BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

MARIA FLORES,	:	
Claimant,	:	File No. 5061520
vs.	:	ARBITRATION
MARRIOTT HOTEL SERVICES, INC., d/b/a DES MOINES MARRIOTT HOTEL,	:	DECISION
Employer, Self-Insured, Defendant.	:	Head Notes: 1402.40, 1803, 2501, 2502

STATEMENT OF THE CASE

Claimant, Maria Flores, filed a petition in arbitration seeking workers' compensation benefits from Marriott Hotel Services, Inc., d/b/a Des Moines Marriott Hotel (Marriott). This matter was heard in Des Moines, Iowa on April 16, 2019 with a final submission date of May 13, 2019.

The record in this case consists of Joint Exhibits 1-10, Claimant's Exhibits 1-7, Defendant's Exhibits A through C, and the testimony of claimant and Zilka Alicic. Serving as an interpreter for the hearing was Ernest Nino-Murcia.

The parties filed a hearing report at the commencement of the arbitration hearing. On the hearing report, the parties entered into various stipulations. All of those stipulations were accepted and are hereby incorporated into this arbitration decision and no factual or legal issues relative to the parties' stipulations will be raised or discussed in this decision. The parties are now bound by their stipulations.

ISSUES

1. Whether the injury is a cause of permanent disability; and if so
2. The extent of claimant's entitlement to permanent partial disability benefits.
3. Commencement date of benefits.
4. Whether there is a causal connection between the injury and the claimed medical expenses.

5. Whether claimant is entitled to reimbursement for an independent medical evaluation (IME) under Iowa Code section 85.39.

FINDINGS OF FACT

Claimant was 38 years old at the time of hearing. Claimant is from Ecuador. Claimant finished elementary school and had one year of middle school in Ecuador. She testified she had to leave school to work to earn money for her family.

Claimant immigrated to the United States in 1997. Claimant testified she has taken ESL classes. She said she understands and speaks a little English. She said she can read a little English. Claimant testified she is not fully conversant in English. She says she requires help to understand documents written in English.

Claimant has worked for a dry cleaner and at a delivery service. Claimant testified she could no longer do either one of these jobs due to lower back problems.

Claimant began with Marriott in January of 2016. Claimant testified she was originally hired in general housekeeping. Claimant said she could not perform general housekeeping duties due to lower back problems.

After working the housekeeping position, claimant moved to a deep cleaning job. This involves deep cleaning five rooms per day with a coworker. This job requires moving beds, TV stands, refrigerators, and vacuuming.

On September 19, 2016 claimant pulled or moved a bed. She says she felt a pop and pain in her lower back. Claimant was not able to continue working.

On September 21, 2016 claimant was evaluated by Von Miller, PA-C. Claimant was assessed as having lower back pain. Claimant was given restrictions and prescribed physical therapy. (Joint Exhibit 1, pages 1-2)

Claimant underwent physical therapy. Claimant's condition had improved over six visits, but claimant was still tender at the L5 level and had reduced endurance for heavy lifting, pushing or pulling. Continued physical therapy was recommended. (Jt. Ex. 1, p. 10) The next day, on October 19, 2019, Physician's Assistant Miller assessed claimant as having improved back pain. Records from the visit suggest claimant was returned to work with full duty and discharged from care. (Jt. Ex. 1, p. 16)

Claimant returned to Physician's Assistant Miller on December 8, 2016 with continued complaints of lower back pain. Claimant was told to use over-the-counter ibuprofen. When claimant's condition did not improve, Physician's Assistant Miller recommended an MRI. (Jt. Ex. 1, pp. 19-21)

On January 10, 2017 claimant underwent an MRI. It showed an L4-5 right central disc protrusion with a mild mass effect on the right L5 nerve root, and an L3-4 and L2-3 annular tear. (Jt. Ex. 3, pp. 44-45)

Claimant returned to Physician's Assistant Miller. Physician's Assistant Miller thought the L5 nerve root probably was causing claimant's pain and referred claimant to an orthopedic surgeon. (Jt. Ex. 1, pp. 23-24)

Claimant was evaluated by Lynn Nelson, M.D., an orthopedic surgeon, on February 9, 2017. Dr. Nelson reviewed the MRI, which showed a central L4-5 disc protrusion. He thought claimant's symptoms were more consistent with myofascial problems. He recommended prednisone. (Jt. Ex. 5, pp. 90-95)

Claimant testified when she first saw Dr. Nelson she had lower back pain with pain radiating into the left leg.

