BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

REGENA STRABLE,	:	File No. 1666216.03
Claimant,	:	A P P E A L
vs.	:	D E C I S I O N
SECOND INJURY FUND OF IOWA,	:	
Insurance Carrier, Defendants.	:	Head Notes: 2907, 3202

Claimant Regina Strable appeals from an arbitration decision filed on August 8, 2022. Defendant Second Injury Fund of Iowa (the Fund) responds to the appeal. The case was heard on March 31, 2022, and it was considered fully submitted in front of the deputy workers' compensation commissioner on May 6, 2022.

In the arbitration decision, the deputy commissioner found claimant was not entitled to Fund benefits because claimant did not meet her burden of proof to establish she sustained a second qualifying loss. The deputy commissioner found claimant was not entitled to recover costs.

On appeal, claimant asserts the deputy commissioner erred in finding claimant failed to prove she sustained a second qualifying loss, and claimant asserts the deputy commissioner failed to follow Iowa Supreme Court precedent. Clamant asserts she is entitled to substantial industrial disability benefits for her combined first and second qualifying losses, and claimant asserts she is entitled to recover the cost of the filing fee.

The Fund asserts the arbitration decision should be affirmed in its entirety. In the alternative, the Fund asserts if it is found claimant has proven a second qualifying loss, she is entitled to limited industrial disability benefits, and the Fund asserts it is entitled to a credit of 112.4 weeks.

I performed a de novo review of the evidentiary record and the detailed arguments of the parties. Pursuant to Iowa Code sections 17A.15 and 86.24, the arbitration decision filed on August 8, 2022, is affirmed in part, and is reversed in part with my additional and substituted analysis.

With the following additional and substituted analysis, I reverse the deputy commissioner's finding that claimant failed to prove she sustained a second qualifying loss. With my substituted analysis, I affirm the deputy commissioner's finding claimant is not entitled to recover the cost of the filing fee.

Iowa Code section 85.64 states:

> If an employee who has previously lost, or lost the use of, one hand, one arm, one foot, one leg, or one eye, becomes permanently disabled by a compensable injury which has resulted in the loss of or loss of use of another such member or organ, the employer shall be liable only for the degree of disability which would have resulted from the latter injury if there had been no preexisting disability. In addition to such compensation, and after the expiration of the full period provided by law for the payments thereof by the employer, the employee shall be paid out of the "Second Injury Fund" created by this subchapter the remainder of such compensation as would be payable for the degree of permanent disability involved after first deducting from such remainder the compensable value of the previously lost member or organ.

Thus, an employee is entitled to Fund benefits if the employee establishes: (1) the employee sustained a permanent disability to a hand, arm, foot, leg, or eye, a first qualifying injury; (2) the employee subsequently sustained a permanent disability to another hand, arm, foot, leg, or eye, through a work-related injury, a second qualifying injury; and (3) the employee has sustained permanent disability resulting from the first and second qualifying injuries exceeding the compensable value of the "previously lost member." Gregory v. Second Injury Fund of Iowa, 777 N.W.2d 395, 398-99 (Iowa 2010).

Claimant developed bilateral carpal tunnel syndrome and underwent surgery while working as a front desk manager for Central Iowa Orthopedics in 2009. (Tr., pp. 17-18) After she developed carpal tunnel syndrome, Central Iowa Orthopedics reduced her typing duties. (Tr., pp. 18-19) The parties stipulated claimant sustained a first qualifying loss to her bilateral upper extremities on September 1, 2009, and the functional loss from the qualifying loss is four percent of the whole person.

