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BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

FILED
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WORKERS COMPENSATION

DANDEENA SCHADLE, Claimant, vs. UNION COMMUNITY SCHOOL DISTRICT, Employer, and EMC INSURANCE, Insurance Carrier, Defendants.	:	File No. 5057454 ARBITRATION DECISION Head Note Nos.: 1402.30, 1402.40, 1802, 1803, 2204, 2206, 2501

On July 16, 2018, the claimant, Dandeena Schadle, filed a petition in arbitration against the defendants, Union Community School District ("Union CSD") and EMC Insurance Co. ("EMC"), alleging she sustained injuries to her left knee, right ankle/foot, right hip, right shoulder, mental, and body as a whole while working for Union CSD on May 4, 2015. Union CSD and EMC filed an answer admitting Schadle sustained an injury to her left knee only.

An arbitration hearing was held at Iowa Workforce Development in Waterloo, Iowa, on May 22, 2019. Attorney Benjamin Roth represented Schadle. Schadle appeared and testified. Attorney Matthew Novak represented Union CSD and EMC. Travis Fleshner appeared and testified on behalf of Union CSD and EMC. Marisa McClimon and Diane Roberts also attended the hearing, but did not testify. Joint Exhibits ("JE") 1 through 9, and Exhibits 1 through 11 and A through G were admitted into the record. The record was held open through June 12, 2019, for the receipt of post-hearing briefs. The briefs were received and the record was closed.

Before the hearing the parties prepared a hearing report, listing stipulations and issues to be decided. Union CSD and EMC waived all affirmative defenses.

STIPULATIONS

1. An employer-employee relationship existed between Union CSD and Schadle at the time of the alleged injury.

2. Schadle sustained an injury on May 4, 2015, which arose out of and in the course of her employment with the Union CSD.

3. The alleged injury is a cause of temporary disability during a period of recovery.

4. The alleged injury is a cause of permanent disability.

5. Union CSD and EMC paid Schadle healing period benefits for May 5, 2015, May 7, 2015 through August 18, 2015, September 1, 2015, September 9, 2015 through February 14, 2016, January 26, 2017 through February 15, 2017, and September 5, 2017 through December 19, 2017.

6. If the injury is found to be a cause of permanent disability, the disability is an industrial disability.

7. If the injury is found to be a cause of permanent disability, the commencement date for permanent partial disability benefits, if any are awarded, is February 15, 2016.

8. At the time of the alleged injury Schadle's gross earnings were $1,392.00 per week, she was married and entitled to two exemptions, and the parties believe the weekly rate is $854.27.

9. The summary regarding medical expenses found at Exhibit 9 is an accurate summary of the underlying medical billing statements and the amounts paid by Schadle and her non-occupational insurance carrier are fair and reasonable.

10. Union CSD and EMC agree the medical expenses set forth in Exhibit 9 are causally connected to the medical conditions upon which the claim of injury is based with the exception of any charges for the lumbar spine. Wellmark has a claim for reimbursement if the medical expenses are found to be related to the work injury.

11. Union CSD and EMC paid Schadle permanency benefits for February 15, 2016 through January 22, 2017, January 23, 2017 through September 3, 2017, and February 12, 2018 through December 26, 2018.

12. Costs have been paid.

ISSUES

1. What is the nature of the injury?

2. Has Schadle established she sustained sequela injuries to her right hip, right shoulder, mental, and right foot/ankle in addition to her admitted left knee injury?

3. What is the extent of disability?

4. Is Schadle entitled to healing period benefits from December 20, 2017 through February 11, 2018?

5. Are the benefits Union CSD and EMC paid to Schadle from December 20, 2017 through February 11, 2018 properly characterized as healing period benefits or permanent partial disability benefits?

6. Are Union CSD and EMC entitled to a credit of 134.08 weeks or 126.286 weeks for permanent partial disability benefits?

7. Is Schadle entitled to an award of penalty benefits?

8. Should costs be assessed against either party?

FINDINGS OF FACT

Schadle lives in an old farmhouse in Van Horne, Iowa, with her husband. (Transcript, page 8) At the time of the hearing she was fifty-three. (Tr., p. 8) Schadle is right-hand dominant. (Tr., p. 8)

Schadle graduated from high school and attended Iowa Wesleyan College, earning a Bachelor of Arts degree in education in 1988. (Tr., p. 9) Since her graduation from college, Schadle has enrolled in graduate classes in education through the Grant Wood Area Education Agency with Morningside College and Drake University. (Tr., p. 9)

After graduating from college Schadle accepted a position teaching art in Fredericksburg. (Tr., p. 10) Schadle taught art in Fredericksburg for approximately five years. (Tr., p. 10)

In 1994, the Union CSD hired Schadle as an art teacher, where she teaches children from kindergarten through the eighth grade. (Tr., p. 10) Schadle testified she likes her job and “loves the kids, what they do.” (Tr., p. 10)

Schadle sustained an injury while working for the Union CSD on May 4, 2015. Before her work injury Schadle had been diagnosed with diabetes and nerve pain in her

left foot, and she injured her left shoulder. (Tr., p. 11) Schadle testified that before the May 4, 2015 work injury, she did not have any permanent restrictions or medical conditions that limited her ability to work as a teacher. (Tr., p. 11)

For many years Schadle has received primary medical care from multiple physicians and Harold Vanscoy, PA-C at Vinton Family Medicine. (JE 1) Schadle has had problems with right ankle and leg swelling, dating back to February 2000, with no known injury. (JE 1, p. 1) Schadle reported her right lower extremity would become hot and red, and was worse by the end of the day. (JE 1, p. 1) In May 2000, Schadle reported she continued to have problems with her right ankle and leg, and discomfort in her right knee, and she was prescribed a Ted hose to wear during the day and Lasix. (JE 1, p. 1) Vanscoy continued to treat Schadle in 2002 and 2004, assessing her with right leg pedal edema, right ankle pain, varicosities, and questionable venous insufficiency of the right leg. (JE 1, p. 2) At the time of the hearing Schadle continued to wear a Ted hose on her right lower extremity.

In December 2004, Schadle tripped and fell while walking her dog, and she sought medical treatment for left knee pain, reporting she could not bend her knee, and she was experiencing severe pain with ambulation. (Tr., p. 12; JE 1, p. 4) Schadle continued to complain of left knee pain during an appointment on August 17, 2005. (JE 1, p. 5) Schadle testified at hearing her knee pain "cleared up." (Tr., p. 12)

Schadle has struggled with her weight for many years. Schadle continued to receive treatment for lymphedema, cellulitis, poor venous return, eczema, diabetes mellitus Type II, lower extremity edema, and hypertension. (JE 1, p. 5)

In January 2006, Schadle attended an appointment with Vanscoy, complaining of low back pain radiating into her left leg for the past "couple of weeks," and pedal edema. (JE 1, p. 6) Vanscoy assessed Schadle with radicular pain in the left leg, pedal edema, and metabolic syndrome and prescribed Flexeril and Lortab. (JE 1, p. 6) Schadle underwent an epidural block. (JE 1, p. 6) During an appointment with Vanscoy on February 13, 2006, Schadle relayed she felt "great" after the epidural block and reported she did not have pain in her knee or back. (JE 1, p. 6)

During an appointment on August 2, 2010 Schadle complained her right lower leg was painful and warm to the touch. (JE 1, p. 7) Vanscoy assessed Schadle with right lower leg cellulitis. (JE 1, p. 7) In December 2010, Schadle attended an appointment complaining of lower extremity edema with skin breakdown, and a left foot deformity secondary to an amputation following unsuccessful hammertoe surgery. (JE 1, p. 7) Schadle has taken gabapentin for left foot nerve pain for many years. (Tr., p. 11) Schadle continued to take gabapentin for left lower extremity nerve pain at the time of the hearing.

Schadle testified on May 4, 2015, she went down to bring the fifth grade students to art class. (Tr., p. 12) Schadle was walking through the lunchroom and the students lined up behind her to go to the art room. (Tr., p. 12) Schadle relayed,

> I turned around and took a step, and my foot went out in front of me, my right foot. My left foot went behind me. My knee bounced off the floor. I hit my hip and hit my head and pretty much almost knocked myself out. And my foot was pinned behind me.
>
> And the kids ran and got help with the office, and the office came. And then the ambulance came. And I slipped on some water that was on the floor that they wiped up before they loaded me up in the ambulance.

(Tr., pp. 12-13) Schadle reported she hit her right hip and she experienced immediate pain in her left knee, right hip, and left foot. (Tr., pp. 13-14)

Schadle was transported from work by ambulance to Virginia Gay Hospital. (JE 2, p. 35) Jill Reese, PA-C, examined Schadle and documented Schadle slipped on water on the ground, "landing with a flexed left knee and an extended right knee, landing on her tailbone and hitting the back of her head on the ground." (JE 2, p. 35) Hospital staff documented Schadle had a history of a sacral fracture many years ago. (JE 2, p. 35) Reese listed an impression of a closed head injury and left knee strain, applied an Ace wrap to her knee, prescribed Motrin 800 mg, ordered Schadle to ice her knee for twenty minutes three times per day, and recommended Schadle follow up with her primary care provider if her symptoms persisted. (JE 2, p. 35) Schadle returned to work on May 6, 2015, for an art show at the school. (Tr., pp. 16-17)

Schadle received follow-up care with Vinton Family Medicine. (JE 1, pp. 8-10) During an appointment on May 13, 2015, Chelsea Peoples, PA-C listed an impression of a torn meniscus, prescribed hydrocodone, and restricted Schadle from working through June 2, 2015. (JE 1, pp. 11-13) Schadle was referred to the University of Iowa Hospitals and Clinics ("UIHC").