On March 2, 2017 claimant returned to Dr. Nelson. Claimant reported an 80 percent improvement with use of prednisone. Dr. Nelson indicated claimant's back pain and leg pain was near resolution. Dr. Nelson prescribed Clinoril. (Jt. Ex. 5, p. 96)

Claimant testified Dr. Nelson told her if she continued to have pain she was not to return to him, but to return to Physician's Assistant Miller.

Claimant testified that in approximately May of 2017 her prescription for Clinoril ran out. She said she went to her supervisor, Ms. Alisic. She said Ms. Alisic told her she would look into getting claimant further care. Claimant said she tried to get an appointment with PA Miller but it did not happen.

On April 3, 2017 and April 24, 2017 claimant was seen by her family doctor, Carlos Alarcon-Schroder, M.D. for a number of issues. Dr. Alarcon indicated claimant still had problems with a lumbar herniated disc and problems with lumbar radiculopathy. (Jt. Ex. 4, pp. 48-53)

In June of 2017 claimant traveled for two weeks to Ecuador to be with her father regarding a surgery. Claimant testified the total round-trip flight time was approximately 17 hours. She said flying in the plane increased her lower back pain. She testified that on other trips to Ecuador, prior to her back injury, she did not have back pain. (Transcript pp. 35-36)

On or about July 13, 2017 claimant was bending over at home to pick up a piece of food off the floor. Claimant had increased back pain. Claimant received treatment at Mercy Hospital where she was given medication for pain. (Jt. Ex. 6, pp. 102-105)

On July 17, 2017 claimant gave a recorded statement to her employer regarding her ongoing back pain. The statement suggests after her medication ran out, claimant continued to have back pain that never went away. (Ex. B, p. 6)

The statement suggests claimant had back pain again after her airplane flight. (Ex. B, p. 7) The statement seems to indicate after claimant returned to work, before

her trip to Ecuador, claimant continued to have back pain. She asked her supervisor for treatment, but that treatment was never given. (Ex. B, p. 8)

On the same day, claimant was informed by defendant it was determined claimant's plane trip to Ecuador was the aggravating factor causing her to seek medical treatment. Since the plane trip was non-work related, defendant would not provide further treatment for claimant. (Ex. B, p. 10)

Claimant returned to Dr. Alarcon on August 19, 2017. She complained of persistent lumbar pain radiating to the left buttock. Claimant was assessed as having lumbar herniated disc, lumbar radiculopathy, and a lumbar strain. Claimant was given medications and another MRI was recommended. (Jt. Ex. 4, pp. 57-59)

In an October 10, 2017 letter, Dr. Nelson responded to a letter and a phone call from defendant's counsel. He opined claimant's current problems were not related to her September of 2016 work injury. He opined claimant had no permanent restrictions or permanent impairment as of March 2, 2017. (Ex. C, p. 53)

Claimant had another lumbar MRI on November 3, 2017. It showed an impression on the L5 segment and an annular tear at L2-3 and L4-5. (Jt. Ex. 4, pp. 68-69)

Claimant returned to Dr. Alarcon on November 8, 2017 in follow up. Dr. Alarcon went over the recent MRI and that claimant's pain seemed to be due to the L5 nerve root. He recommended an epidural steroid injection (ESI). (Jt. Ex. 4, pp. 70-71)

Claimant was evaluated at Pain Specialists of Iowa. Notes indicate claimant had a left SI injection on December 22, 2018, which relieved pain by 50 percent. (Jt. Ex. 7, p. 107)

Claimant testified Dr. Smith (no first name given) at Pain Specialists, asked claimant about restrictions, but claimant told him she did not want restrictions so she could continue to work. Claimant said Dr. Smith told her to be careful with bending and lifting. (Tr. pp. 42-43)

Claimant returned to Pain Specialists of Iowa on January 15, 2018. A TENS unit was recommended for lower back pain. (Jt. Ex. 7, pp. 107-110)

In a January 23, 2018 report, Sunil Bansal, M.D., gave his opinions of claimant's condition following an IME. Claimant complained of constant back pain radiating down the left leg. Claimant had difficulty sitting for more than 30 minutes. Dr. Bansal assessed claimant as having an L3-4 left-sided annular tear and a bulge at the L4-5 central right disc protrusion. He found claimant at maximum medical improvement (MMI) as of December 7, 2017. (Ex. 1, pp. 1-10)