Claimant sustained an injury to her left ankle while working as a marketing director for Altoona Nursing and Rehabilitation Center ("Altoona Nursing") on April 25, 2019. (Tr., pp. 17, 28) Claimant received conservative treatment and she was eventually referred to Bryan Trout, DPM, on June 17, 2019. (JE 7, pp. 56-57) Dr. Trout diagnosed claimant with a left peroneal tendon tear and left ankle joint instability and performed surgery. (JE 7, p. 57)

Dr. Trout ordered physical therapy following surgery. (JE 2; JE 3) In July 2019, claimant developed left hip pain as a result of her heavy foot cast. (JE 3, p. 4) Claimant also developed mental health issues and commenced individual psychotherapy with Abbey Schrage, LMHC, on August 19, 2019. (JE 8, p. 60) Schrage diagnosed claimant with an adjustment disorder with mixed anxiety and a depressed mood, and histrionic personality disorder. (JE 8, p. 60) Claimant had received counseling for depression and

mental health issues as far back as 2011, before she started working for Altoona Nursing. (Tr., p. 33; JE 4, p. 9)

Altoona Nursing terminated claimant's employment in September 2019. (Tr., p. 38)

On November 15, 2019, James Gallagher, M.D., a psychiatrist performed a psychiatric evaluation of claimant for Altoona Nursing. (JE 5) Dr. Gallagher found claimant's symptoms were consistent with major depressive disorder, he prescribed medication, and he also causally related claimant's mental health problems with her ankle injury. (JE 5, pp. 30-31)

Claimant continued to treat for mental health issues into 2020. (JE 4) In June 2020, she began attending mental health counseling and receiving medication management at Conway Counseling in Arkansas for generalized anxiety disorder and later for post-traumatic stress disorder (PTSD) with Jennifer Embry, LCSW, and Kelly Cox, APRN. (JE 4, pp. 11-13) In November 2020, Embry noted claimant's PTSD and anxiety issues were the direct result of the April 2019 work injury and are permanent. (JE 4, p. 20) Embry stated she did not advise full-time employment given the severity of claimant's mental health issues. (JE 4, pp. 20, 22)

Sunil Bansal, M.D., an occupational medicine physician conducted an independent medical examination (IME) for claimant on July 29, 2020, regarding the April 29, 2019, injury. (JE 6, pp. 34-47) Dr. Bansal diagnosed claimant with left ankle synovitis, peroneal tendon tear, and lateral ankle instability, status post left ankle arthroscopy with synovectomy and debridement, debridement and repair of the peroneal tendon, and later ankle stabilization, left-sided sacroiliitis, referred left hip pain from sacroiliitis, an adjustment disorder, and major depressive disorder. (JE 6, p. 43)

Dr. Bansal opined the mechanism of turning and rolling the left ankle and falling was consistent with claimant's left ankle pathology, her altered gait secondary to her left ankle pathology caused her to develop scaroiliitis, and her ankle injury led to an adjustment disorder with major depressive disorder from the pain, functional loss, and stress from work. (JE 6, p. 44) Dr. Bansal agreed with Dr. Trout that claimant reached maximum medical improvement on March 17, 2020. (JE 6, p. 45)

Dr. Bansal used Tables 17-7 and 17-8 of the AMA Guides, to assign claimant the following permanent impairment of the left ankle:

	Manual Muscle Strength	%LE Impairment
Plantar Flexion:	5/5	0
Dorisflexion:	3/5	25
Inversion:	3/5	12
Eversion:	3/5	12

> Using the combined values chart, lower extremity impairment = 42% impairment, or a 17% whole person impairment.

(JE 6, p. 45) Using Table 15-3, Dr. Bansal assigned claimant permanent impairment of five percent for her back injury. (JE 6, p. 45) Dr. Bansal noted the AMA Guides do not have a rating system for mental health disorders and using Table 14-1, he found claimant fell in a class 2 on social function, concentration, and activities of daily living, and a class 4 on adaption. (JE 6, p. 46) Dr. Bansal adopted the restrictions from the March 20, 2020, functional capacity evaluation (FCE), restricting claimant to part-time, sedentary work. (JE 6, p. 46)

On August 24, 2020, Dr. Trout responded to a check-the-box letter from Altoona Nursing's attorney. (JE 7, pp. 58-59) Dr. Trout agreed he ordered the valid March 20, 2020 FCE and adopted the recommended permanent restrictions of sedentary, part-time work. (JE 7, pp. 58-59)

I affirm the deputy commissioner's finding that claimant sustained permanent impairment of her left lower extremity caused by the April 2019 work injury and that she sustained sequelae impairments to her back and mental health caused by the April 2019 work injury.

