

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

BRENDA STATE,

Claimant,

vs.

MERCY MEDICAL CENTER,

Employer,
Self-Insured,
Defendant.

File No. 19001000.01

ARBITRATION DECISION

Head Notes: 1108.50, 1402.40,
1803.01, 2907

STATEMENT OF THE CASE

Brenda State, claimant, filed a petition in arbitration seeking workers' compensation benefits from Mercy Medical Center, self-insured employer and the Second Injury Fund of Iowa as defendants. Prior to the hearing, the claimant and the Second Injury Fund of Iowa reached a settlement; therefore, the Fund did not participate in this hearing. The hearing was held on April 14, 2021. This case was scheduled to be an in-person hearing occurring in Cedar Rapids, Iowa. However, due to the outbreak of a pandemic in Iowa, the Iowa Workers' Compensation Commissioner ordered all hearings to occur via video means, using CourtCall. Accordingly, this case proceeded to a live video hearing via CourtCall with all parties and the court reporter appearing remotely.

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.

Claimant, Brenda State, was the only witness to testify live at trial. The evidentiary record also includes joint exhibits JE1-JE5 and claimant's exhibits 1-3. Defendant did not offer any additional exhibits. All exhibits were received without objection. The evidentiary record closed at the conclusion of the arbitration hearing.

The parties submitted post-hearing briefs on May 3, 2021, at which time the case was fully submitted to the undersigned.

ISSUES

The parties submitted the following issues for resolution:

1. Whether claimant sustained an injury to her right wrist as a result of the July 24, 2019 injury.
2. The nature and extent of any permanent partial disability benefits claimant is entitled to receive as the result of the stipulated July 24, 2019 work injury.
3. Whether claimant is entitled to payment of medical mileage.
4. Whether claimant is entitled to medical care for treatment of her right wrist.
5. Whether defendant is liable for reimbursement of IME expenses pursuant to Iowa Code section 85.39.
6. Assessment of costs.

FINDINGS OF FACT

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

Claimant, Brenda State, was 59 years old at the time of the hearing. She was hired at Mercy Medical Center ("Mercy") in 2014. On July 24, 2019, while she was working at Mercy, she sustained a work-related injury. Defendant admits she sustained injury to her knees, but dispute that she sustained injury to her right wrist. At the time of the hearing, Ms. State continued to work for Mercy for the same or greater wages as she earned at the time of the injury. (Testimony)

Ms. State sustained a work-related injury on July 24, 2019, while working for Mercy Medical Center in environmental services. At the time of the injury, Ms. State was performing her normal job duties when she tripped over the cord of a vacuum cleaner and fell. (Testimony)

On July 25, 2019, Ms. State went to the emergency room at Mercy Medical Center. She was diagnosed with closed nondisplaced fractures of the left and right patellas. She was placed in bilateral knee immobilizers and given a walker and prescribed a wheelchair. She was to follow-up with orthopedics. (JE2, pp. 29-41)

At the request of her employer, Ms. State saw Jeffrey Westpheling, M.D. on July 25, 2019, for follow-up of bilateral patella fractures. Dr. Westpheling advised her to discuss the possibility of osteoporosis with her primary care provider given that she is postmenopausal with bilateral patellar fractures. He referred her to orthopedics for further management of her fractures. She was given ACE wraps, a walker for use at home, and kept off work. (JE3, pp. 42-43)

Ms. State saw James M. Pape, M.D. at Physicians' Clinic of Iowa, P.C. on August 1, 2019, for her knees. She reported no prior injuries except she did undergo a left knee arthroscopy 5 years ago. Dr. Pape's diagnosis was bilateral nondisplaced patella fractures. He recommended she continue with the knee immobilizers at all times

except for hygiene. Ms. State was kept off work and was to return in 2-3 weeks. (JE1, pp. 15-17)

On August 20, 2019, Dr. Pape placed Ms. State in long hinged knee braces locked in extension. She was to remain off work and return in 4 weeks. (JE1, pp. 18-20) On September 18, 2019, Ms. State was allowed to return to work with restrictions. (JE1, p. 22)

