BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

MARTEN HUFFEY, SR.,

Claimant,

vs.

MAIL CONTRACTORS OF AMERICA, INC.,

Employer,

and

LUMBERMENS MUTUAL CASUALTY, CO.,

Insurance Carrier,
Defendants.

File No. 5042766

ARBITRATION

DECISION

Head Note No.: 1803

MARTEN HUFFEY, SR.,

Claimant,

vs.

MAIL CONTRACTORS OF AMERICA, INC.,

Employer,

and

CHARTIS,

Insurance Carrier,

and

SECOND INJURY FUND OF IOWA,

Defendants.

File No. 5042767

ARBITRATION

DECISION

Head Note No.: 1803

MARTEN HUFFEY, SR., Claimant, vs. MAIL CONTRACTORS OF AMERICA, INC., Employer, and ACE PROPERTY AND CASUALTY, Insurance Carrier, and SECOND INJURY FUND OF IOWA, Defendants.	File No. 5042768 ARBITRATION DECISION Head Note No.: 1803

STATEMENT OF THE CASE

Claimant, Marten Huffey, Sr., has filed petitions in arbitration and seeks workers' compensation benefits from Mail Contractors of America Incorporated, employer, Chartis, Ace Property and Casualty, Lumbermen's Mutual Insurance Company, insurance carriers, and Second Injury Fund of Iowa, defendants.

This matter was heard by Deputy Workers' Compensation Commissioner Ron Pohlman on October 6, 2014 in Des Moines, Iowa. The record in the case consists of Joint Exhibits 1 through 38, as well as the testimony of the claimant.

ISSUES

The parties submitted the following issues for determination:

File No. 5042766:

1. Whether the claimant is entitled to medical benefits for his left knee as a result of the injury he sustained July 1, 2003, arising out of and in the course of his employment.

File No. 5042767:

1. Whether the claimant sustained an injury on March 8, 2011 effecting his left knee, which arose out of and in the course of his employment;

2. Whether the work injury was the cause of any permanent disability to the left knee;

3. Whether the claimant is entitled to temporary total, temporary partial disability or healing period benefits from March 9, 2011 through August 11, 2014;

4. Whether the claimant is entitled to permanent partial disability benefits; and

5. Whether the claimant is entitled to benefits from the Second Injury Fund of Iowa.

File No. 5042768:

1. Whether the work injury of March 24, 2012 to the claimant's left knee was the cause of permanent disability;

2. Whether the claimant is entitled to temporary total or healing period benefits from February 25, 2012 through August 11, 2004;

3. The extent of claimant's entitlement to permanent disability;

4. The claimant's weekly rate;

5. Whether the claimant is entitled to payment of medical expenses pursuant to Iowa Code section 85.27;

6. Whether the claimant is entitled to reimbursement for an independent medical evaluation pursuant to Iowa Code section 85.39; and

7. Whether the claimant is entitled to benefits from the Second Injury Fund of Iowa.

FINDINGS OF FACT

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

The claimant, at the time of the hearing, was 63 years old. He is a high school graduate and attended one semester of college studying theology. At the time of the hearing, he had a commercial driver's license which was current and last renewed in

September 2013. The claimant's work history consists of truck driving and warehouse work. He has also worked as a school bus driver. The claimant's truck driving work was heavy physical labor.

On July 21, 1994, the claimant sustained a concussion and a left knee injury in a work injury. As a result, the claimant underwent a medial meniscectomy on his left knee. The claimant returned to work on regular duty with no restrictions. The claimant was assigned a permanent impairment rating on December 3, 1997 by the surgeon of 2 percent of the left leg.

On October 14, 1999, the claimant injured his right arm while working on a project for Sony Studios in California. The claimant underwent surgery and ultimately an independent medical examiner, Robin Sassman, M.D., assigned a 7 percent permanent impairment rating to the claimant's right upper extremity based on loss of supination of the right elbow and loss of flexion and extension in the right wrist.

On July 1, 2003, the claimant sustained an injury to his left knee when he slipped off his front bumper of his truck and landed on his left leg. It is stipulated that this injury arose out of and in the course of the claimant's employment. On August 26, 2003, Ian Lin, M.D., performed an arthroscopic meniscectomy to move a loose body from the claimant's left knee. He was released to return to work at maximum medical improvement (MMI) on October 13, 2003 without restrictions. Lumberman's Mutual Casualty paid the claimant for a 2 percent impairment to the claimant's left leg on December 5, 2003. Claimant did not seek treatment for knee issues after that release until March 2011.