On December 16, 2021, Dr. Bansal performed a second IME for claimant regarding the August 2009 injury. (JE 6, pp. 48-52) Dr. Bansal diagnosed claimant with right and left carpal tunnel syndrome with respect to the 2009 injury. (JE 6, p. 50) He assigned claimant four percent permanent impairment for each upper extremity and recommended restrictions of no lifting greater than 10 pounds with either hand and to avoid frequent gripping with either hand and repetitive keyboarding. (JE 6, p. 51)

Claimant asserts the deputy commissioner erred in finding her stipulated left ankle injury is not a second qualifying loss, relying on Gregory v. Second Injury Fund of Iowa, 777 N.W.2d 395 (Iowa 2010).

In Gregory, the claimant alleged she sustained an injury to her bilateral upper extremities in 2000, requiring her to undergo right and left carpal tunnel surgeries, and surgeries to her right and left distal clavicles. As a result of the procedures, Gregory was assigned a six percent functional impairment of her right hand, a four percent impairment of her left hand, a ten percent impairment of her right arm, and a 10 percent impairment of her left arm. In 2002, Gregory later sustained an injury to her right foot at work.

Gregory filed a petition for workers' compensation benefits against her employer for her 2002 right foot injury, and she also asserted a claim against the Fund alleging the 2000 injury to her left hand constituted a first qualifying loss and the 2002 injury to her right foot constituted a second qualifying loss. The workers' compensation commissioner denied Gregory's claim against the Fund finding the 2000 injury could not constitute a first qualifying loss because the 2000 injury resulted in permanent partial

bilateral disability to Gregory's hands, arms, and shoulders for which compensation was calculated as an injury to the body as a whole. The district court affirmed.

The Iowa Supreme Court reversed. In reaching its conclusion, the court discussed Second Injury Fund v. George, 737 N.W.2d 141 (Iowa 2007). George sustained an injury to her left leg in 1996, resulting in a seven percent functional impairment, and a second injury in 2000 to her bilateral legs. The Fund argued the second injury was not a second qualifying loss because it was to two members, her bilateral legs. The court disagreed, interpreting the phrase "loss of or loss of use of another such member" to mean a subsequent loss to another enumerated member notwithstanding the loss included a disability to more than one enumerated member as a consequence of the same incident. The court in Gregory found

> Liability of the Fund under section 85.64 expressly turns on the *part(s) of the body* permanently injured in successive injuries. The focus of our analysis must therefore be on whether Gregory sustained a partial permanent loss of at least two enumerated members in successive injuries. She clearly did. Given our decision in *George* that a subsequent injury to an enumerated member is not disqualified as a second injury merely because it occurred simultaneously with an injury to another enumerated member, we believe it would be senselessly inconsistent to conclude a first qualifying injury cannot likewise occur simultaneously with an injury to another such member.
>
> Our determination that Gregory's 2000 left hand injury qualifies as a first injury under section 85.64 is not affected by the fact that the incident also caused bilateral shoulder impairment and was therefore compensated as an unscheduled injury under Iowa Code section 85.34(2)(u). The plain language of section 85.64 does not support the Fund's contention that it is significant to the determination of whether the 2000 injury is a first qualifying loss that *compensation* was calculated under "the schedule" found in Iowa Code section 85.34(2)(a)-(t), rather under section 85.34(2)(u) as one of the factors bearing upon the nature and extent of an injured worker's industrial disability. Just as a first qualifying injury need not be a work-related injury, the method of calculating compensation for a first qualifying injury cannot be controlling on this issue. Moreover, the fact that the physical impairment of Gregory's left hand was presumably considered by the parties when they negotiated a compromise special case settlement of Gregory's claim for the 2000 injury will not impede the calculation of the Fund's credit for the compensable value of the partial loss of that enumerated member (two percent).
>
> We recognize the statute establishing the Fund has been characterized by commentators as a "narrow" second injury fund regime and that some jurisdictions have opted for statutory formulations with broader reach. *See* Harry W. Dahl, *The Iowa Second Injury Fund – Time for Change*, 39 Drake L. Rev. 101, 103 (1989-1990). However, our