Ms. State returned to see Dr. Westpheling on October 31, 2019. She reported pain in her right radial wrist and thumb. Approximately 3 months ago, she sustained fractures of both patellae. She has been treated with braces and physical therapy. Recently she returned to work without restrictions. Ms. State reported that she had developed right wrist discomfort when having to push herself up with her right upper extremity several times a day because she had a mild injury to the left upper extremity since the original fall. She was tolerating work activities without significant difficulty. The assessment was muscle strain of right wrist, CMC (carpometacarpal) synovitis. Dr. Westpheling provided Ms. State with a thumb spica splint to wear with work and activity. She was to return in 1 to 2 weeks if her symptoms persisted. (JE3, pp. 44-45)

On December 11, 2019, Ms. State returned to Dr. Westpheling. She reported that the splint increased her discomfort in her right first CMC joint. She continued to have pain and stiffness in her right first CMC joint with some radiation into the forearm. She also had a small amount of swelling over the radial volar aspect of her wrist. Dr. Westpheling prescribed physical therapy, gave her a wrist splint to wear with work and activity. No work restrictions. She was to return in 3 weeks. (JE3, p. 46-47)

On January 23, 2020, Ms. State returned to see Dr. Pape. She reported she was doing well. The doctor noted she had been performing her regular work duties and had excellent range of motion in both knees with some patellofemoral crepitus and slight tenderness with compression. He noted she could proceed with her activities as tolerated. (JE1, pp. 26-27)

Ms. State saw Lori Erner, OT at Occupational Therapy on January 31, 2020, for right CMC synovitis. The notes state that the onset date was June 27, 2019, she wore knee braces for three months. Ms. State reported that her braces kept falling down, so she would have to hold up the braces with her right hand. Ms. State was given exercises to perform. (JE4, pp. 54-58)

Ms. State returned to therapy on February 7, 2020. She had not been performing her exercises as much as she should because she felt the exercises did not help. She did not bring her splint for fitting. (JE4, pp. 59-61)

Ms. State returned to Dr. Westpheling on February 17, 2020. He noted therapy had been working on pain diminishment. The therapist had some concerns about swelling around the right wrist. Ms. State was working without restrictions. She continued to have pain diffusely in the right wrist, with limited range of motion. X-rays were taken which revealed sclerotic changes in the lunate concerning for osteonecrosis (Kienbock disease). Dr. Westpheling's assessment was muscle strain of right wrist. She was to continue with therapy and return in 2 weeks. (JE3, pp. 48-50)

On February 24, 2020, Ms. State returned to Dr. Westpheling. He went over the results of the x-rays. He felt the possible Kienbock's disease did correlate to her area of tenderness as well as decreased right wrist range of motion. Dr. Westpheling's assessment was Kienbock's disease, right. He noted this was a non-work related condition. He discontinued therapy and advised Ms. State to return as needed. (JE3, p. 51)

On April 16, 2020, Dr. Pape authored a letter to defendant. He stated that he last saw Ms. State on January 23, 2020 at which time she was at MMI. Based on the clinical measurements he took on that date, he assigned an impairment rating. He stated:

Using the AMA Guides to the Evaluation of Permanent Impairment, 5th Edition, and based upon clinical measurements, the patient has an impairment of 7% to her right lower extremity as well as 7% to her left lower extremity based upon table 17-33 on page 546 of the guide. This would translate into a 6% whole person impairment.

(JE1, p. 28)

At the request of her attorney, Ms. State saw Farid Manshadi, M.D. on January 7, 2021, for an independent medical examination. Dr. Manshadi examined Ms. State and also reviewed the documents provided to him. Ms. State reported she did not have any issues with her right wrist prior to her work injury. She reported that she was provided knee immobilizers on both sides to be used at all times. Subsequently she started having right wrist pain because the knee braces did not fit well and she had to constantly use her right hand to hold the braces up. Dr. Manshadi also referenced an email with a hand-written note which stated, "[t]his employee sustained bilateral patella fractures and was wearing leg braces which she reports having to constantly hold up using a pinch grip with right hand/thumb." (Cl. Ex. 1, p. 7) The note was signed by a physician; however, the name was not clear.

At the time of the IME, Ms. State reported that she had been falling quite a bit and tripping as the knees knock backwards. She estimates that she had been falling or tripping about 2-3 times per week. Her right wrist swells and she feels her right hand grip is declined. She does not have any pain in her knees, but does have pain in her right wrist. She uses Tylenol and over-the-counter ibuprofen twice a day. Dr. Manshadi believes Ms. State sustained injuries involving both knees with nondisplaced patella fractures and an impaired gait with weakness of her knee flexors.