On May 13, 2015, Schadle attended an appointment in orthopedics at the UIHC with Nicholas Bedard, M.D., complaining of left knee pain after a fall on a wet floor at work. (JE 3, p. 39) Dr. Bedard reviewed magnetic resonance imaging of Schadle's left knee and found Schadle had "likely acute posterior horn medial meniscal tear in the setting of tricompartment arthritis and degenerative meniscal injuries." (JE 3, pp. 39-40) Dr. Bedard dispensed a knee immobilizer and directed Schadle to bear weight as tolerated. (JE 3, p. 40)

On June 2, 2015, Schadle attended an appointment with Rhonda Dunn, ARNP, in orthopedics at the UIHC. (JE 3, p. 43) Dunn noted Schadle was ambulating with crutches, she reported continued pain in the anterior, posterior, medial and lateral knee, she had limited flexion of the knee, and she requested medication for depression. (JE

3, p. 43) Dunn observed Schadle was walking with an antalgic limp, and her mood was sad. (JE 3, p. 44) Schadle reported she had mild right hip pain with activity and at rest. (JE 3, p. 47) Dunn diagnosed Schadle with left knee pain, morbid obesity, insulin dependent diabetes mellitus, prepatellar bursitis of the left knee, and arthritis of the left knee, and imposed restrictions for the left knee of no kneeling or crawling, and use of crutches or a cane, as needed. (JE 3, pp. 45-46)

Schadle attended an appointment with Nicholas Noiseux, M.D., an orthopedic surgeon at the UIHC, on July 14, 2015, complaining of right hip pain. (JE 3, pp. 49, 51) Dr. Noiseux documented he observed Schadle had a limp without support that was "severe" on the left affecting her gait, she walked with a very slow speed, and she walked mostly with two canes, two crutches, or with a walker. (JE 3, p. 49) Dr. Noiseux administered a left knee injection, ordered Schadle bear weight as tolerated and discontinue the use of crutches as she is able, and imposed kneeling and squatting restrictions. (JE 3, p. 51)

On August 4, 2015, Schadle returned to Dr. Noiseux reporting her knee "felt really good for 4 days after the injection," but also reporting the pain benefits had worn off. (JE 3, p. 54) Dr. Noiseux discussed total knee replacement surgery, and documented Schadle had a history of reflex sympathetic dystrophy, which he noted would likely return following knee replacement surgery. (JE 3, p. 55) Schadle indicated she would like to proceed with surgery. (JE 3, p. 55) Dr. Noiseux documented the total knee replacement was related to the work injury, opining the work injury aggravated Schadle's underlying knee arthritis. (JE 3, p. 55) During the appointment Schadle again complained of right hip pain and Dr. Noiseux documented she had a severe limp on the left. (JE 3, p. 57) Dr. Noiseux imposed restrictions of no kneeling or squatting, no lifting greater than thirty pounds, to use crutches or a cane as needed, and no standing or walking greater than fifty percent of the work day. (JE 3, p. 58)

Schadle returned to work on August 19, 2015. (Tr., p. 18) On September 8, 2015, EMC informed Schadle the Union CSD was no longer able to accommodate the work restrictions from Dr. Noiseux and Dunn, and the school had arranged for a substitute teacher in the interim until she had knee replacement surgery and was able to return to work. (Exhibit 7, p. 34) Schadle was off work starting on September 9, 2015. (Tr., p. 18)

On October 26, 2015, Dr. Noiseux performed an arthroplasty knee microport, and Schadle remained off work until December 1, 2015. (JE 3, pp. 60, 63) Schadle returned to Dr. Noiseux on December 1, 2015, and he imposed work restrictions of sedentary duty with no kneeling, and the ability to use a cane. (JE 3, p. 64) On February 9, 2016, Dr. Noiseux released Schadle to return to work on February 15, 2016, with a permanent restriction of no kneeling on her left knee. (JE 3, pp. 65-66)

Schadle returned to work on February 16, 2016. (Tr., p. 20) Schadle reported she was having a difficult time getting up and down stairs and she was experiencing hip pain. (Tr., p. 21)

Schadle attended a follow-up appointment with Dr. Noiseux on April 5, 2016, complaining of lateral hip pain/trochanteric bursitis, which he documented "was also described at her first visit after her injury" and sitting bone pain/ischial bursitis and right-sided low back pain with sciatica, which he documented were new, and not described during her initial visit. (JE 3, p. 67) Dr. Noiseux diagnosed Schadle with right hip pain, trochanteric bursitis of the right hip, ischial bursitis of the right side, sciatic leg pain, and right-sided low back pain with right-sided sciatica. (JE 3, p. 68) Dr. Noiseux opined Schadle had reached maximum medical improvement for her left knee, continued her restrictions, and ordered physical therapy with modalities for "troch bursitis and ischial bursitis which are related to the initial injury." (JE 3, p. 68) Dr. Noiseux referred Schadle to Cassim Igram, M.D., for an evaluation of her back pain and sciatica and agreed he would defer to Dr. Igram on whether her back-related symptoms were caused by her injury or related to her knee rehabilitation. (JE 3, p. 68) Dr. Igram examined Schadle and opined her right-sided low back pain with right-sided sciatica was not causally related to the May 2015 work injury and he released her to return to work without restrictions for her back. (JE 3, pp. 71-72)

On May 3, 2016, Schadle attended a follow-up appointment with Dr. Noiseux. (JE 3, p. 73) Dr. Noiseux documented Schadle was feeling down or depressed and anxious, with excessive worry, noting she was sad and tearful. (JE 3, p. 73) Dr. Noiseux documented Schadle had an antalgic gait and she was complaining of right hip greater trochanter pain, right low back pain, and lower extremity pain. (JE 3, p. 73) Dr. Noiseux recommended an ultrasound guided injection, and directed Schadle to discuss taking Lyrica or Cymbalta with her primary care physician for chronic musculoskeletal pain unrelated to her left knee replacement. (JE 3, p. 73)

On May 3, 2016, Dr. Noiseux issued an impairment rating for Schadle. (JE 3, p. 74) Using the Guides to the Evaluation of Permanent Impairment (AMA Press, 5th Ed. 2001) ("AMA Guides"), Dr. Noiseux assigned a permanent partial impairment rating of thirty-seven percent of the lower extremity, opining:

> [t]his rating is the result of total knee replacement with "good" result per table 17-33 on page 547 of the Guides. The "good" result is due to "mild or occasional" pain, normal range of motion, no instability, neutral alignment, and no flexion contracture or extension lag per table 17-35 on page 549 for a total knee replacement score of 95/100. She was released with the permanent restriction of no kneeling on her left knee. Future knee treatment for this injury could include non-steroidal anti-inflammatory medications, physical therapy, and possibly revision surgery.

(JE 3, p. 74)

Schadle returned to the UIHC for an appointment on June 7, 2016, complaining of pain in her right buttock at the ischial tuberosity and down the posterolateral right leg and groin, warmness in her right knee, and a sore lump in her knee. (JE 3, p. 75) Hospital staff documented Schadle reported she walked with a limp that throws off her lower back. (JE 3, p. 75)

On July 15, 2016, Schadle attended an appointment with Jeffrey Nassif, M.D., an orthopedic surgeon with Physician's Clinic of Iowa, complaining of pain in the lateral side of her hip going down to her calf posteriorly since the May 2015 work injury. (JE 5, p. 115)

On September 13, 2016, Schadle attended an appointment with Dr. Noiseux, complaining of pain radiating down her right leg, difficulty with stairs, inclines and uneven ground, feeling down or depressed, and having trouble sleeping. (JE 3, p. 77) Dr. Noiseux documented Schadle's right hip responded to an injection in the greater trochanteric bursa, but the pain had returned. (JE 3, p. 78) Dr. Noiseux recommended Schadle undergo magnetic resonance imaging before she received an additional injection. (JE 3, p. 78)

Schadle underwent right hip magnetic resonance imaging on October 27, 2016. (JE 6, p. 136) The reviewing radiologist listed an impression of a full thickness tear of the right gluteus minimus insertion with a high grade partial tear of the gluteus medius insertion and fluid in the right trochanteric bursa. (JE 6, p. 137)

On November 8, 2016, Schadle attended an appointment with Mathew White, M.D., an orthopedic surgeon with Physician's Clinic of Iowa, complaining of right hip/buttock pain following the May 2015 work injury. (JE 5, p. 116) Dr. White examined Schadle and assessed her with a right gluteal medius/minimus tear and right hamstring insertion tendinopathy. (JE 5, p. 117) Dr. White recommended a cortisone injection, and discussed surgical repair with Schadle. (JE 5, p. 117)

Schadle returned to Dr. White on December 21, 2016, reporting she received good relief from the injection for four to five days, but the pain returned. (JE 5, p. 118) Dr. White again discussed surgery with Schadle. (JE 5, p. 119)

On January 6, 2017, EMC requested Dr. Noiseux review magnetic resonance imaging of Schadle. (JE 3, p. 79) Dr. Noiseux noted he is not a radiologist, and given he did not have earlier magnetic resonance imaging, "I can only conclude that her most significant trauma would be the most likely to have caused the tears in her abductors (gluteus medius – partial, and gluteus minimus – complete). Thus her work injury is the most likely causative injury for these tears." (JE 3, p. 79)

On January 26, 2017, Dr. White performed a right hip endoscopic IT band lengthening and trochanteric bursectomy on Schadle. (JE 5, p. 120) Schadle reported she returned to work on February 16, 2017, following surgery. (Tr., p. 24)

During a follow-up appointment on March 7, 2017, Schadle reported she continued to have pain, and she was frustrated and tearful during the appointment. (JE 5, p. 120) Dr. White documented her problem was complex and he recommended a second opinion with the Mayo Clinic. (JE 5, p. 121) Dr. White further documented:

> [i]n addition to the physical nature of her recovery, I'm quite concerned about and he [*sic*] is [*sic*] overall mental and emotional health. It is apparent that the injury, long-term nature of the evaluation, and limited treatment efficacy to this point, has left her emotionally troubled. She has been tearful and [*sic*] every one of our clinic visit [*sic*] stating [*sic*] back to the first time we met and and [*sic*] has developed interactions that given [*sic*] the concern for ongoing depression. I do think she would be best served in that regard by a visit with a mental health expert such as a psychiatrist or psychologist. I do believe that this is related to her work injury as she does not report any previous concerns in this regard. We will work to get her set up with the Mayo Clinic as well as a mental health expert pending approval. She is going to hold off on therapy at this point. Continue current work restrictions.