> determination that Gregory's 2000 injury is a first qualifying injury under section 85.64 respects the General Assembly's choice of a comparatively narrow statute. The 2000 injury to Gregory's left hand qualifies as a first injury only because it was situated in an enumerated member and was not confined to an unenumerated part of her body.
>
> Our decision in *George* and our disposition of the issues in this case are faithful to the well-established principle that chapter 85 is to be liberally construed in favor of the injured employee. In both instances, the Fund has advocated an interpretation of section 85.64 favoring claimants with fewer previously disabled body parts over claimants with fewer previously disabled body parts over claimants with a more complex array of disabilities. Our rejection of the Fund's interpretation conforms to our understanding that the General Assembly did not intend to disadvantage claimants with histories of more complex combinations of enumerated and unenumerated injuries.

Id. at 400-01 (emphasis in original).

The court found the uncontroverted medical evidence established Gregory sustained two percent functional impairment of her hand and further noted:

> The fact that Gregory combined in a single workers' compensation proceeding her claim for that scheduled loss with other scheduled and unscheduled injuries did not disqualify it as a first qualifying injury under section 85.64.
>
> Our interpretation of section 85.64 permitting a loss of an enumerated member to qualify as a first injury for purposes of the Fund's liability notwithstanding the fact the injury was combined with disability to one or more unscheduled body parts for purposes of compensation under section 85.34(2)(u) will not result in a double recovery for Gregory. In determining the Fund's liability under section 85.64, the commissioner shall consider only the extent to which Gregory's earning capacity was diminished by the combined effect of the 2000 and 2002 losses to her *enumerated extremities*. *See* Iowa Code § 85.64. This new and discrete assessment by the commissioner of the loss of earning capacity for purposes of the Fund's liability shall consider only Gregory's disability to the left hand resulting from the 2000 injury and her disability to the right foot resulting from the 2002 injury. Accordingly, the assessment of the Fund's liability in this case will not provide additional compensation to Gregory for the loss of earning capacity resulting from any disability to other enumerated or unenumerated body parts arising from the injury in 2000.

Id. at 401 (emphasis in original).

The deputy commissioner in this case found claimant's left ankle injury caused her to develop permanent sequelae back and mental health injuries and because her left leg injury was not independent of her low back and mental injuries, her left leg injury is not a second qualifying loss.

The record is clear, claimant sustained a permanent injury to her left lower extremity and she sustained permanent back and mental health injuries as sequelae of her left lower extremity injury. The court in Gregory instructed the agency to look at whether the alleged first qualifying injury caused an injury to an enumerated member (a hand, arm, foot, leg, or eye) and whether the alleged second qualifying injury caused an injury to another enumerated member that was caused by claimant's employment regardless of whether the injuries caused other enumerated scheduled injuries, or other nonenumerated or unscheduled injuries. In this case the parties stipulated claimant sustained a first qualifying injury to her bilateral upper extremities, enumerated members. The record also supports claimant sustained an injury to her left lower extremity, another enumerated member, caused by her employment with Altoona Nursing. The fact she also sustained permanent back and mental health injuries, unenumerated members, is of no consequence to her entitlement to Fund benefits under Gregory. Claimant has established she sustained a first qualifying loss and a second qualifying loss. Recovery against the Fund is limited to the two scheduled members, the 2009 upper extremity injury, and the 2019 left lower extremity injury.

The parties stipulated the first qualifying loss to claimant's bilateral arms is four percent of the whole person, entitling claimant to 20 weeks of permanent partial disability benefits.