With regard to Ms. State's right hand and wrist, he opined that her Kienbock's disease was significantly materially aggravated by her work injury of June 24, 2019, [sic] and having ill-fitted knee immobilizers that constantly needed adjustment and "pulling up" with her right hand. Dr. Manshadi felt that if she did not receive any additional treatment, then she was at MMI for her right hand. He utilized the American Medical Association's Guides to the Evaluation of Permanent Impairment, 5th Edition, Chapter 16, pages 466-469 and assigned 10 percent impairment of the right upper extremity.

For the bilateral patellar fractures as well as weakness of the knee flexors, he utilized The Guides, Table 17-33, he assigned 7 percent impairment of the right lower

extremity and 7 percent of the left lower extremity. For the weakness of the knee flexors bilaterally, he used Table 17-8 and assigned another 12 percent impairment of the right lower extremity and another 12 percent impairment of the left lower extremity. He then used the Combined Values Chart for a total impairment of 18 percent of each lower extremity. Dr. Manshadi permanently restricted Ms. State to avoid any activity which required extended walking, only climbing stairs on an occasional basis, and avoiding ladders and uneven surfaces. (Cl. Ex. 1, pp. 1-9)

On March 8, 2021, Dr. Westpheling authored a missive to defendant in response to their correspondence wherein defendant requested he review the opinions of Dr. Pape and Dr. Manshadi. (JE3, pp. 52-53) Dr. Westpheling stated:

I disagree with Dr. Manshadi's opinion that Ms. State's right hand condition was materially aggravated by the June 24, 2019 [sic] work injury. Having been her authorized treating provider, her symptoms were more consistent with synovitis of the first carpometacarpal joint which would also be consistent with using a repeated pinch grip with the right hand as mentioned by Dr. Manshadi in his report. I personally reviewed her right wrist x-ray which revealed marginal sclerosis of the lunate which is radiographically consistent with stage 2 Keinbock's disease. Keinbock's disease is caused by disruption of the blood supply to the bone and progresses over several years and not a short amount of time. This condition would have become symptomatic at some point but was not aggravated, accelerated, or lit up by the work injury of June 24, 2019 [sic] or subsequent treatment thereof.

(JE3, p. 52)

Dr. Westpheling was asked to comment on the impairment ratings provided by Dr. Pape and Dr. Manshadi. Dr. Westpheling stated:

I disagree with Dr. Manshadi's assignment of an 18% impairment for Ms. State's right lower extremity condition. Similar to Dr. Pape's rating, which I agree with, Dr. Manshadi uses table 17-33 on page 546 of the Guides which indicates healed patellar fractures are 7% of the lower extremity. This is known as a diagnosis-based estimate (DBE) of impairment. However, as one can see at the bottom of page 4 of Dr. Manshadi's report, he *incorrectly* combines weakness [strength] of the knee flexors with DBE. For an explanation as to why this is incorrect, I refer the reader to table 17-2 on page 526. If one uses their finger to trace along the top row of categories, they will come to a column headed "DBE". Then, moving the finger down this column to a row marked "muscle strength", one will see an "X" in that box. Referring to the bottom of this table, one will see the notation "X = Do not use these methods *together* for evaluating a single impairment". The single impairment in this case would be the patellar fracture. Therefore, the impairment rating of 18% for the lower extremity is incorrect.

(JE3, pp. 52-53)

The first issue to be addressed is whether Ms. State's right wrist problem is related to the work injury. There are conflicting expert opinions on this issue. Dr. Westpheling assessed Ms. State with Kienbock's disease, right. He felt this was a non-work-related condition. Dr. Westpheling noted that the Kienbock's disease progresses over years and is caused by disruption of the blood supply to the bone. He believes this condition would have become symptomatic at some point and that the disease was not lit up by the work injury or subsequent treatment. (JE3, pp. 51-52) Dr. Manshadi opined that Ms. State's Kienbock's disease was significantly materially aggravated by her work injury of June 24, 2019 [sic], and having ill-fitted knee immobilizers that constantly needed adjustment and "pulling up" with her right hand. (Cl. Ex. 1, p. 8) Dr. Westpheling noted that Ms. State had right wrist pain and sprain. (JE3, pp. 44-51)

Ms. State testified that prior to the work injury and wearing the braces, she did not have any problems with her right wrist. It was after having to push herself up with her right wrist and using her right hand to constantly pull up her braces that Ms. State's right wrist became symptomatic. Dr. Westpheling believes Ms. State would have become symptomatic at some point even without the work injury; however, he does not explain the temporal relationship between the alleged mechanism of injury and the onset of symptoms. On this issue, I find the opinions of Dr. Manshadi are more persuasive than those of Dr. Westpheling. Thus, I find Ms. State's right wrist injury is a sequela of her June 24, 2019 work injury.