On March 8, 2011, the claimant slipped and fell as he was getting out of his truck at the employer's home terminal. He immediately felt pain in his right knee which swelled and throbbed. He was treated by the employer's physician on March 9, 2011 for a diagnosis of contusion sprain of the right knee with acute patellar chondromalacia. He was given restrictions of lifting 25 pounds, pushing/pulling 75 pounds, and from kneeling, squatting, climbing or crawling. (See Exhibit 7, page 25) Consequently, he was not able to return to work with those restrictions. (See Ex. 7, p. 27) The claimant was subsequently sent to physical therapy and prescribed ibuprofen 800 mg every 8 to 12 hours. On April 7, 2011, the claimant had an MRI of the right knee which revealed a tear of the posterior horn of the medial meniscus, osteoarthritis with patellar and femoral, chondromalacia and large joint fusion with a small Baker's cyst. (See Ex. 8, p. 35) The claimant continued under the same work restrictions.

On August 20, 2011, the claimant returned to Patrick Sullivan, M.D., the same physician who had performed the claimant's first surgery on the left knee in 1994. On May 12, 2011, Dr. Sullivan performed a right partial medial meniscectomy. On June 29, 2011, Dr. Sullivan placed the claimant at MMI and imposed a 2 percent permanent impairment to the right lower extremity based upon the AMA Guides to the Evaluation of Permanent Impairment, Fifth Edition. On September 20, 2013, the claimant had a cortisone injection for his right knee which provided relief for approximately two and

one-half months. He continued to receive cortisone injections in his right knee every three months thereafter. On September 5, 2014, Dr. Sassman performed an independent medical evaluation (IME) and assigned a 7 percent permanent impairment rating for the claimant's right knee. Dr. Sassman opined that the claimant would continue to need injections until he undergoes a knee replacement.

After the 2011 injury to the right knee, the claimant began walking with an antalgic gait, as he walked without support and a moderate limp on his right side. After the right knee surgery, the claimant started complaining that his left knee was bothering him more. (See Exhibit 17, p. 202) Dr. Sullivan noted that the claimant was having problems with his left knee but opined that it was not work related. (See Ex. 9, p. 51)

On September 5, 2014, Dr. Sassman did causally connect the left knee to the right knee work injury concluding that the left knee problems were due to the claimant's gait changes caused by the pain and swelling of the right knee. (See Ex. 16, p. 177) Dr. Sassman further opined that the need for a left knee replacement was accelerated because of the 2011 injury and its sequela effects. Dr. Sullivan remains of the opinion that the left knee replacement is not related to the right knee injury nor was work related in any other way.

The claimant worked full duty from June 10, 2011 to February 24, 2012. On February 24, 2012, the claimant injured his left knee when he jumped out of his truck to fix a windshield wiper. The claimant felt pain in his left knee. He continued his route but felt worsening knee pain by the end of his shift as well as swelling.

Five days later he saw Daniel Miller, M.D., with complaints of sharp pain across the front of his knee cap. Dr. Miller prescribed restrictions and opined that the claimant had degenerative changes in his left knee that were unrelated but included it was a flare-up of a pre-existing condition, which he expected to return to baseline in six weeks. (See Ex. 11, p. 84) By March 21, 2012, Dr. Miller opined that the claimant was back to the baseline before February 24, 2012, which the claimant disputes. The claimant sought an appointment with Craig Mahoney, M.D., on his own to get a knee replacement, which was delayed because of issues related to who should be responsible for payment for that treatment. Ultimately, on January 15, 2013 Dr. Mahoney performed a left knee total arthroplasty. (See Ex. 12, p. 105)

Dr. Sassman opined in September 2014 that the claimant should limit standing, sitting, and walking to an occasional basis and no crawling, kneeling, walking on uneven surfaces or ladders with respect to each knee. Dr. Sassman placed the claimant at maximum medical improvement on August 12, 2014 and opined the claimant would likely need injections in the right knee, as well as a right knee replacement. (See Ex. 16, p. 178) Dr. Sassman was unable to offer an opinion as to whether there were structural changes in the claimant's left knee between 2011 and 2013.

Dr. Sassman opined the claimant had a 20 percent body as a whole permanent impairment based on the left knee which equates to 50 percent of the left leg and opined the claimant had a 7 percent permanent impairment to the right leg based on the cartilage removal in his right knee. (See Ex. 16, p. 178) Dr. Miller has opined that the left knee injury of February 24, 2012 did not contribute to the claimant's need for a left total knee replacement in January 2013. (See Ex. 11, p. 93)

The claimant has subsequently applied for Social Security disability and was approved for those benefits October 6, 2013.