Under the schedule, the total loss of a leg is 220 weeks. Id. § 85.34(2)(p). While Dr. Bansal's IME report notes on April 14, 2020, Dr. Trout opined claimant sustained a permanent impairment of the left lower extremity of 34 percent, the parties did not include the April 14, 2020, record in evidence or stipulate to the extent of permanent impairment. (JE 6, p. 38) The only opinion produced by the parties is Dr. Bansal's opinion claimant sustained a left lower extremity impairment of 42 percent. (JE 6, p. 45) 42 percent of 220 weeks is 92.4 weeks. The first and second qualifying losses total 112.4 weeks. Given claimant has sustained a first qualifying loss and a second qualifying loss, it is necessary to determine claimant's extent of industrial disability.

"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, 137-138 (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)(v). When considering the extent of disability, the deputy commissioner considers all evidence, both medical and nonmedical. Evenson v. Winnebago Indus., Inc., 881 N.W.2d 360, 370 (Iowa 2016).

In Iowa, a claimant may establish permanent total disability under the statute, or through the common law odd-lot doctrine. Michael Eberhart Constr. v. Curtin, 674 N.W.2d 123, 126 (Iowa 2004) (discussing both theories of permanent total disability under Idaho law and concluding the deputy's ruling was not based on both theories, rather, it was only based on the odd-lot doctrine). Under the statute, the claimant may establish the claimant is totally and permanently disabled if the claimant's medical impairment together with nonmedical factors totals 100 percent. Id. The odd-lot doctrine applies when the claimant has established the claimant has sustained something less than 100 percent disability but is so injured that the claimant is "unable to perform services other than 'those which are so limited in quality, dependability or quantity that a reasonably stable market for them does not exist.'" Id. (quoting Boley v. Indus. Special Indem. Fund, 130 Idaho 278, 281, 939 P.2d 854, 857 (1997)).

"Total disability does not mean a state of absolute helplessness." Wal-Mart Stores, Inc. v. Caselman, 657 N.W.2d 493, 501 (Iowa 2003) (quoting IBP, Inc. v. Al-Gharib, 604 N.W.2d 621, 633 (Iowa 2000)). Total disability "occurs when the injury wholly disables the employee from performing work that the employee's experience, training, intelligence, and physical capacity would otherwise permit the employee to perform." IBP, Inc., 604 N.W.2d at 633.

Claimant in this case did not allege she was permanently and totally disabled under the common law odd-lot doctrine on the hearing report or during the hearing. This agency relies on hearing reports to determine the issues to be decided by the presiding deputy commissioners. I find claimant waived the issue of whether she is permanently and totally disabled under the common law odd-lot doctrine by signing the hearing report and by failing to raise the issue with the deputy commissioner during the hearing. See Bos v. Climate Eng'rs, 2016 WL 1178116, File No. 5044761 (Iowa Workers' Comp. Comm'n. March 22, 2016) (finding claimant waived issue by agreeing there was a dispute as to whether claimant was permanently and totally disabled on the hearing report and failing to raise the issue of defendants' response to request for admission regarding the issue until he filed his post-hearing brief) (citing to McSpadden v. Big Ben Coal Co., 288 N.W.2d 181, 186-87 (Iowa 1980) (concluding claimant's attorney failed to preserve error on foundation objection by failing to object when the deposition was offered into evidence before the deputy, and by failing to afford "his adversary [with the opportunity] to remedy the alleged defect"); Hawkeye Wood Shavings v. Parrish, No. 08-1708, 2009 WL 3337613, at *4 (Iowa Ct. App. 2009) (concluding the defendants waived the issue of whether they were entitled to a credit for benefits already paid for the September 2000 injury because on the hearing report

signed by the defendants, the defendants stipulated "0 weeks" of credit); Burtnett v. Webster City Custom Meats, Inc., No. 05-1265, 2007 WL 254722, at *3-4 (Iowa Ct. App. Jan. 31, 2007) (concluding the deputy commissioner did not commit an abuse of discretion by refusing the claimant's request to change dates in the joint hearing report, and noting the agency's approach requiring claimants to list dates prior to hearing in a hearing report "is more than reasonable").