The next issue to be addressed is the extent of permanency Ms. State sustained as the result of the work injury. With regard to the right upper extremity, the only impairment rating in the record is from Dr. Manshadi. He cited the AMA Guides, fifth edition, and assigned 10 percent impairment of the right upper extremity. (Cl. Ex. 1, p. 8) I find that as the result of the July 24, 2019 work injury, Ms. State sustained 10 percent impairment of her right upper extremity, which is the equivalent of 6 percent of the whole person.

We now turn to the bilateral knee injuries. Several physicians have offered their opinion regarding permanent impairment for the knees. Both Dr. Pape and Dr. Westpheling utilized Table 17-33 and determined Ms. State sustained 7 percent impairment to each lower extremity as the result of the patella fractures. Dr. Manshadi also utilized Table 17-33 and assigned 7 percent impairment to each lower extremity as the result of the patella fractures. Additionally, Dr. Manshadi assigned 12 percent impairment of each lower extremity for weakness of the knee flexors. However, Dr. Westpheling set forth a detailed explanation of why the Guides do not permit combining the impairment ratings in such a manner. I find Dr. Westpheling's explanation to be well-reasoned and persuasive. Thus, I find Ms. State sustained 7 percent impairment to the right lower extremity, which is the equivalent of 3 percent of the whole person. I find Ms. State sustained 7 percent impairment to the left lower extremity, which is the equivalent of 3 percent of the whole person.

Claimant is seeking reimbursement for mileage she incurred in connection with treatment for her right wrist injury. (Cl. Ex. 2, p. 1) Defendant does not dispute that claimant incurred the mileage submitted in connection with her right wrist. Rather, defendant denied that the right wrist was causally connected to the work injury. Having

found that claimant's right wrist is causally connected to the work injury, it follows that the defendant is responsible for the submitted medical mileage. Defendant shall be responsible for the medical mileage totaling \$79.23, as submitted by the claimant. (Cl. Ex. 2, p. 1)

Claimant is also seeking treatment for her right wrist. Having found that claimant's right wrist is causally connected to the work injury, it follows that the defendant is responsible for reasonable and necessary medical treatment for her wrist related to the work injury. Defendant shall select and provide any reasonable and necessary medical treatment related to the work injury.

CONCLUSIONS OF LAW

The claimant has the burden of proving by a preponderance of the evidence that the injury is a proximate cause of the disability on which the claim is based. A cause is proximate if it is a substantial factor in bringing about the result; it need not be the only cause. A preponderance of the evidence exists when the causal connection is probable rather than merely possible. George A. Hormel & Co. v. Jordan, 569 N.W.2d 148 (Iowa 1997); Frye v. Smith-Doyle Contractors, 569 N.W.2d 154 (Iowa App. 1997); Sanchez v. Blue Bird Midwest, 554 N.W.2d 283 (Iowa App. 1996).

The question of causal connection is essentially within the domain of expert testimony. The expert medical evidence must be considered with all other evidence introduced bearing on the causal connection between the injury and the disability. Supportive lay testimony may be used to buttress the expert testimony and, therefore, is also relevant and material to the causation question. The weight to be given to an expert opinion is determined by the finder of fact and may be affected by the accuracy of the facts the expert relied upon as well as other surrounding circumstances. The expert opinion may be accepted or rejected, in whole or in part. St. Luke's Hosp. v. Gray, 604 N.W.2d 646 (Iowa 2000); IBP, Inc. v. Harpole, 621 N.W.2d 410 (Iowa 2001); Dunlavey v. Economy Fire and Cas. Co., 526 N.W.2d 845 (Iowa 1995). Miller v. Lauridsen Foods, Inc., 525 N.W.2d 417 (Iowa 1994). Unrebutted expert medical testimony cannot be summarily rejected. Poula v. Siouxland Wall & Ceiling, Inc., 516 N.W.2d 910 (Iowa App. 1994).

Based on the above findings of fact, I conclude Ms. State sustained an injury to her right arm, right leg, and left leg which arose out of and in the course of her employment with Mercy Medical Center on July 24, 2019. I further conclude that Ms. State sustained permanent disability to her right arm and permanent disability to her right leg and left leg as the result of the work injury.