(JE 5, p. 121)

During a physical therapy appointment on March 2, 2017, Schadle complained her shoulders and hand were hurting from using crutches again, and she was struggling to work full days. (JE 4, p. 102) The physical therapist documented Schadle was tearful during treatment and reported she was unable to sleep at night even with sleeping pills. (JE 4, p. 103)

On May 18, 2017, Schadle attended a psychiatric evaluation with Raja Akbar, M.D., a psychiatrist, on a referral from Dr. White. (JE 8, pp. 148-51) Schadle reported the complications from her work injury had taken a lot of her life away from her, she felt depressed and tired all the time, and she had no energy or ambition. (JE 8, p. 148) Schadle reported that before her work injury she had never suffered from or been treated for depression. (JE 8, p. 148) Dr. Akbar documented Schadle was cooperative and tearful, depressed and anxious, and had feelings of losing control with chronic pain and job stress. (JE 8, p. 149) Dr. Akbar diagnosed Schadle with depressive disorder related to joint issues, pain dysthymic disorder, chronic pain related to the right hip, and status post knee replacement and hip surgery. (JE 8, p. 151) Dr. Akbar increased Schadle's Cymbalta and referred her to Christy Clements, L.I.S.W. (JE 8, p. 151)

Schadle returned to Dr. Akbar on June 29, 2017, and reported her depression had improved since her Cymbalta had been increased. (JE 8, p. 152) During his examination, Dr. Akbar documented Schadle's mood was depressed and anxious and she had a difficult time concentrating and remembering things with fatigue. (JE 8, p. 153) Dr. Akbar diagnosed Schadle with depressive disorder related to joint issues, pain dysthymic disorder, chronic pain related to the right hip, and status post knee

replacement and hip surgery. (JE 8, p. 153) Dr. Akbar recommended reducing Trazadone and to monitor sedation effects and referred Schadle to Clements for therapy. (JE 8, p. 154) Schadle commenced therapy with Tasha Lowman, L.I.S.W. (JE 8, p. 155)

On July 25, 2017, Schadle attended an appointment with Rafael Sierra, M.D., an orthopedic surgeon with the Mayo Clinic, concerning her right hip, on a referral from Dr. White. (JE 9, p. 184) Dr. Sierra recommended right hip magnetic resonance imaging. (JE 9, p. 184)

Schadle received right hip magnetic resonance imaging at the Mayo Clinic on July 31, 2017. (JE 9, p. 185) On August 10, 2017, Schadle returned to Dr. Sierra. (JE 9, p. 186) Dr. Sierra noted the imaging showed Schadle had abductor tearing with no progression of the fat atrophy, he diagnosed Schadle with right hip abductor pathology with tearing, and he recommended an abductor reconstruction. (JE 9, p. 186)

During an appointment on August 23, 2017, Peoples documented Schadle was going to receive hip surgery at the Mayo Clinic in September 2017. (JE 1, p. 21) Schadle reported she was stressed because her life had changed "drastically" and she was seeing a psychiatrist for depression in Waterloo and planned to see a counselor. (JE 1, p. 21) Peoples observed Schadle was tearful during the appointment. (JE 1, p. 22) Peoples documented Schadle had left knee problems due to changes in her gait, and diagnosed her with right hip pain, sciatic leg pain, right-sided low back pain with right-sided sciatica, neuropathy, and hypertension. (JE 1, pp. 21-22)

Dr. Sierra performed a right hip open abductor reconstruction on Schadle on September 5, 2017, at the Mayo Clinic. (JE 9, p. 187) On September 11, 2017, Dr. Sierra discharged Schadle from the hospital to a facility with a diagnosis of right hip abductor repair with Achilles allograft. (JE 9, p. 188)

On September 11, 2017, Schadle was admitted to Virginia Gay Hospital. (JE 2, p. 36) Matthew Wilden, PA-C, admitted Schadle to an acute floor for physical therapy, occupational therapy, and pain control, and noted Schadle was nonweightbearing for her right lower extremity. (JE 2, p. 37) Schadle was discharged from Virginia Gay Hospital on December 1, 2017. (JE 2, p. 38)

On October 25, 2017, Stacey Hodges, OTR, conducted an occupational therapy home visit with Schadle. (JE 4, p. 106) Hodges documented

> [s]ince it was not safe for [Schadle] to reach the inside of her home by either door, the therapists attempted the three first steps with railing. [Schadle] was able to hop up the three steps with railing and walker in sideways position with minimal assistance. At the last step/hop, [Schadle] screamed in pain due to her right shoulder. She had to bear more weight through the arm to make the hop onto the last step. Moderate assistance

> was required for balance and safety at that time. Discussed her arm pain and felt no more hopping was appropriate. [Schadle] was then lowered by w/c down the steps with assist of 2.

(JE 4, p. 107) Schadle testified during the home visit she felt a "pull in [her] shoulder that hurt a lot" and the staff moved her into a wheelchair and took her back to the hospital. (Tr., p. 26)

Schadle underwent right shoulder magnetic resonance imaging on November 15, 2017. (JE 6, p. 138) The reviewing radiologist listed an impression of:

> 1. Low-grade bursal and intrasubstance tearing of the distal supraspinatus tendon.
>
> 2. Mild subacromial/subdeltoid bursitis and prominent subcoracoid bursitis.
>
> 3. Mild tendinopathy along the intra-articular course of the long head of the biceps tendon.
>
> 4. Unfused os acromiale.
>
> 5. Moderate degenerative changes in the right AC joint with capsular distention.

(JE 6, p. 139)

On November 23, 2017, Schadle attended a follow-up appointment with Dr. Sierra. (JE 9, p. 189) Dr. Sierra documented Schadle had no pain over the lateral aspect of her hip, she was weak and unable to put full weight on her leg, and she had been diagnosed with a rotator cuff problem. (JE 9, p. 189) Dr. Sierra ordered physical therapy. (JE 9, p. 189)

On November 29, 2017, Schadle returned to the UIHC complaining of right shoulder pain. (JE 3, p. 80) Hospital staff ordered an x-ray and recommended physical therapy, ice, and an ultrasound-guided right subacromial injection. (JE 3, p. 8)

Schadle testified the day before her discharge from Virginia Gay Hospital the staff had her go up and down stairs to prepare for her discharge. (Tr., p. 29) Schadle relayed, "when I stepped down on the steps, it felt like I had glass in my ankle." (Tr., p. 29)

Schadle returned to Peoples on December 7, 2017, reporting her brace had been removed and she was informed she could start walking after twelve weeks of no weight bearing. (JE 1, p. 23) Schadle complained of "extreme right foot, right ankle pain and extreme edema." (JE 1, p. 23) Peoples diagnosed Schadle with pain in joint, ankle and

foot, arthropathy, ankle and foot, reflex sympathetic dystrophy of the lower limb, benign essential hypertension, status post amputation of the lesser toe, morbid obesity, insulin dependent diabetes mellitus, left total knee replacement, left knee pain, sciatic leg pain, right-sided low back pain with right-sided sciatica, right hip pain, impaired weight bearing, and subacromial bursitis of the right shoulder joint. (JE 1, p. 23) Peoples observed Schadle was tearful, her right foot and ankle were diffusely swollen and tender to palpation, and documented Schadle could not bear weight due to pain. (JE 1, p. 24)

On December 18, 2017, Peoples diagnosed Schadle with hemarthrosis of the right ankle and foot, injected lidocaine into her right lower extremity, recommended Schadle not continue with physical therapy for her right ankle pending magnetic resonance imaging, but ordered Schadle to continue with shoulder therapy, and restricted Schadle from working pending the results of the imaging. (JE 1, pp. 26-27)

On December 29, 2017, Schadle attended an appointment with Brian Meeker, D.O., a family medicine provider with Vinton Family Medicine. (JE 1, p. 28) Dr. Meeker documented on December 18, 2017 he treated Schadle with Peoples, and he attempted arthrocentesis, but when he aspirated the joint he could only retrieve two centimeters of pure blood and aborted the procedure. (JE 1, p. 28) Dr. Meeker noted he suspected the cause of Schadle's chronic ankle complaint was likely due to a bone or cartilage problem, so he ordered magnetic resonance imaging, but coverage was denied. (JE 1, p. 28) Dr. Meeker documented Schadle could not walk without a walker, and her right ankle pain was exacerbated by walking. (JE 1, p. 28) Dr. Meeker diagnosed Schadle with pain in the ankle and foot joint, unspecified arthropathy of the ankle and foot, reflex sympathetic dystrophy of the lower limb, and benign essential hypertension, ordered magnetic resonance imaging of the right ankle, referred Schadle to an ankle specialist, and excused Schadle from working until January 9, 2018. (JE 1, pp. 28-31)

Schadle underwent right ankle magnetic resonance imaging on January 2, 2018. (JE 6, p. 142) The reviewing radiologist listed an impression of:

> 1. Acute nondisplaced subcondral fractures in the talar dome and talar head. The overlying cartilage appears intact.
>
> 2. Capsular distention in the ankle, posterior subtalar.
>
> 3. Scattered bony edema throughout the ankle, hindfoot, and midfoot. This is nonspecific and favors bony contusion but could also be seen in the setting of disuse osteopenia or complex regional pain syndrome. Correlate clinically.
>
> 4. Prominent strain in the dorsal foot musculature.
>
> 5. Tenosynovitis of the peroneus longus, peroneus brevis, and posterior tibial tendons. Moderate peroneus longus tendinopathy is also noted.