The defendants argue that the average weekly wage for the claimant's 2012 injury was $964.01. The claimant was taking unpaid leave time in 2012, which is supported by his earnings history. (See Ex. 27) The weeks ending January 13, 2012 and February 17, 2012 are nonrepresentative because he was taking unpaid leave during that time. The week ending October 28, 2011 is also nonrepresentative because the claimant only worked 25.93 hours which was substantially below the number of hours the claimant normally worked. The claimant's rate calculation demonstrates the claimant's average weekly wage is $1,150.78 so he has a corresponding weekly rate of $733.82.

REASONING AND CONCLUSIONS OF LAW

File No. 5042766:

The issue in this file is whether the claimant is entitled to medical benefits for his left knee as a result of the injury he sustained on July 1, 2003 arising out of and in the course of his employment. This is really a question of causation related to the left knee replacement the claimant underwent in 2013.

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

The question of causal connection is essentially within the domain of expert testimony. The expert medical evidence must be considered with all other evidence introduced bearing on the causal connection between the injury and the disability. Supportive lay testimony may be used to buttress the expert testimony and, therefore, is also relevant and material to the causation question. The weight to be given to an expert opinion is determined by the finder of fact and may be affected by the accuracy of the facts the expert relied upon as well as other surrounding circumstances. The expert opinion may be accepted or rejected, in whole or in part. St. Luke's Hosp. v.

Gray, 604 N.W.2d 646 (Iowa 2000); IBP, Inc. v. Harpole, 621 N.W.2d 410 (Iowa 2001); Dunlavey v. Economy Fire and Cas. Co., 526 N.W.2d 845 (Iowa 1995). Miller v. Lauridsen Foods, Inc., 525 N.W.2d 417 (Iowa 1994). Unrebutted expert medical testimony cannot be summarily rejected. Poula v. Siouxland Wall & Ceiling, Inc., 516 N.W.2d 910 (Iowa App. 1994).

The claimant argues that he was already experiencing signs of osteoarthritis as noted by Dr. Lin when he had his second meniscectomy in 2003. The greater weight of evidence in this record indicates that the left knee replacement was the result of the 2012 injury as opined by Dr. Sassman. The claimant's underlying condition was aggravated by that injury substantially in 2012 and this is what caused the need for the knee replacement. The claimant is not entitled to payment of his total knee replacement for the left knee based on the 2003 work injury. Claimant shall take nothing further from File No. 5042766.

File No. 5042767:

The first issue in this case is whether the claimant sustained an injury on March 8, 2011 affecting his left knee which arose out of and in the course of his employment. It is not disputed that the claimant had a right knee injury at that time, but there is a question as to whether that right knee injury resulted in a sequela to the left knee and ultimately permanent disability.

The party who would suffer loss if an issue were not established has the burden of proving that issue by a preponderance of the evidence. Iowa R. App. P. 6.14(6).

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

Dr. Sullivan was treating the claimant in 2011. At that time, his opinion indicates that the claimant's problems with his left knee were progressive pain and discomfort from degenerative arthritis. Dr. Sassman offered opinions three years later that are based on the claimant's condition after a 2012 injury to the left knee. Dr. Sassman would not be in as good of position to evaluate what the claimant's condition was in

2011 because of the intervening injury. Dr. Sullivan's opinion is accepted. The claimant has not proven that he sustained a sequela to his left knee from his right knee work injury March 8, 2011. He has shown that he sustained a qualifying injury for Second Injury Fund benefits.

The next issue is the extent of claimant's entitlement to permanent partial disability benefits for his right knee.

The opinion of Dr. Sassman as to the extent of claimant's permanent impairment to the right knee is accepted over that of Dr. Sullivan. Dr. Sassman assigned a 7 percent permanent impairment rating for the right knee which entitles the claimant to 15.4 weeks of permanent partial disability benefits pursuant to Iowa Code section 85.34(2)(o). Dr. Sassman's rating of the right knee is accepted over that of Dr. Sullivan because Dr. Sassman's measurements indicated a loss of range of motion. While Dr. Sullivan is certainly qualified to opine as to whether that right knee injury affected the left knee at that time better than Dr. Sassman, his opinion is cursory with respect to permanent impairment and is not accepted.

File No. 5045768:

The first issue in this file is whether the injury of March 24, 2012 is the cause of any permanent disability.