We now turn to the issue of permanency benefits. A determination must be made as to how Ms. State should be compensated. Iowa Code section 85.34 addresses how injured workers should be compensated for their permanent disabilities. The Code states, "[f]or all cases of permanent partial disability compensation shall be paid as follows:" Iowa Code section 85.34(2). The Code then sets forth a list of specific injuries and a fixed schedule of weeks assigned for the loss of use of certain body parts. Iowa Code section 85.34(2) addresses an injured worker sustaining a single scheduled

member injury or a simultaneous injury to two scheduled members. Iowa Code section 85.34(2) does not contemplate three separate scheduled member injuries from a single date of injury. Claimant asserts she should be compensated pursuant to subsection "v". Defendant does not dispute that subsection "v" applies.

Iowa Code section 85.34(2)(v) states:

In all cases of permanent partial disability other than those hereinabove described or referred to in paragraphs "a" through "u" hereof, the compensation shall be paid during the number of weeks in relation to five hundred weeks as the reduction in the employee's earning capacity caused by the disability bears in relation to the earning capacity that the employee possessed when the injury occurred.
Iowa Code section 85.34(2)(v)(2017).

The work injury in this case involves permanent injuries to three separate scheduled members. This agency has held that injuries to three separate scheduled members from a single accident must be considered as a body as a whole injury and the permanency evaluated based on 500 weeks. See Bruce v. Hydecker Wheatlake Co., File No. 5036473 (Arb. Jan. 2013); Schlottman v. Sharp Bros. Contracting Co., File No. 477094 (Review-Reopening Jan. 1980); Wallingford v. Atlantic Carriers, File No. 5008405 (Arb. July 23, 2004). Thus, I conclude these injuries should be compensated pursuant to Iowa Code section 85.34(2)(v).

Based on the above findings of fact, I conclude Ms. State sustained permanent disability to her right arm and permanent disability to her right leg and left leg caused by a single accident. I concluded that Ms. State's permanent partial disability does not fall into any single subsection listed in "a" through "u" and therefore, the plain language of the statute provides that she shall be compensated as set forth in subsection "v." I conclude that Ms. State has demonstrated that she should be compensated on the basis of an unscheduled injury based on a 500-week schedule.

Next, a determination must be made as to the extent of permanent partial disability benefits that claimant is entitled to receive. The 2017 legislative amendments to section 85.34 changed the analysis of industrial disability. The pertinent portion of Iowa Code section 85.34(2)(v) states:

A determination of the reduction in the employee's earning capacity caused by the disability shall take into account the permanent partial disability of the employee and the number of years in the future it was reasonably anticipated that the employee would work at the time of the injury. If an employee who is eligible for compensation under this paragraph returns to work or is offered work for which the employee receives or would receive the same or greater salary, wages, or earnings than the employee received at the time of the injury, the employee shall be compensated based only upon the employee's functional impairment resulting from the injury, and not in relation to the employee's earning capacity. Notwithstanding section 85.26, subsection 2, if an employee who

is eligible for compensation under this paragraph returns to work with the same employer and is compensated based only upon the employee's functional impairment resulting from the injury as provided in this paragraph and is terminated from employment by that employer, the award or agreement for settlement for benefits under this chapter shall be reviewed upon commencement of reopening proceedings by the employee for a determination of any reduction in the employee's earning capacity caused by the employee's permanent partial disability.

Iowa Code section 85.34(2)(v)(2017).

In the present case, Ms. State returned to work with the same employer and receives the same or greater wages. Thus, her compensation shall be based only upon the functional impairment resulting from the injury. Based on the above findings of fact, I conclude Ms. State sustained the following permanent impairment as the result of the work injury: 10 percent impairment to her right upper extremity, which is the equivalent of 6 percent of the whole person; 7 percent impairment of her right lower extremity, which is the equivalent of 3 percent of the whole person; and 7 percent impairment of her left lower extremity, which is the equivalent of 3 percent of the whole person. Combining the 6 percent whole person rating for the arm with the 3 percent impairment of the right leg and 3 percent for the left leg results in 12 percent of the whole person impairment. See AMA Guides, Fifth Edition, pp. 604 (Combined Values Chart). According to the 500-week schedule, Ms. State has demonstrated entitlement to 60 weeks of permanent partial disability benefits, commencing on the stipulated commencement date of April 17, 2020.