(JE 6, p. 143)

On January 9, 2018, Schadle attended an appointment with Lesley Haro, ARNP, with Physician's Clinic of Iowa, reporting "she was working with physical therapy and going up and down stars when she had acute right ankle pain." (JE 5, p. 122) Haro documented Schadle was initially treated for gout, but aspiration of her ankle joint only revealed blood clots, so she received magnetic resonance imaging, which showed acute, non-displaced subchondral fractures in the talar dome and the talar head. (JE 5, p. 122) Haro also found Schadle had scattered bony edema throughout her ankle, hindfoot, and midfoot that would correlate with osteopenia and documented Schadle had anxiety and depression. (JE 5, pp. 122-23) Haro reviewed Schadle's imaging, assessed her with a right nondisplaced talus stress fracture, opined there was not a surgical option to treat her condition, prescribed oxycodone and physical therapy, and dispensed an e-boot. (JE 5, p. 124) Haro imposed a restriction of wearing a boot at work and to elevate the right lower extremity as much as possible. (JE 5, p. 125)

On January 10, 2018, Schadle returned to the UIHC complaining of right shoulder and arm pain and she was examined by Brendan Patterson, M.D., an orthopedic surgeon. (JE 3, p. 81) Dr. Patterson noted magnetic resonance imaging did not show a full-thickness rotator cuff tear and "[s]he may have some tendinosis and perhaps a partial-thickness fraying of the supraspinatus insertion." (JE 3, p. 81) Dr. Patterson assessed Schadle with shoulder and arm pain, and recommended a series of injections with Eric Aschenbrenner, M.D., a physiatrist at the UIHC. (JE 3, p. 81)

Schadle attended an appointment with Dr. Aschenbrenner on January 17, 2018. (JE 3, p. 82) Dr. Aschenbrenner documented Schadle had undergone a right hip abductor repair at the Mayo Clinic in September 2017, and she was placed in a right hip spica cast for six weeks, and then converted to an abduction brace, Schadle went to her home after the cast was removed for a home evaluation and hopped up five steps with her left leg holding onto the railing on the right and then developed right shoulder pain. (JE 3, p. 82) Dr. Aschenbrenner recommended physical therapy for a month and trigger point injections, and a cervical spine evaluation with Schadle's primary care provider given her arm paresthesias were not related to the work injury. (JE 3, p. 83)

On January 22, 2018, EMC sent Schadle a letter stating it had received information she had been released to return to work on November 30, 2017, and then received clarification of her restrictions on December 13, 2017, and Union CSD had work available starting on December 21, 2017. (Exs. G, p. 5; 3, p. 24) EMC noted Schadle had been taken off work due to an unrelated medical condition on December 18, 2017, so it was suspending her benefits pursuant to Iowa Code section 85.33(3) and EMC had converted her weekly payments from healing period benefits to permanent partial disability benefits as of December 21, 2017. (Exs. G, p. 5; 3, p. 24) Schadle returned to work on February 12, 2018. (Tr., pp. 33-34)

On February 20, 2018, Schadle attended an appointment with Scott Ekroth, M.D., an orthopedic surgeon with Physician's Clinic of Iowa. (JE 5, p. 127) Dr. Ekroth examined Schadle and documented magnetic resonance imaging from January 2018 showed insufficiency fractures in Schadle's right talus and calcaneus, which he believed were "likely due to her 13 weeks of immobility in a spica cast after a surgery" at the Mayo Clinic. (JE 5, p. 127) Dr. Ekroth placed Schadle's right lower extremity into a lace-up ankle brace and ordered her to progress weight bearing and activities as her pain allowed. (JE 5, p. 128)

On February 21, 2018, Schadle attended an appointment with Dr. Aschenbrenner complaining of arm and leg pain and weakness, tingling in her arm and leg, feeling down or depressed, anxious, and having excessive nervousness, and left shoulder pain. (JE 3, p. 85) Dr. Aschenbrenner diagnosed Schadle with myofascial pain and chronic right shoulder pain and discussed discontinuing physical therapy, and continuing with a home exercise program. (JE 3, p. 85)

Schadle attended a follow-up appointment with Dr. Sierra on February 28, 2018. (JE 9, p. 192) Dr. Sierra documented Schadle reported her pain was better than before surgery, she still had a limp, and she was recovering from a foot stress fracture. (JE 9, p. 192) Dr. Sierra ordered Schadle to continue abductor strengthening exercises given she still had a limp. (JE 9, p. 192)

On March 5, 2018, Schadle attended an appointment with Dr. Akbar. (JE 8, p. 162) Dr. Akbar diagnosed Schadle with depressive disorder related to joint issues, pain dysthymic disorder, chronic pain related to right hip, and status post knee replacement and hip surgery. (JE 8, p. 163) During the appointment Schadle reported she had been back to work for three weeks and was bothered by what people thought of her since she was originally injured at work. (JE 8, p. 162) Schadle reported difficulty concentrating and remembering things with fatigue. (JE 8, p. 163) Dr. Akbar prescribed Trazodone and directed Schadle to continue seeing Lowman. (JE 8, p. 163)

Schadle continued to treat with Dr. Aschenbrenner, complaining of feeling down or depressed and anxious, with excessive worry. (JE 3, p. 87) During an appointment on March 28, 2018, Schadle reported she was experiencing right ankle and foot pain, and right shoulder pain. (JE 3, p. 87) Dr. Aschenbrenner diagnosed Schadle with chronic right shoulder pain and myofascial pain and recommended an ultrasound diagnostic scan, and if the scan did not show anything additional, there would be no additional treatment recommendations and Schadle would be at maximum medical improvement. (JE 3, p. 88) Dr. Aschenbrenner received the report, noting the report showed the "[o]s acromiale," and determined that if Dr. Patterson did not recommend surgery, Schadle would be at maximum medical improvement. (JE 3, p. 90)

Schadle returned to Dr. Ekroth on April 4, 2018, reporting she had returned to work and she continued to have pain and swelling in her right foot. (JE 5, p. 129) Dr. Ekroth documented right ankle x-rays taken that day showed a congruent ankle mortise

and evidence of talonavicular degenerative joint disease, but no evidence of collapse of any of the fracture sites, and documented the x-rays looked encouraging. (JE 5, p. 129)

On May 15, 2018, Schadle attended an appointment with Peoples, complaining of right ankle swelling and pain when walking, reporting she was slower than she used to be, her leg was weak, she had a difficult time going up stairs, she experienced sleeping difficulties, and she was exhausted when she returned from work. (JE 1, p. 33) During the appointment Schadle reported problems with concentrating and feeling bad about herself. (JE 1, p. 34)

On May 29, 2018, Schadle returned to Dr. Ekroth, reporting she was experiencing more pain and swelling in her right ankle with increased activity. (JE 5, p. 130) Dr. Ekroth noted x-rays taken that day showed "a mild valgus tilt to the ankle." (JE 5, p. 130) Dr. Ekroth opined "[b]racing, boot, immobilization, rest and time are going to be the answers here as she progresses through this insufficiency fracture," noted he thought she might have posterior tibial tendonitis, and told Schadle she would have walking challenges during an upcoming trip to Walt Disney World. (JE 5, p. 130)

Schadle returned to Dr. Akbar on June 7, 2018, and reported she experienced an anxiety attack during an in-service meeting. (JE 8, p. 167) Schadle reported continued problems with memory, concentration, and fatigue. (JE 8, p. 168) Dr. Akbar diagnosed Schadle with depressive disorder related to joint issues, pain dysthymic disorder, chronic pain related to the right hip, and status post knee replacement and hip surgery, and ordered her to continue her current medications and to continue to see Lowman. (JE 8, p. 168)

On September 4, 2018, Schadle attended a follow-up appointment with Dr. Akbar, reporting she was doing "ok" since returning to school on August 18, 2018, and she was handling a more hectic schedule well. (JE 8, p. 170) Dr. Akbar ordered Schadle to take the least necessary amount of Ambien and to continue to see Lowman. (JE 8, p. 171)

On October 1, 2018, Joseph Chen, M.D., a physiatrist who was employed by the UIHC, examined Schadle and issued an impairment rating. (JE 3, p. 91) Dr. Chen opined Schadle requires a permanent work restriction of no kneeling on the left knee, and using the AMA Guides opined:

> [b]ecause of your right shoulder range of motion limitation in forward flexion to 120 degrees and abduction to 120 degrees according to Figures 16-40 and 16-43, you can be rated as having a 7% impairment of the right upper extremity which corresponds to a **4% whole person impairment**.
>
> Because of your right hip and buttock pain, trochanteric bursitis with abnormal Trendelenberg gait, you can be rated as having a **3% impairment of the whole person** according to Table 17-33 page 546 . . . .

> Because of your left knee range of motion limitation and total knee replacement you can be rated as having a **15% impairment of the whole person** according to Table 17-33 page 547. . . .
>
> Because of your right ankle range of motion limitation in ankle plantarflexion to 20 degrees and ankle inversion of 10 degrees, you can be rated as having a **4% impairment of the whole person** according to Tables 17-11, 17-12 . . . .
>
> These whole person impairment ratings (15%, 4%, 4%, and 3%) can be combined used the Combined Values Chart to yield a **23% impairment of the whole person** that has occurred as a result of your May 2015 work injury.

(JE 3, p. 91) (emphasis in original)

On October 3, 2018, Schadle returned to Dr. Sierra for an evaluation. (JE 9, p. 193) Schadle reported she was very happy with the surgery results, noting her residual lateral hip pain that was much better than before. (JE 9, p. 193) Dr. Sierra assessed Schadle with tendinopathy of the right gluteus medius, and a right hip joint disorder, and ordered her to continue exercising. (JE 9, p. 194)

Schadle returned to Dr. Ekroth on October 9, 2018, reporting her right ankle pain was worse since she returned for the school year. (JE 5, p. 131) Dr. Ekroth opined Schadle's insufficiency fractures in her right talus and calcaneus were likely "due to the many weeks of immobilization after her hip surgery" at the Mayo Clinic. (JE 5, p. 131) Dr. Ekroth assessed Schadle with pain in the right ankle and foot joints, and a stress fracture of the right ankle with routine healing, and ordered right ankle magnetic resonance imaging. (JE 5, p. 132)

Arnold Delbridge, M.D., an orthopedic surgeon, conducted an independent medical examination for Schadle on October 11, 2018, and issued his report on January 21, 2019. (Ex. 1) Dr. Delbridge reviewed Schadle's medical records and examined her. (Ex. 1) Dr. Delbridge opined his

> diagnoses for all conditions attributable to the May 4, 2015 work injury including sequelae include: 1) material aggravation of degenerative arthritis of the left knee which resulted in a total knee arthroplasty of the left knee, 2) tearing of the abductor tendon of the right hip including the gluteus minimus and large portion of the gluteus maximus which required repair and grafting but is still compromised as indicated, 3) partial tear of supraspinatus tendon of right shoulder including an aggravation of mild degenerative arthritis of her acromioclavicular joint and bursitis which has been impaired as indicated and remains compromised, 4) sequelae of multiple stress fractures of the lower extremity ankle and foot which is now

> resolving but not completely resolved to where an impairment can be determined at this time. All of these diagnoses, to a reasonable degree of medical certainty, are the result of her fall or sequelae related to her fall.