Claimant moved to Hot Springs, Arkansas, from Iowa, in May 2020, to live in a warmer climate, closer to her family. (Tr., pp. 15-16) Claimant lives in a second-floor apartment with no elevator. (Tr., pp. 53) Claimant graduated from high school, but did not attend any schooling beyond high school. (Tr., p. 16) Claimant has a valid driver's license with no restrictions and does not have a handicapped parking sticker. (Tr., p. 53) At the time of the hearing claimant was 59 years old. (Tr., p. 14)

Before and after she developed carpal tunnel syndrome, claimant worked as front desk manager for physicians, outpatient secretary and admissions manager for hospitals, as an activity manager for a nursing facility, and marketing director for nursing facilities. (Tr., pp. 18-27) After she underwent bilateral carpal tunnel syndrome claimant chose employment limiting the amount of repetitive computer work she had to perform.

Both Dr. Trout and Dr. Bansal found claimant is restricted to part-time, sedentary work. Following the April 2019 work injury claimant briefly attempted employment on two occasions after moving to Arkansas. Claimant quit both positions on her own. She presented no vocational evidence at hearing supporting she is unable find and maintain employment consistent with her functional limitations and residual capacities. I find claimant is not motivated to work. While she is limited by her combined injuries to her upper extremities and left lower extremity, considering all of the factors of industrial disability, I find claimant has established she has sustained 70 percent industrial disability, entitling her to 350 weeks of permanent partial disability benefits from the Fund. Assuming arguendo, she preserved her odd-lot claim, I do not find claimant has established she is permanently and totally disabled under the statute or the common law odd-lot doctrine.

The Fund is responsible only for the amount of the industrial disability from which the employee suffers, reduced by the compensable value of the first and second injuries. Second Injury Fund of Iowa v. Nelson, 544 N.W.2d 258, 269 (Iowa 1995). In the event the credits due to the Fund exceed the industrial disability resulting from the qualifying injuries, the fund has no liability. Crudo v. Second Injury Fund of Iowa, Case No. 98-828 (Iowa App. July 23, 1999). As discussed above, I found the total combined disability of the first and second qualifying losses is 112.4 weeks. 350 weeks minus 112.4 weeks is 237.6 weeks.

I find claimant is entitled to 237.6 weeks of permanent partial disability benefits from the Fund commencing after expiration of Altoona Nursing's liability. According to the record evidence, claimant reached maximum medical improvement for her left lower extremity injury on March 17, 2020, and the commencement date for permanency is March 18, 2020. (JE 6, p. 45) Therefore, the Fund's liability commences on December

26, 2021, following expiration of Altoona Nursing's liability for the 92.4 weeks of permanent partial disability benefits.

Claimant argues the deputy commissioner erred in failing to award her the cost of the filing fee. 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(86), provides:

> Costs 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 Second Injury Fund Act, Iowa Code section 85.63, *et. seq.*, does not provide for the recovery of costs. See Hannan v. Second Injury Fund of Iowa, File No. 5052402, 2018 WL 3648112 (Iowa Workers' Comp. Comm'n July 25, 2018). Iowa Code section 85.66 (2), specifically states, "[m]oneys collected in the second injury fund shall be disbursed only for the purposes stated in this subchapter, and shall not at any time be appropriated or diverted to any other use or purpose." I find claimant is not entitled to recover the cost of the filing fee from the Fund.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on August 8, 2022, is affirmed, in part, and reversed, in part with my additional and substituted analysis.

The Fund shall pay claimant 237.6 weeks of permanent partial disability benefits at the stipulated weekly rate of eight hundred twenty-seven and 45/100 dollars ($827.45), commencing on December 26, 2021.

The Fund shall pay interest on all accrued weekly benefits pursuant to Iowa Code section 85.30. Interest accrues on unpaid Second Injury Fund benefits from the date of this decision. Second Injury Fund of Iowa v. Braden, 459 N.W.2d 467 (Iowa 1990).

Pursuant to rule 876 IAC 3.1(2), The Fund shall file subsequent reports of injury as required by this agency.

Signed and filed on this 29th day of November, 2022.

Joseph S. Cortese II

JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

Robert Gainer (via WCES)

Sarah Timko (via WCES)