Dr. Bansal opined claimant's work at Marriott caused her ongoing back pain. He compared claimant's MRI both before and after her plane trip to Ecuador. He found there was no new disc protrusions that occurred from the July of 2017 plane trip. He found claimant had a 7 percent permanent impairment to the body as a whole. He recommended claimant be restricted to lifting 20 pounds occasionally, no frequent bending or stooping. He also recommended claimant avoid sitting, standing, or walking more than 60 minutes at a time. (Ex. 1, pp. 10-13)

Claimant returned to Pain Specialists of Iowa with continuing and ongoing lower back pain and lower extremity symptoms. Claimant was given a second ESI on March 27, 2018. (Jt. Ex. 7, pp. 111-116) Claimant testified the second injection helped her symptoms 50-70 percent. (Tr. p. 44)

In an April 12, 2018 letter Dr. Nelson indicated he had read Dr. Bansal's IME report and his opinions regarding causation of claimant's current condition remained the same. (Ex. C, p. 55)

Claimant returned to Pain Specialists of Iowa on May 8, 2018. Claimant had a 70 percent pain relief from the ESI but still had lower back pain and left buttock pain. Claimant was continuing to do stretches at home and use a TENS unit. (Jt. Ex. 7, pp. 114-116)

Claimant had another ESI on August 17, 2018. Claimant testified the third ESI did not help much. (Jt. Ex. 7, pp. 117-123; Tr. pp. 44-45)

Claimant testified due to ongoing back pain, she wanted to see another provider. Claimant was evaluated at the Latin American Medical Clinic on March 15, 2019. She was given a brace to wear for her lower back pain. (Jt. Ex. 10, pp. 130-132; Tr. pp. 47-48)

At the time of hearing claimant was still performing deep cleaning duties at Marriott with the help of a coworker. Claimant said a coworker did most of the heavy lifting, pushing and pulling.

Claimant testified she still has lower back pain that does not go away. Claimant takes meloxicam daily for back pain. Claimant uses a TENS unit for pain. (Tr. pp. 48-49)

Claimant testified she earned $11.25 an hour at the time of injury. She said she earns approximately $12.30 an hour at the time of hearing. Claimant is still working in the same job, and the same shift she did when she was injured. (Tr. p. 52)

Ms. Alicic testified she is claimant's supervisor at Marriott. In that capacity she is familiar with claimant and claimant's job duties. Ms. Alicic testified claimant has not given her any restrictions or asked for any job accommodations. (Tr. p. 75) She said

claimant, at times, will act as an interpreter for other Spanish speaking workers who speak little or no English. (Tr. pp. 80-81)

CONCLUSIONS OF LAW

The first issue to be determined is whether claimant's injury resulted in a permanent disability. Defendant admits claimant sustained a work-related injury on September 19, 2016. Defendant contends claimant's ongoing back and leg symptoms are not related to the work injury. Defendant also contends claimant has no permanent impairment or permanent restrictions from the September of 2016 work injury.

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.

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).

Claimant underwent a lumbar MRI in January of 2017. It showed an L4-5 disc protrusion and a mass effect on the right L5 nerve root and an annular tear at L3-4 and L2-3. (Jt. Ex. 3, pp. 44-45)

Physician's Assistant Miller read the MRI and believed the L5 nerve root was probably causing claimant's pain. He referred claimant to Dr. Nelson. (Jt. Ex. 2, pp. 23-24)

Claimant saw Dr. Nelson on two occasions. On the second occasion, in March of 2017, he noted claimant indicated an 80 percent improvement with symptoms following prednisone. Dr. Nelson assessed claimant as having bilateral buttock pain improved or back pain and a small central right L4-5 disc protrusion. He prescribed Clinoril and told claimant to see Physician's Assistant Miller if she needed further treatment. (Jt. Ex. 5, pp. 96-97)

Claimant's unrebutted testimony was after her prescription for Clinoril ran out, she attempted to get an appointment, through work, to see Physician's Assistant Miller. Claimant's unrebutted testimony was her attempts to get an appointment with Physician's Assistant Miller were not successful. It is found claimant's testimony regarding this issue is credible.

On two occasions in April of 2017 claimant was evaluated by Dr. Alarcon. Records from this period indicate claimant still had lumbar pain and lumbar radiculopathy. (Jt. Ex. 4, pp. 48-53)

In June of 2017 claimant traveled back and forth to Ecuador. Claimant testified prolonged sitting on the flight aggravated her pain. She credibly testified she had not had back pain on flights to Ecuador until after her September of 2016 back injury.