(Ex. 1, p. 11)

With respect to her left knee, Dr. Delbridge found the work injury materially aggravated Schadle's left knee and following a total knee arthroplasty Schadle had "reasonably good range of motion," pain that is worse with standing, walking, and climbing stairs, and some pain at night, and he assigned a fifty percent permanent impairment to her left lower extremity, which he converted to a twenty percent whole person impairment under the AMA Guides. (Ex. 1, pp. 10-11) When assessing Schadle's right hip function, Dr. Delbridge opined using Table 17-8 of the AMA Guides, Schadle has a "Grade 4 muscle on the right side which is an impairment of 10% whole person and 25% of the lower extremity," and given she had a good rehabilitation he assigned an eight percent whole person impairment secondary to weakness in her abductor which causes some alteration in her gait. (Ex. 1, p. 9)

With respect to the right shoulder, Dr. Delbridge opined during his examination he found Schadle:

> had flexion of 90 degrees of her right shoulder, a loss of 90 degrees, a 6% impairment. Her extension was 50 degrees, no loss. Abduction was 90 degrees, a loss of 90 degrees, a 4% impairment according to [the AMA Guides], referencing Figures 16-40, 16-42 and 16-46 . . . . Her adduction was 50 degrees, no loss. Her internal rotation was 70 degrees, a loss of 20 degrees, a 1% impairment. Her external rotation was 50 degrees, a loss of 40 degrees, a 1% impairment. On the basis of her lost motion, she has a 12% impairment of the right upper extremity.

(Ex. 1, p. 9) Dr. Delbridge converted the rating to a seven percent whole person impairment. (Ex. 1, p. 9)

Dr. Delbridge combined the impairments and assigned Schadle a thirty-one percent whole person impairment. (Ex. 1, p. 11) Dr. Delbridge found Schadle had not reached maximum medical improvement with respect to her right lower extremity and ankle and he recommended additional treatment. (Ex. 1, pp. 10-11) He also noted that in the future Schadle may require revisions of her left knee, and she may require future shoulder and hip surgery, and bracing of her right ankle on a permanent basis. (Ex. 1, pp. 11-12)

On October 19, 2018, Schadle received right ankle magnetic resonance imaging, which the radiologist compared with imaging from January 2, 2018. (JE 5, p. 133) The reviewing radiologist listed an impression of:

> 1. Interval resolution of fracture lines seen previously in the talus. These were probably stress fractures.
>
> 2. Osteochondral injury in the lateral talar dome.
>
> 3. Moderate osteoarthritis of the talonavicular joint, probably progressed some from the previous study.
>
> 4. Moderate joint effusion with fluid extending superiorly in the subcutaneous fat of the soft tissues.
>
> 5. Partial tear of the deltoid ligament with probable tear in the fibulocalcaneal ligament.

(JE 5, p. 134)

On October 24, 2018, Schadle returned to Dr. Ekroth. (JE 5, p. 135) Dr. Ekroth opined the imaging showed Schadle's stress fractures had healed, and she had degenerative arthritis within the talonavicular joint, as well as osteochondritis dissecans on the lateral talus within the ankle. (JE 5, p. 135) Dr. Ekroth documented he believed Schadle's talonavicular joint degenerative joint disease was the cause of her pain, noted the only surgical option would be a fusion of the talonavicular joint, which he recommended should be put off as long as possible, and recommended Schadle use Voltaren gel and a lace up ankle boot. (JE 5, p. 135)

Schadle attended a follow-up appointment with Dr. Akbar on November 19, 2018. (JE 8, p. 175) Dr. Akbar continued her diagnoses, and found her mood was stable mostly, with periods of depression, and ordered her to continue to see Lowman. (JE 8, p. 175)

On February 25, 2019, Schadle returned to Dr. Akbar reporting she had been under a lot of stress with her deposition scheduled the next day, her mind was racing and would not shut down, and she was having some difficulty with word finding and difficulty concentrating. (JE 8, pp. 177-78) Dr. Akbar discontinued amitriptyline at bedtime, ordered Schadle to cut back on zolpidem at bedtime, to try doxepin, and noted inquiry should be made into whether gabapentin was the cause of her word finding difficulty. (JE 8, p. 178) Dr. Akbar recommended Schadle continue to see Lowman, and recommended a neurology consultation. (JE 8, p. 179)

Schadle's attorney sent a check-the-box letter to Dr. Akbar on February 27, 2019, asking for his opinions. (JE 8, p. 181) On March 4, 2019, Dr. Akbar responded, agreeing with the statement

> [t]he mental condition for which you are treating Dandeena is a sequelae of her May 4, 2015 work injury and therefore causally related to her work injury. In other words, Dandeena's work injury and the attendant

> circumstances are a substantial contributing factor in causing the condition for which you have treated Dandeena.

(JE 8, p. 183) Dr. Akbar further agreed with the following statement,

> [y]ou are presently recommending a referral to neurology to address issues with word finding and memory of which Dandeena has recently complained. This referral is necessary to determine whether these issues are caused by the head injury Dandeena sustained on May 4, 2015, the medications she has been prescribed, or some other issue.

(JE 8, p. 183) Dr. Akbar wrote "#2 complaint came up in my most recent visit with her last week, resulting in referral." (JE 8, p. 183)

Schadle's attorney sent Dr. Delbridge additional medical records regarding treatment for her left knee from December 20, 2004 through January 16, 2006, including magnetic resonance imaging. (Ex. 1, p. 13) On April 2, 2019, Dr. Delbridge responded by letter, noting he was unaware of the records in his prior report, but his conclusion remained that "her injury was a material cause of her knee issues and subsequent surgery." (Ex. 1, p. 13) With respect to her right foot, Dr. Delbridge opined Schadle's talonavicular joint "probably had some degenerative arthritis in it even prior to her injury," and he concluded the "talonavicular joint was aggravated when she started weightbearing post surgery and immobilization." (Ex. 1, p. 14) Dr. Delbridge also reviewed a right ankle magnetic resonance imaging report from October 19, 2018, and opined his opinion had not changed. (Ex. 1, p. 15)

In March 2019, Schadle sustained an injury to her foot and ankle, which is not related to this proceeding. (Tr., pp. 43-44) Schadle testified before the most recent injury she was wearing a brace and she had pain in her ankle all of the time. (Tr., p. 44)

Schadle testified she has pain in her left knee most of the time. (Tr., pp. 35-36) Schadle reported when she is on her feet a lot her left knee swells. (Tr., p. 37) She also reported her left knee pops back and forth a little. (Tr., p. 37) Schadle cannot kneel on her left knee, and reported she has difficulty squatting due to poor balance. (Tr., p. 39) Schadle testified she has trouble going up and down steps, and her kneecap is very sensitive. (Tr., p. 40) The children assist Schadle in getting things out of the cupboards at work because she cannot kneel down like she used to. (Tr., pp. 59-60)

Schadle reported she has pain in her hip most of the time, which is worse when she is up and moving. (Tr., p. 41) Schadle testified since her hip injury she does not have good balance. (Tr., p. 41) Schadle described having a weakness or loss of strength in her right leg. (Tr., p. 41)

Schadle testified she has pain in the ball of her right shoulder, the back side of her shoulder, and down her right arm. (Tr., pp. 41-42) Schadle relayed she has pain in her right shoulder most of the time. (Tr., p. 42) Schadle reported certain activities make her pain worse:

> [a]nything, like, above my head – doing things above my head bother me, carrying heavy things. I can't carry heavy things anymore. A grocery sack with light things, I can carry. But I can't carry, like, the clay at school, so I have the kids move the clay for me and get the clay set up and the bags of stuff like that. They're 50-pound boxes of clay and then 25 bags of clay. I can't lift those out or get those out of the boxes. The kids do that for me.

(Tr., pp. 42-43) Schadle struggles to use a potter's wheel with the children because of her shoulder. (Tr., p. 59)

Schadle testified before she developed stress fractures in her right lower extremity she did not have pain when walking. (Tr., p. 36) Since she developed the stress fractures she has pain every time her ankle bends, and she wears a lace-up brace to stabilize her ankle. (Tr., p. 36) Schadle reported she has difficulty walking on uneven ground. (Tr., p. 59)

Schadle testified her work injuries have affected her mental state because she feels like she is behind. (Tr., p. 45) Schadle reported:

> I think the anxiety came when I went back to work. I was worried if I could do everything I needed to do with my ankle being the way it was. I went back with a boot coming back in.
>
> And I just had a lot of anxiety that I missed a lot. And then I fell behind, and I don't like that feeling. I try to stay up on everything and all the meetings. And I didn't have any of that information that I missed in the time when I was in the hospital for my knee. And then I just didn't feel that I was doing my full job that I should be. I wasn't back to myself.

(Tr., pp. 46-47)

Schadle relayed she feels bad about herself because she feels like she is letting down the school, the children, and the other teachers. (Tr., pp. 50-51) She also reported feeling anxious when she goes to meetings because the group may have covered information already and she does not want the group to have to cover it a second time. (Tr., p. 51) Schadle also worries that she is not keeping up with everything and the Union CSD will not keep her if she is not doing her job. (Tr., p. 51) Schadle reported since her work injury she can be very short with people. (Tr., p. 52)

Schadle also reported having trouble sleeping and staying asleep. (Tr., p. 48) Schadle sleeps approximately four and a half to five hours per night with a sleeping pill.