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

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

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

Dr. Miller's opinion that the claimant's injury in 2012 was temporary is inconsistent with his own treatment notes. There is no indication that he tried to differentiate the claimant's condition before or after his 2012 injury. Dr. Miller's treatment indicated a need for a greater intervention than was needed in the past. For example, he prescribed a prednisone dosepak and Vicodin where before the claimant had only required 800 mg of Ibuprofen. Further, there is no evidence that this brought the claimant back to his baseline. Dr. Miller gave the claimant a cortisone injection but the record indicates that did not bring him back to his baseline. Dr. Miller's plan note that the claimant was back at his pre-injury baseline was credibly denied by the claimant in his testimony. Finally, it is not clear if Dr. Miller's opinion is based on some definition of causation from a medical standpoint or some flawed understanding of legal causation. Dr. Sassman has opined that the work injury of February 2012 lit up and accelerated the claimant's underlying left knee condition so that he required a left knee replacement sooner than he would have otherwise required. This is consistent with the medical record and the testimony of the claimant. That opinion is accepted. The work injury of February 24, 2012 caused permanent disability and required that the claimant have a left knee replacement which was performed by Dr. Mahoney.

The next issue is the extent of claimant's entitlement to permanent disability.

Dr. Sassman has opined that the claimant sustained a 50 percent permanent impairment entitling him to 110 weeks of benefits pursuant to Iowa Code section 85.34(2)(o).

The next issue is the claimant's weekly rate.

Section 85.36 states the basis of compensation is the weekly earnings of the employee at the time of the injury. The section defines weekly earnings as the gross salary, wages, or earnings to which an employee would have been entitled had the employee worked the customary hours for the full pay period in which injured as the

employer regularly required for the work or employment. The various subsections of section 85.36 set forth methods of computing weekly earnings depending upon the type of earnings and employment.

The claimant's rate calculation is accepted as the most representative of the claimant's actual wages with this employer. The claimant's weekly rate is $733.82.

The next issue is whether the claimant is entitled to payment of medical expenses pursuant to Iowa Code section 85.27.

The employer shall furnish reasonable surgical, medical, dental, osteopathic, chiropractic, podiatric, physical rehabilitation, nursing, ambulance, and hospital services and supplies for all conditions compensable under the workers' compensation law. The employer shall also allow reasonable and necessary transportation expenses incurred for those services. The employer has the right to choose the provider of care, except where the employer has denied liability for the injury. Section 85.27. Holbert v. Townsend Engineering Co., Thirty-second Biennial Report of the Industrial Commissioner 78 (Review-Reopening October 1975).

The claimant has submitted medical expenses found in Exhibit 37. The claimant has established that the left knee surgery was the result of his 2012 work injury and thus he is entitled to a payment of medical expenses associated with that injury. The claimant has established that his medical expenses are fair, reasonable, and causally connected to his work injury of 2012 and he is entitled to have those expenses paid directly and to be reimbursed for those portions he has personally paid.

The next issue is whether the claimant is entitled to benefits from the Second Injury Fund of Iowa.

Section 85.64 governs Second Injury Fund liability. Before liability of the Fund is triggered, three requirements must be met. First, the employee must have lost or lost the use of a hand, arm, foot, leg, or eye. Second, the employee must sustain a loss or loss of use of another specified member or organ through a compensable injury. Third, permanent disability must exist as to both the initial injury and the second injury.

The Second Injury Fund Act exists to encourage the hiring of handicapped persons by making a current employer responsible only for the amount of disability related to an injury occurring while that employer employed the handicapped individual as if the individual had had no preexisting disability. See Anderson v. Second Injury Fund, 262 N.W.2d 789 (Iowa 1978); 15 Iowa Practice, Workers' Compensation, Lawyer, section 17:1, p. 211 (2014-2015).

The Fund is responsible for the industrial disability present after the second injury that exceeds the disability attributable to the first and second injuries. Section 85.64. Second Injury Fund of Iowa v. Braden, 459 N.W.2d 467 (Iowa 1990); Second Injury

Fund v. Neelans, 436 N.W.2d 335 (Iowa 1989); Second Injury Fund v. Mich. Coal Co., 274 N.W.2d 300 (Iowa 1970).

Since claimant has an impairment to the body as a whole, an industrial disability has been sustained. Industrial disability was defined in Diederich v. Tri-City R. Co., 219 Iowa 587, 258 N.W. 899 (1935) as follows: "It is therefore plain that the legislature intended the term 'disability' to mean 'industrial disability' or loss of earning capacity and not a mere 'functional disability' to be computed in the terms of percentages of the total physical and mental ability of a normal man."

