Defendants shall reimburse Dr. McGuire's independent medical examination fee totaling one thousand eight hundred dollars ($1,800.00).

Defendants 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 10th day of March, 2015.

William H. Grell

WILLIAM H. GRELL
DEPUTY WORKERS'
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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.