(Tr., p. 49) Schadle stated she wakes up with her ankle and she cannot lie on her right side because of her hip. (Tr., p. 49) Schadle testified she did not have any problems sleeping before her work injury. (Tr., p. 49) Schadle reported she feels somewhat fatigued during the day. (Tr., p. 49)

At the time of the hearing Schadle continued to work as an art teacher for the Union CSD. (Tr., p. 56) Schadle has received raises. (Tr., p. 56) Schadle reported she does not go up to the office as often anymore and she tries not to walk. (Tr., p. 56) Schadle does not walk around the classroom like she used to and the children now come up to her desk. (Tr., p. 56)

At the time of the hearing Schadle was not taking any pain medication. (Tr., p. 65) She takes Advil sometimes, but she is not supposed to take Advil due to an unrelated kidney issue. (Tr., p. 65) Schadle continues to take anxiety medication and sleeping pills. (Tr., p. 65)

Schadle enjoys gardening. (Tr., p. 62) She used to have a large garden and reported she will not have a large garden this year because she cannot take care of it anymore. (Tr., p. 62) Schadle now uses a golf cart around her yard and her husband who is retired vacuums, sweeps, washes the dishes, and does the laundry. (Tr., p. 63)

Schadle teaches adult painting classes three to five times per month. (Tr., p. 64) Each class is approximately two hours. (Tr., p. 64)

CONCLUSIONS OF LAW

I. Applicable Law

This case involves several issues, including nature and extent of disability, temporary benefits, recovery of medical bills, recovery of costs and interest under Iowa Code sections 85.27, 85.33, 85.34, 86.40, and 535.3. In March 2017, the legislature enacted changes (hereinafter "Act") relating to workers' compensation in Iowa. 2017 Iowa Acts chapter 23 (amending Iowa Code sections 85.16, 85.18, 85.23, 85.26, 85.33, 85.34, 85.39, 85.45, 85.70, 85.71, 86.26, 86.39, 86.42, and 535.3). Under 2017 Iowa Acts chapter 23 section 24, the changes to Iowa Code sections 85.33 and 85.34 apply to injuries occurring on or after the effective date of the Act. This case involves a work injury occurring before July 1, 2017, therefore, the provisions of the new statute involving the nature and extent of disability and temporary benefits under Iowa Code sections 85.33 and 85.34 do not apply to this case. The calculation of interest is governed by Sanchez v. Tyson, File No. 5052008 (Ruling on Defendant's Motion to Enlarge, Reconsider, or Amend Appeal Decision Re: Interest Rate Issue), which holds interest for all weekly benefits payable and not paid when due which accrued before July 1, 2017, is payable at the rate of ten percent; all interest on past due weekly compensation benefits accruing on or after July 1, 2017, is 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.

II. Nature of the Injury

To receive workers' compensation benefits, an injured employee must prove, by a preponderance of the evidence, the employee's injuries arose out of and in the course of the employee's employment with the employer. 2800 Corp. v. Fernandez, 528 N.W.2d 124, 128 (Iowa 1995). An injury arises out of employment when a causal relationship exists between the employment and the injury. Quaker Oats v. Ciha, 552 N.W.2d 143, 151 (Iowa 1996). The injury must be a rational consequence of a hazard connected with the employment, and not merely incidental to the employment. Koehler Elec. v. Willis, 608 N.W.2d 1, 3 (Iowa 2000). The Iowa Supreme Court has held, an injury occurs "in the course of employment" when:

> it is within the period of employment at a place where the employee reasonably may be in performing his duties, and while he is fulfilling those duties or engaged in doing something incidental thereto. An injury in the course of employment embraces all injuries received while employed in furthering the employer's business and injuries received on the employer's premises, provided that the employee's presence must ordinarily be required at the place of the injury, or, if not so required, employee's departure from the usual place of employment must not amount to an abandonment of employment or be an act wholly foreign to his usual work. An employee does not cease to be in the course of his employment merely because he is not actually engaged in doing some specifically prescribed task, if, in the course of his employment, he does some act which he deems necessary for the benefit or interest of his employer.

Farmers Elevator Co. v. Manning, 286 N.W.2d 174, 177 (Iowa 1979). The parties agree Schadle sustained a work injury. Schadle avers she sustained permanent impairments to her left knee, the left lower extremity, and right hip caused by the May 4, 2015 work injury, and sequela permanent impairments to her right shoulder, right lower extremity, and a sequela mental impairment. The Union CSD and EMC agree Schadle sustained a permanent impairment to her left knee caused by the May 4, 2015 work injury, but deny she sustained right hip, right shoulder, right lower extremity, or mental sequela injuries caused by the work injury.

The question of medical causation is "essentially within the domain of expert testimony." Cedar Rapids Cmty. Sch. Dist. v. Pease, 807 N.W.2d 839, 844-45 (Iowa 2011). The commissioner, as the trier of fact, must "weigh the evidence and measure the credibility of witnesses." Id. The trier of fact may accept or reject expert testimony, even if uncontroverted, in whole or in part. Frye v. Smith-Doyle Contractors, 569 N.W.2d 154, 156 (Iowa Ct. App. 1997). When considering the weight of an expert opinion, the fact-finder may consider whether the examination occurred shortly after the

claimant was injured, the compensation arrangement, the nature and extent of the examination, the expert's education, experience, training, and practice, and "all other factors which bear upon the weight and value" of the opinion. Rockwell Graphic Sys., Inc. v. Prince, 366 N.W.2d 187, 192 (Iowa 1985).

It is well-established in workers' compensation that "if a claimant had a preexisting condition or disability, aggravated, accelerated, worsened, or 'lighted up' by an injury which arose out of and in the course of employment resulting in a disability found to exist," the claimant is entitled to compensation. Iowa Dep't of Transp. v. Van Cannon, 459 N.W.2d 900, 904 (Iowa 1990). The Iowa Supreme Court has held,

> a disease which under any rational work is likely to progress so as to finally disable an employee does not become a "personal injury" under our Workmen's Compensation Act merely because it reaches a point of disablement while work for an employer is being pursued. It is only when there is a direct causal connection between exertion of the employment and the injury that a compensation award can be made. The question is whether the diseased condition was the cause, or whether the employment was a proximate contributing cause.

Musselman v. Cent. Tel. Co., 261 Iowa 352, 359-60, 154 N.W.2d 128, 132 (1967).

Schadle avers she sustained permanent impairments to her left knee, right hip, right shoulder, right foot/ankle, and a mental condition caused by the May 2015 work injury. On the attachment to the hearing report the parties agreed "[d]efendants admit the left knee injury, Right hip and right shoulder have also been accepted. Defendants have authorized treatment for the mental claim, but deny any permanency. Defendants deny right foot/ankle sequelae injury."

A. Physical Conditions

Dr. Chen, a physiatrist working with Schadle's treating physicians at the UIHC, and Dr. Delbridge, an orthopedic surgeon who performed an independent medical examination for Schadle, both provided opinions on causation for Schadle's left knee, right hip/buttock, right shoulder, and right foot/ankle conditions, opining the injuries were causally related to the May 2015 work injury. Dr. Noiseux, a treating orthopedic surgeon working with Dr. Chen also causally related the left knee condition and need for treatment and provided an impairment rating for Schadle's left lower extremity only.

In his letter dated October 1, 2018, Dr. Chen found Schadle had reached maximum medical improvement for her right shoulder, right hip and buttock pain, trochanteric bursitis with abnormal Trendelenberg gait, left knee, and ankle conditions, finding she sustained a combined impairment of twenty-three percent of the whole person as a result of the May 2015 work injury. (JE 3, p. 91) Dr. Delbridge also opined Schadle's May 2015 work injury caused a material aggravation of her degenerative

arthritis of the left knee resulting in a left total knee arthroplasty, tearing of the abductor tendon of the right hip including the gluteus minimus and large portion of the gluteus maximus which required repair and grafting, partial tear of the supraspinatus tendon of her right shoulder including an aggravation of mild degenerative arthritis of her acromioclavicular joint and bursitis, and multiple stress fractures of the lower extremity ankle and foot, and he assigned a thirty-one percent permanent impairment rating. (Ex. 1, p. 11) The opinions of Dr. Chen and Dr. Delbridge are further supported by the treatment record.

The date of her injury Schadle reported landing with a flexed left knee and extended right knee, landing on her tailbone, and hitting the back of her head on the floor. (JE 2, p. 35) During an appointment on June 2, 2015 with Dunn in orthopedics at the UIHC, Schadle complained of right hip pain. (JE 3, p. 43) She again complained of right hip pain to Dr. Noiseux, a treating orthopedic surgeon, on July 14, 2015. (JE 3, pp. 43, 49, 51) Dr. Noiseux later opined "her work injury is the most likely causative" of the tears in her gluteus medius and gluteus minimus. (JE 3, p. 79) No physician has offered a contrary opinion regarding causation of Schadle's right hip/buttock condition.

Schadle went for an occupational therapy home visit with Hodges, ORT, on October 25, 2017. (JE 4, p. 106) Hodges documented while Schadle was hopping up the steps with a railing and her walker "[a]t the last step/hop, [Schadle] screamed in pain due to her right shoulder. She had to bear more weight through the arm to make the hope onto the last step." (JE 4, p. 107) Right shoulder magnetic resonance imaging on November 15, 2017, revealed "[l]ow-grade bursal and intrasubstance tearing of the distal supraspinatus tendon," bursitis, "[m]ild tendinopathy along the intra-articular course of the long head of the biceps tendon," an "[u]nfused os acromiale," and "[m]oderate degenerative changes in the right AC joint with capsular distension." (JE 6, p. 139) No physician has provided an opinion Schadle's right shoulder condition is unrelated to the work injury.

Schadle testified during therapy at Virginia Gay Hospital during her hospitalization, staff had her go up and down stairs to prepare for discharge and "when [she] stepped down on the steps, it felt like [she] had glass in [her] ankle." (Tr., p. 29) During an appointment on December 7, 2017, Schadle reported "extreme right foot, right ankle pain" and Peoples observed she had "extreme edema." (JE 1, p. 23) Magnetic resonance imaging on January 2, 2018, revealed Schadle had acute nondisplaced subcondral fractures in the talar dome and talar head. (JE 6, p. 143) During an appointment with Haro, ARNP, with Physician's Clinic of Iowa, Schadle also reported "she was working with physical therapy and going up and down stairs when she had acute right ankle pain." (JE 5, p. 122) Dr. Ekroth, a treating orthopedic surgeon at Physician's Clinic of Iowa also opined Schadle's right lower extremity stress fractures were likely caused by immobility in a spica cast for thirteen weeks after her surgery at the Mayo Clinic. (JE 5, p. 127) Again, as with her other physical injuries, no physician has provided a contrary opinion on causation with respect to Schadle's right foot/ankle condition. Schadle has established she sustained permanent impairments to

her left knee, right hip/buttock, right shoulder, and right foot/ankle caused by the work injury.