We now turn to claimant's claim for medical mileage. 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).

Claimant is seeking reimbursement for mileage she incurred in connection with treatment for her right wrist injury. (Cl. Ex. 2, p. 1) Defendant does not dispute that claimant incurred the mileage submitted in connection with her right wrist. Rather, defendant denied that the right wrist was causally connected to the work injury. Having found that claimant's right wrist is causally connected to the work injury, it follows that the defendant is responsible for the submitted medical mileage. Defendant shall be responsible for the medical mileage totaling \$79.23, as submitted by the claimant. (Cl. Ex. 2, p. 1)

Claimant is also seeking treatment for her right wrist. As noted above, the employer shall furnish reasonable treatment for all conditions compensable under the

workers' compensation law. Claimant's right wrist is causally connected to the work injury; I conclude that the defendant is responsible for reasonable and necessary medical treatment for her wrist related to the work injury. Defendant shall select and provide any reasonable and necessary medical treatment related to the work injury.

Next, claimant is seeking reimbursement for the IME of Dr. Manshadi pursuant to Iowa Code section 85.39. 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.

Claimant is seeking reimbursement for the January 7, 2021, IME of Dr. Manshadi. (Cl. Ex. 1; Cl. Ex. 3) In their post-hearing brief, defendant does not contest claimant's entitlement to reimbursement for the IME. I find that the prerequisites of Iowa Code section 85.39 were met. I conclude that defendant is responsible for the reimbursement of Dr. Manshadi's IME in the amount of \$2000.00.

Finally, claimant is seeking an assessment of costs. Costs are to be assessed at the discretion of the Iowa Workers' Compensation Commissioner or the deputy hearing the case. 876 IAC 4.33. I find that claimant was generally successful and exercise my discretion to assess costs against the defendant.

First, claimant is seeking the filing fee in the amount of \$100.00. I find this is an appropriate cost under subsection 7. Thus, defendant is assessed \$100.00.

Second, claimant is seeking service fees in the amount of \$6.90 for service of the Second Injury Fund of Iowa and \$6.90 for service of Mercy Medical Center. I find that service fees are appropriate under subsection 3. However, I find that only the service fee for Mercy Medical Center is appropriate; the service fee for the Second Injury Fund of Iowa is not appropriate. Thus, defendant is assessed \$6.90.

Third, claimant is seeking an assessment of costs in the amount of \$2,000.00 for the IME of Farid Manshadi, M.D. Defendant was ordered to reimburse this amount pursuant to Iowa Code section 85.39; therefore, this is not assessed as a cost.

Fourth, claimant is seeking an assessment of costs in the amount of \$146.90 for medical records. I find that this is not an appropriate cost under 876 IAC 4.33.

Thus, defendant is assessed costs totaling \$106.90.

ORDER

THEREFORE, IT IS ORDERED:

All weekly benefits shall be paid at the stipulated rate of four hundred twenty-six and 11/100 dollars (\$426.11).

Defendant shall pay (sixty) 60 weeks of permanent partial disability benefits commencing on the stipulated commencement date of April 17, 2020. Defendant shall be entitled to credit for all weekly benefits paid to date. The hearing report states defendant paid 30.8 weeks of permanent partial disability benefits prior to the hearing. Thus, defendant owes the remaining 29.2 weeks of permanent partial disability benefits.

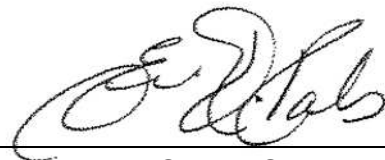
Defendant shall pay accrued weekly benefits in a lump sum together with interest on past due weekly compensation benefits accruing on or after July 1, 2017, shall be payable at an annual rate equal to the one-year treasury constant maturity published by the federal reserve in the most recent H15 report settled as of the date of injury, plus two percent. See *Deciga-Sanchez v. Tyson Fresh Meats, Inc.*, File No. 5052008 (App. Apr. 23, 2018) (Ruling on Defendants' Motion to Enlarge, Reconsider or Amend Appeal Decision re: Interest Rate Issue).

Defendant shall pay medical mileage as set forth above.

Defendant shall reimburse claimant costs as set forth above.

Defendant 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 13th day of September, 2021.



ERIN Q. PALS
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

The parties have been served, as follows:

Gary Nelson (via WCES)

Thomas Wolle (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.