Functional impairment is an element to be considered in determining industrial disability which is the reduction of earning capacity, but consideration must also be given to the injured employee's age, education, qualifications, experience, motivation, loss of earnings, severity and situs of the injury, work restrictions, inability to engage in employment for which the employee is fitted and the employer's offer of work or failure to so offer. McSpadden v. Big Ben Coal Co., 288 N.W.2d 181 (Iowa 1980); Olson v. Goodyear Service Stores, 255 Iowa 1112, 125 N.W.2d 251 (1963); Barton v. Nevada Poultry Co., 253 Iowa 285, 110 N.W.2d 660 (1961).

Compensation for permanent partial disability shall begin at the termination of the healing period. Compensation shall be paid in relation to 500 weeks as the disability bears to the body as a whole. Section 85.34.

Total disability does not mean a state of absolute helplessness. Permanent total disability occurs where the injury wholly disables the employee from performing work that the employee's experience, training, education, intelligence, and physical capacities would otherwise permit the employee to perform. See McSpadden v. Big Ben Coal Co., 288 N.W.2d 181 (Iowa 1980); Diederich v. Tri-City R. Co., 219 Iowa 587, 258 N.W. 899 (1935).

A finding that claimant could perform some work despite claimant's physical and educational limitations does not foreclose a finding of permanent total disability, however. See Chamberlin v. Ralston Purina, File No. 661698 (App. October 1987); Eastman v. Westway Trading Corp., II Iowa Industrial Commissioner Report 134 (App. May 1982).

The claimant has shown qualifying injuries to scheduled members in this case to his right and left leg. Thus, he is entitled to benefits from the Second Injury Fund of Iowa.

The claimant, at the time of the hearing, was 63 years old with a history of heavy physical labor driving trucks. The claimant now has work restrictions which preclude his return to that work. The claimant is not a candidate for retraining. The greater weight of evidence in this record indicates that the claimant is not able to return to work within his physical limitations given his work experience and education. The claimant is permanently and totally disabled. As the claimant is permanently and totally disabled,

the issue of additional healing period in this file is moot. In a case of permanent disability the commencement date for payment of benefits is the date of injury. The Second Injury Fund of Iowa shall receive credit for the claimant's first and second losses in this case totaling 125.4 weeks. The claimant's benefits from the Second Injury Fund shall commence upon the expiration of that credit.

ORDER

THEREFORE IT IS ORDERED:

File No. 5042766:

The claimant shall take nothing from this file.

File No. 5042767:

Defendants, Mail Contractors of America, Inc., and Chartis, insurer shall pay the claimant fifteen point four (15.4) weeks of permanent partial disability benefits at the weekly rate of seven hundred sixty-seven and 78/100 dollars ($767.78).

Costs of this file are taxed to the defendants pursuant to rule 876 IAC 4.33.

File No. 5042768:

Defendants, Mail Contractors of America, Inc., and Ace Property and Casualty shall pay claimant one hundred ten (110) weeks of permanent partial disability benefits commencing August 12, 2014 at the weekly rate of seven hundred thirty-three and 82/100 ($733.82) dollars.

Defendants, Mail Contractors of America, Inc., and Ace Property and Casualty shall pay claimant's medical expenses pursuant to Iowa Code section 85.27 directly and shall reimburse the claimant for those expenses he has personally paid.

Costs of this action are taxed to defendants, Mail Contractors of America, Inc., and Ace Property and Casualty pursuant to rule 876 IAC 4.33.

Second Injury Fund of Iowa shall pay claimant benefits for permanent total disability commencing February 24, 2012 at the weekly rate of seven hundred thirty-three and 82/100 ($733.82) dollars after the expiration of a credit of one hundred twenty-five point four (125.4) weeks which credit shall commence on February 24, 2012.

Signed and filed this 14th day of July, 2015.

RON POHLMAN
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

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RRP/kjw

Right to Appeal: This decision shall become final unless you or another interested party appeals within 20 days from the date above, pursuant to rule 876-4.27 (17A, 86) of the Iowa Administrative Code. The notice of appeal must be in writing and received by the commissioner's office within 20 days from the date of the decision. The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday. The notice of appeal must be filed at the following address: Workers' Compensation Commissioner, Iowa Division of Workers' Compensation, 1000 E. Grand Avenue, Des Moines, Iowa 50319-0209.