B. Mental Conditions

Dr. Akbar is a psychiatrist who has treated Schadle since May 18, 2017. (JE 8, pp. 148-51) During his initial evaluation, Dr. Akbar diagnosed Schadle with depressive disorder related to joint issues, pain dysthymic disorder, chronic pain related to the right hip, and status post knee replacement and hip surgery, prescribed Cymbalta, and ordered counseling for Schadle. (JE 8, p. 151) In response to a letter from Schadle's attorney, on March 4, 2019, Dr. Akbar completed a check-the-box letter, agreeing "[t]he mental condition for which you are treating Dandeena is a sequelae of her May 4, 2015 work injury and therefore causally related to her work injury. In other words, Dandeena's work injury and the attendant circumstances are a substantial contributing factor in causing the condition for which you have treated Dandeena." (JE 8, p. 183) Dr. Akbar opined Schadle's work injury caused a mental health sequela injury for which he has been treating her. No contrary opinion was produced at hearing. Dr. Akbar has not opined Schadle has sustained a permanent mental condition caused by the May 2015 work injury. He has not imposed any work restrictions. Schadle has established she sustained a temporary mental health condition caused by the work injury. She has not established she has sustained a permanent mental health condition caused by the work injury.

III. Extent of Disability

The parties stipulated if the injury is found to be a cause of permanent disability, the disability is an industrial disability. Union CSD and EMC aver Schadle's industrial disability is less than the ratings provided by the experts in this case.

"Industrial disability is determined by an evaluation of the employee's earning capacity." Cedar Rapids Cmty. Sch. Dist. v. Pease, 807 N.W.2d 839, 852 (Iowa 2011). In considering the employee's earning capacity, the deputy commissioner evaluates several factors, including "consideration of not only the claimant's functional disability, but also [his] age, education, qualifications, experience, and ability to engage in similar employment." Swiss Colony, Inc. v. Deutmeyer, 789 N.W.2d 129, 137-38 (Iowa 2010). The inquiry focuses on the injured employee's "ability to be gainfully employed." Id. at 138.

The determination of the extent of disability is a mixed issue of law and fact. Neal v. Annett Holdings, Inc., 814 N.W.2d 512, 525 (Iowa 2012). Compensation for permanent partial disability shall begin at the termination of the healing period. Iowa Code § 85.34(2). Compensation shall be paid in relation to 500 weeks as the disability bears to the body as a whole. Id. § 85.34(2)(u).

Dr. Chen assigned a twenty-three percent permanent impairment rating to Schadle for her right shoulder, right hip and buttock pain, trochanteric bursitis with abnormal Trendelenberg gait, left knee, and ankle conditions, and imposed a permanent restriction of no kneeling on the left knee. (JE 3, p. 91) Dr. Delbridge assigned a permanent impairment rating of thirty-one percent for Schadle's left knee, hip/buttock, and right shoulder conditions. (Ex. 1, p. 11) Dr. Delbridge did not assign any permanent restrictions. (Ex. 1) Dr. Delbridge did not provide a rating for Schadle's right foot/ankle condition, finding she was not at maximum medical improvement. I find the opinions of Drs. Chen and Noiseux, experts with years of experience working at the UIHC more convincing than the opinion of Dr. Delbridge.

Dr. Chen assigned a fifteen percent whole person impairment to Schadle's left knee, using Table 17-33 of the AMA Guides. (JE 3, p. 91) Dr. Noiseux, a treating orthopedic surgeon who performed surgery on Schadle assigned a thirty-seven percent permanent impairment rating to Schadle's left lower extremity. (JE 3, p. 74) A thirty-seven percent permanent impairment to the left lower extremity converts to a fifteen percent whole person impairment under the AMA Guides. AMA Guides, p. 547. Dr. Delbridge, an orthopedic surgeon who performed an independent medical examination for Schadle assigned a fifty percent permanent impairment rating to Schadle's left lower extremity, which he converted to a twenty percent whole person impairment. (Ex. 1, p. 11)

Under the AMA Guides, a sscent lower extremity or twenty percent whole person impairment is assigned for "fair results" following a total knee replacement with a point score of 50 to 84. AMA Guides p. 547. Dr. Delbridge did not identify what factors he considered in reaching his determination, or even provide that he found the results were "fair," noting

> she has a reasonably good range of motion. She has pain which is worse in her knee when she is standing, walking or climbing stairs and some pain at night. My conclusion regarding her knee taking into consideration the 5th edition Guides, is that she has no infection and that her knee is at MMI as of 10-11-18, and as a result of her materially aggravated arthritic knee which required a total knee arthroplasty, she has a 50% impairment of her left lower extremity.

(Ex. 1, p. 10) Dr. Delbridge did not assign any permanent restrictions with respect to Schadle's left knee or assign a specific point score as directed by the AMA Guides.

An impairment rating of thirty-seven percent to the lower extremity or fifteen percent to the whole person is for a good result under the AMA Guides with a point score of 85 to 100. AMA Guides p. 547. In contrast to the opinion of Dr. Delbridge, when assigning a thirty-seven percent lower extremity impairment, Dr. Noiseux explained,

> [t]his rating is the result of total knee replacement with "good" result per table 17-33 on page 547 of the Guides. The "good" result is due to "mild or occasional" pain, normal range of motion, no instability, neutral alignment, and no flexion contracture or extension lag per table 17-35 on page 549 for a total knee replacement score of 95/100. She was released with the permanent restriction of no kneeling on her left knee. Future knee treatment for this injury could include non-steroidal anti-inflammatory medications, physical therapy, and possibly revision surgery.

(JE 3, p. 74) Both Drs. Noiseux and Chen assigned a permanent restriction of no kneeling. For these reasons I find the opinions of Drs. Chen and Noiseux most persuasive.

At the time of the hearing Schadle continued to work as an art teacher for the Union CSD. Schadle has received regular raises since her work injury. Schadle can no longer kneel on her left knee to retrieve items from the cabinets in her room. Schadle enjoyed caring for a large garden before her work injury, something she can no longer do. While no physician has assigned any permanent restrictions for Schadle's right shoulder, Schadle testified her right upper extremity is weak and she cannot lift the clay she uses with the students. Considering all of the factors of industrial disability, including her continued employment, I find Schadle has sustained a sixty percent industrial disability. Schadle is entitled to 300 weeks of permanent partial disability benefits, at the stipulated weekly rate of $854.27, commencing on the stipulated commencement date of February 15, 2016.

IV. Healing Period Benefits

On the attachment to the hearing report the parties documented,

> TTD/HP ENTITLEMENT: Claimant asserts that she is entitled to healing period benefits for 5/5/15, 5/7/15 - 8/18/15, 9/1/15, 9/9/15 – 2/14/16, 1/26/17 – 2/15/17, and 9/5/17 – 2/11/18. Claimant stipulates that Defendants have paid benefits for all of the foregoing periods (but note dispute below relative to benefits paid 12/20/17-2/11/18).
>
> * * *
>
> CREDITS: In addition to the healing period benefits set forth above, Defendants have also paid permanency benefits for 2/15/16 – 1/22/17, 1/23/17 – 9/3/17, and 2/12/18 – 12/26/18. Defendants assert that benefits paid from 12/20/17 – 2/11/18 are permanency benefits. Claimant asserts that healing period benefits were owed from 12/20/17 – 2/11/18 for her right foot/ankle condition. Claimant therefore asserts that Defendants' PPD credit is 126.286 weeks. Defendants assert that the PPD credit is 134.08 weeks.

Union CSD and EMC aver Schadle was off work due to an unrelated medical condition from December 20, 2017 through February 11, 2018. Schadle argues she was off work due to her sequela right foot/ankle condition.

Iowa Code section 85.33 (2015) governs temporary disability benefits, and Iowa Code section 85.34 governs healing period and permanent disability benefits. Dunlap v. Action Warehouse, 824 N.W.2d 545, 556 (Iowa Ct. App. 2012).

An employee has a temporary partial disability when because of the employee's medical condition, "it is medically indicated that the employee is not capable of returning to employment substantially similar to the employment in which the employee was engaged at the time of the injury, but is able to perform other work consistent with the employee's disability." Iowa Code § 85.33(2). Temporary partial disability benefits are payable, in lieu of temporary total disability and healing period benefits, due to the reduction in earning ability as a result of the employee's temporary partial disability, and "shall not be considered benefits payable to an employee, upon termination of temporary partial or temporary total disability, the healing period, or permanent partial disability, because the employee is not able to secure work paying weekly earnings equal to the employee's weekly earnings at the time of the injury." Id.

As a general rule, "temporary total disability compensation benefits and healing-period compensation benefits refer to the same condition." Clark v. Vicorp Rest., Inc., 696 N.W.2d 596, 604 (Iowa 2005). The purpose of temporary total disability benefits and healing period benefits is to "partially reimburse the employee for the loss of earnings" during a period of recovery from the condition. Id. The appropriate type of benefit depends on whether or not the employee has a permanent disability. Dunlap, 824 N.W.2d at 556.

Temporary total, temporary partial, and healing period benefits can be interrupted or intermittent. Teel v. McCord, 394 N.W.2d 405 (Iowa 1986); Stourac-Floyd v. MDF Endeavors, File No. 5053328 (App. Sept. 11, 2018); Stevens v. Eastern Star Masonic Home, File No. 5049776 (App. Dec. Mar. 14, 2018). Although permanent partial disability benefits commenced on February 15, 2016, according to the stipulation of the parties Schadle may be entitled to payment of intermittent healing period benefits that are payable concurrently with permanent partial disability benefits. Stourac-Floyd, File No. 5053328 (App. Sept. 11, 2018).

As found above, Schadle has established she sustained a sequela injury to her right foot/ankle. Schadle returned to work on February 12, 2018 after receiving treatment for her right foot/ankle condition. (Tr., pp. 33-34) Schadle is entitled to healing period benefits from December 20, 2017 through February 11, 2018. Union CSD and EMC are not entitled to a credit toward the award of permanent partial disability benefits for the period of December 20, 2017 through February 11, 2018.

At pages seventeen through nineteen of her brief, Schadle asserts she is entitled to additional healing period benefits for May 5, 2015 and May 7, 2015 through August 18, 2015. On the attachment to the hearing report Schadle admitted Union CSD and EMC paid her benefits for these periods. Schadle did not seek to amend the hearing report before the record was closed, or move to reopen the record before the parties submitted their post-hearing briefs on June 12, 2019. The benefit payment log that was admitted at hearing as Exhibit F shows Schadle was paid temporary total or temporary partial disability benefits for this period. It is unclear what argument Schadle is raising. Schadle did not timely raise the issue and her stipulation is to the contrary. I decline to award Schadle additional healing period benefits for May 5, 2015 and May 7, 2015 through August 18, 2015, beyond the stipulation of the parties. Union CSD and EMC did not address any issue concerning benefits paid for May 5, 2015 and May 7, 2015 through August 18, 2015 in their post-hearing brief, or argue for an alternative credit concerning the benefits.