Claimant did seek treatment in July of 2017 after bending over at home. Claimant credibly testified she has not had back pain when bending over prior to the September of 2016 injury and the back pain in July of 2017 was in the same area as her work-related back injury. (Tr. pp. 37-38) Based on this, it is found the July of 2017 incident was merely an aggravation of claimant's work-related September of 2016 work injury.

Claimant gave her recorded statement to employer. The statement is, at best, unclear. As noted, the statement appears to suggest claimant had continued back pain after her medication ran out, before she flew to Ecuador. It also suggests claimant asked for treatment from her supervisor, after being released by Dr. Nelson, but that treatment was never given. (Ex. B, pp. 6-8)

Claimant was denied further care by her employer based on a belief claimant's continued back pain and lumbar radiculopathy were caused by her plane trip to Ecuador. (Ex. B, p. 10)

Claimant returned for follow up treatment for lower back with Dr. Alarcon in August of 2017. Claimant's diagnosis was for lumbar pain radiating to the left buttock. This was essentially the same diagnosis given to claimant shortly following the September of 2016 injury by authorized providers. (Jt. Ex. 4, pp. 57-59)

Claimant had another MRI in November of 2017. Dr. Bansal reviewed both the January of 2017 and the November of 2017 MRIs and found no change in the disc levels between the two MRIs. He opined there was no new disc protrusions that occurred as a result of claimant's plane trip to Ecuador. (Ex. 1, pp. 12-13)

Claimant continues to have lower back pain and lumbar radicular pain. This pain has continued throughout the remainder of 2018 and 2019.

Dr. Nelson treated claimant on two occasions. He opined claimant's current problems are not related to her September of 2016 work injury, and claimant had no permanent impairment or permanent restrictions. (Ex. C, pp. 53, 55)

I have a great deal of respect for the opinions of Dr. Nelson. However, I have no idea what information was given to Dr. Nelson regarding claimant's condition by defendant's counsel. It appears Dr. Nelson was not given information that claimant sought medical treatment from Physician's Assistant Miller after her prescription for Clinoril ran out. Dr. Nelson does not appear to know that claimant's diagnosis with Dr. Alarcon, Pain Specialists of Iowa, and other providers, is essentially the same diagnosis given to claimant by authorized treating physicians prior to the trip to Ecuador. Dr. Nelson also offers no analysis in comparison of the January of 2017 and November of 2017 MRIs. Based on these inconsistencies, it is found Dr. Nelson's opinion regarding causation, permanent impairment, and permanent restrictions are found not convincing.

Claimant had a September of 2016 work injury that caused problems with lower back pain and lumbar radicular pain. The MRIs taken before and after her trip to Ecuador are essentially the same. Claimant's diagnosis both before and after her trip to Ecuador are the same. Dr. Bansal opines claimant's back pain and radiation into her lower extremities is caused by the September of 2016 work injury. Dr. Nelson's opinions regarding causation, permanent impairment and permanent restrictions are found not convincing. Given this record, claimant has carried her burden of proof her continued back pain and radicular symptoms are caused by the September of 2016 work injury.

Claimant was injured in September of 2016. Two and a half years later, claimant still has back pain and radicular symptoms. Dr. Bansal found claimant has a permanent impairment. Dr. Nelson's opinions regarding permanent impairment are found not convincing. Claimant has continued to receive treatment for lower back pain and

radicular problems in the same area for approximately two and a half years. She has had several ESIs for lower back pain. Given this record, it is found claimant has carried her burden of proof she has a permanent disability from the September of 2016 work injury.

The next issue to be determined is the extent of claimant's entitlement to permanent partial disability benefits.

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.

Claimant was 38 years old at the time of hearing. She is from Ecuador. Claimant finished elementary school in Ecuador and has one year of middle school.

Claimant has taken ESL classes. Claimant credibly testified she is not fully conversant in English. She credibly testified she requires help to understand documents written in English.

Claimant has worked at a dry cleaner and doing delivery services. Claimant credibly testified she could no longer do either one of these jobs due to lower back pain. She also credibly testified she does not believe she could return to her regular housekeeping job given the limitations with her back.