V. Penalty Benefits

Iowa Code section 86.13 governs compensation payments. Under the statute's plain language, if there is a delay in payment absent "a reasonable or probable cause or excuse," the employee is entitled to penalty benefits, of up to fifty percent of the amount of benefits that were denied, delayed, or terminated without reasonable or probable cause or excuse. Iowa Code § 86.13(4); see also Christensen v. Snap-On Tools Corp., 554 N.W.2d 254, 260 (Iowa 1996) (citing earlier version of the statute). "The application of the penalty provision does not turn on the length of the delay in making the correct compensation payment." Robbennolt v. Snap-On Tools Corp., 555 N.W.2d 229, 236 (Iowa 1996). If a delay occurs without a reasonable excuse, the commissioner is required to award penalty benefits in some amount to the employee. Id.

The statute requires the employer or insurance company to conduct a "reasonable investigation and evaluation" into whether benefits are owed to the employee, the results of the investigation and evaluation must be the "actual basis" relied on by the employer or insurance company to deny, delay, or terminate benefits, and the employer or insurance company must contemporaneously convey the basis for the denial, delay, or termination of benefits to the employee at the time of the denial, delay, or termination of benefits. Iowa Code § 86.13(4). An employer may establish a "reasonable cause or excuse" if "the delay was necessary for the insurer to investigate the claim," or if "the employer had a reasonable basis to contest the employee's entitlement to benefits." Christensen, 554 N.W.2d at 260. "A 'reasonable basis' for denial of the claim exists if the claim is 'fairly debatable.'" Burton v. Hilltop Care Ctr., 813 N.W.2d 250, 267 (Iowa 2012). "Whether a claim is 'fairly debatable' can generally be determined by the court as a matter of law." Id. The issue is whether the employer had a reasonable basis to believe no benefits were owed to the claimant. Id. "If there was no reasonable basis for the employer to have denied the employee's benefits, then the court must 'determine if the defendant knew, or should have known, that the basis for denying the employee's claim was unreasonable.'" Id.

Benefits must be paid beginning on the eleventh day after the injury, and "each week thereafter during the period for which compensation is payable, and if not paid when due," interest will be imposed. Iowa Code § 85.30. In Robbennolt, the Iowa Supreme Court noted, "[i]f the required weekly compensation is timely paid at the end of the compensation week, no interest will be imposed . . . . As an example, if Monday is the first day of the compensation week, full payment of the weekly compensation is due the following Monday." Robbennolt, 555 N.W.2d at 235. A payment is "made" when the check addressed to the claimant is mailed, or personally delivered to the claimant. Meyers v. Holiday Express Corp., 557 N.W.2d 502, 505 (Iowa 1996) (abrogated by Keystone Nursing Care Ctr. v. Craddock, 705 N.W.2d 299 (Iowa 2005) (concluding the employer's failure to explain to the claimant why it would not pay permanent benefits upon the termination of healing period benefits did not support the commissioner's award of penalty benefits)).

When considering an award of penalty benefits, the commissioner considers "the length of the delay, the number of delays, the information available to the employer regarding the employee's injuries and wages, and the prior penalties imposed against the employer under section 86.13." Schadendorf v. Snap-On Tools Corp., 757 N.W.2d 330, 336 (Iowa 2008). The purposes of the statute are to punish the employer and insurance company and to deter employers and insurance companies from delaying payments. Robbennolt, 555 N.W.2d at 237.

Schadle avers Union CSD and EMC should be assessed penalty benefits for unreasonably delaying or denying payment of benefits in the amount of $3,417.08 paid on March 15, 2016, for the period of February 15, 2016 through March 13, 2016, $3,050.60 paid on March 14, 2017, for the period of February 16, 2017 through March 12, 2017, and $1,708.54 paid on January 5, 2018, for the period of December 20, 2017 through January 3, 2018.

Exhibit F contains the payment log for permanent partial disability benefits, showing lump sum payments exceeding the weekly benefit amount of $854.27. (Ex. F, pp. 7-8) Union CSD and EMC did not provide any explanation at hearing or in their post-hearing briefs regarding the delayed payments. I find a penalty of $1,500.00 should be assessed against Union CSD and EMC to deter Union CSD, EMC, and other employers and insurance carriers from failing to timely pay benefits.

VI. Medical Bills

Exhibit 9 contains a summary of medical expenses related to Schadle's right foot/ankle injury. Exhibit 9 also contains charges for an unrelated lumbar spine condition. The parties stipulated on the attachment to the hearing report "the summary regarding medical expenses found at Exhibit 9 is an accurate summary of the underlying medical billing statements and the amounts paid by [Schadle] and her non-occupational insurance carrier are fair and reasonable." The parties further agreed,

> [Union CSD and EMC] stipulate that the medical expenses set forth in Exhibit 9 are causally connected to the medical conditions upon which the claim of injury is based with the exception of any charges for the lumbar spine. [Union CSD and EMC] acknowledge that Wellmark has a claim for reimbursement if the medical expenses are found to be related to the work injury.

An employer is required to furnish reasonable surgical, medical, dental, osteopathic, chiropractic, podiatric, physical rehabilitation, nursing, ambulance, hospital services and supplies, and transportation expenses for all conditions compensable under the workers' compensation law. Iowa Code § 85.27(1). The employer has the right to choose the provider of care, except when the employer has denied liability for the injury. Id. "The treatment must be offered promptly and be reasonably suited to treat the injury without undue inconvenience to the employee." Id. § 85.27(4). If the employee is dissatisfied with the care, the employee should communicate the basis for the dissatisfaction to the employer. Id. If the employer and employee cannot agree on alternate care, the commissioner "may, upon application and reasonable proofs of the necessity therefor, allow and order other care." Id. The statute requires the employer to furnish reasonable medical care. Id. § 85.27(4); Long v. Roberts Dairy Co., 528 N.W.2d 122, 124 (Iowa 1995) (noting "[t]he employer's obligation under the statute turns on the question of reasonable necessity, not desirability"). The Iowa Supreme Court has held the employer has the right to choose the provider of care, except when the employer has denied liability for the injury, or has abandoned care. Iowa Code § 85.27(4); Bell Bros. Heating & Air Conditioning v. Gwinn, 779 N.W.2d 193, 204 (Iowa 2010).

As analyzed above, I found Schadle established she sustained a sequela injury to her right foot/ankle resulting in a temporary and permanent impairment. Exhibit 9 contains a summary of medical bills paid for the treatment of Schadle's right foot/ankle sequela. I find the treatment was reasonable and beneficial to Schadle. Union CSD and EMC are responsible for the bills set forth in Exhibit 9 related to Schadle's right foot/ankle sequela injury. Union CSD and EMC are not responsible for the bill from Chad Abernathy, for the lumbar spine magnetic resonance imaging, or for any treatment for a lumbar spine condition, or any condition that is not causally related to the work injury.

VII. Costs

Schadle seeks to recover the $100.00 filing fee, $150.00 for the cost of Dr. Delbridge's April 2, 2019 report, and $207.90 for the cost of Schadle's deposition. (Ex. 11, p. 122) The Union CSD and EMC agree the filing fee and cost of Dr. Delbridge's report are properly assessed as costs, but contend Schadle should not be able to recover the cost of her deposition transcript because her deposition was not introduced at hearing.

Iowa Code section 86.40, provides, "[a]ll costs incurred in the hearing before the commissioner shall be taxed in the discretion of the commissioner." Rule 876 IAC 4.33(6), provides

> [c]osts taxed by the workers' compensation commissioner or a deputy commissioner shall be (1) attendance of a certified shorthand reporter or presence of mechanical means at hearings and evidential depositions, (2) transcription costs when appropriate, (3) costs of service of the original notice and subpoenas, (4) witness fees and expenses as provided by Iowa Code sections 622.69 and 622.72, (5) the costs of doctors' and practitioners' deposition testimony, provided that said costs do not exceed the amounts provided by Iowa Code sections 622.69 and 622.72, (6) the reasonable costs of obtaining no more than two doctors' or practitioners' reports, (7) filing fees when appropriate, (8) costs of persons reviewing health service disputes.

The administrative rule expressly allows for the recovery of the costs Schadle seeks to recover. Using my discretion, I assess the costs to Union CSD and EMC.

ORDER

IT IS THEREFORE ORDERED, THAT:

Defendants shall pay the claimant three hundred (300) weeks of permanent partial disability benefits at the stipulated weekly rate of eight hundred fifty-four and 27/100 dollars ($854.27), commencing on the stipulated commencement date of February 15, 2016.

Defendants shall pay the claimant healing period benefits from December 20, 2017 through February 11, 2018, at the stipulated weekly rate of eight hundred fifty-four and 27/100 dollars ($854.27).

Defendants shall pay accrued weekly benefits in a lump sum together with interest at the rate of ten percent for all weekly benefits payable and not paid when due which accrued before July 1, 2017, and all 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. Sanchez v. Tyson, File No. 5052008 (Apr. 23, 2018 Ruling on Defendant's Motion to Enlarge, Reconsider, or Amend Appeal Decision Re: Interest Rate Issue).

Defendants shall receive a credit for all benefits paid to date.

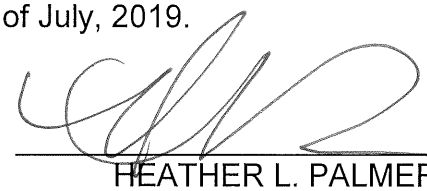
Defendants are responsible for the medical bills set forth in Exhibit 9 for all causally related medical treatment as analyzed above.

Defendants shall pay the claimant one thousand five hundred and 00/100 dollars ($1,500.00) in penalty benefits.

Defendants shall reimburse the claimant one hundred and 00/100 dollars ($100.00) for the filing fee, one hundred fifty and 00/100 dollars ($150.00) for the cost of Dr. Delbridge's April 2, 2019 report, and two hundred seven and 90/100 dollars ($207.90) for the cost of Schadle's deposition.

Defendants shall file subsequent reports of injury as required by this agency pursuant to rules 876 IAC 3.1(2) and 876 IAC 11.7.

Signed and filed this 9th day of July, 2019.



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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.