Dr. Bansal found claimant had a 7 percent permanent impairment to the body as a whole. Dr. Nelson's opinion regarding permanent impairment and restrictions are found not convincing. It is found claimant has a 7 percent permanent impairment to the body as a whole caused by the September of 2016 work injury.

Dr. Bansal gave claimant permanent restrictions. Those permanent restrictions have not been applied to claimant's job regarding her deep cleaning duties.

Claimant credibly testified her coworker helps her perform deep cleaning duties and does most of the heavy lifting and moving on the job. In short, while claimant has not specifically asked for accommodations from her supervisor at work, some type of accommodation occurs based on claimant's limitations due to her back condition.

Claimant was making $11.25 an hour at the time of injury. At the time of hearing claimant was earning $12.30 an hour.

Claimant takes prescription medication daily for pain. She uses a TENS unit for pain. She has not had surgery. Claimant has had several ESIs for back pain. When all relevant factors are considered, it is found claimant has a 20 percent industrial disability or loss of earning capacity.

The next issue to be determined is the commencement of benefits.

Permanent partial disability benefits commence on the earliest date when claimant returns to work, is medically capable of performing substantially similar work, or achieves maximum medical improvement. Iowa Code section 85.34(1); Evenson v. Winnebago Industries, Inc., 881 N.W.2d 360, 372 (Iowa 2016).

The record indicates claimant returned to work to restricted work duty on September 20, 2016, one day after the day of injury. Given the finding in Evenson, claimant's permanent partial disability benefits should commence as of September 20, 2016.

The next issue to be determined is whether there is a causal connection between the injury and the claimed medical expenses.

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

Claimant received medical care for her September 2016 work injury. The medical expenses for this care are found at Exhibit 6. There is no evidence the medical bill summary found at Exhibit 6 is not related to treatment claimant received for her work injury. There is no evidence in the record charges made by providers were not fair and reasonable. Defendant is liable for the claimed medical expenses.

The final issue to be determined is whether claimant is entitled to reimbursement for an IME under Iowa Code section 85.39.

Section 85.39 permits an employee to be reimbursed for subsequent examination by a physician of the employee's choice where an employer-retained physician has previously evaluated "permanent disability" and the employee believes that the initial evaluation is too low. The section also permits reimbursement for reasonably necessary transportation expenses incurred and for any wage loss occasioned by the employee attending the subsequent examination.

Defendant is responsible only for reasonable fees associated with claimant's independent medical examination. Claimant has the burden of proving the reasonableness of the expenses incurred for the examination. See Schintgen v. Economy Fire & Casualty Co., File No. 855298 (App. April 26, 1991). Claimant need not ultimately prove the injury arose out of and in the course of employment to qualify for reimbursement under section 85.39. See Dodd v. Fleetguard, Inc., 759 N.W.2d 133, 140 (Iowa App. 2008).

Regarding the IME, the Iowa Supreme Court provided a literal interpretation of the plain language of Iowa Code section 85.39, stating that section 85.39 only allows the employee to obtain an independent medical evaluation at the employer's expense if dissatisfied with the evaluation arranged by the employer. Des Moines Area Reg'l Transit Auth. v. Young, 867 N.W.2d 839, 847 (Iowa 2015).

Under the Young decision, an employee can only obtain an IME at the employer's expense if an evaluation of permanent disability has been made by an employer-retained physician.

Dr. Nelson, the employer-retained physician opined claimant had no permanent impairment in an October 10, 2017 opinion. (Ex. C, p. 53) Dr. Bansal, the employee-retained expert gave his opinions regarding permanent impairment in a January 23, 2018 opinion. (Ex. 1) Given the chronology of the opinions, defendant is responsible for reimbursement of Dr. Bansal's IME.

ORDER

Therefore, it is ordered:

That defendant shall pay claimant one hundred (100) weeks of permanent partial disability benefits at the rate of three hundred fifty-one and 51/100 dollars ($351.51) per week commencing on September 20, 2016.

That defendant shall pay accrued weekly benefits in a lump sum.

Defendant 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. See Gamble v. AG Leader Technology File No. 5054686 (App. Apr. 24, 2018).

That defendant shall pay costs associated with Dr. Bansal's IME.

That defendant shall pay claimant's medical expenses as shown in Exhibit 6.

That defendant shall pay costs.

That defendant shall file subsequent reports of injury as required by this agency under rule 876 IAC 3.1(2).

Signed and filed this 23rd day of May, 2019.

JAMES F. CHRISTENSON
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

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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.