BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

KENT KEHLENBECK,

Claimant,

vs.

CITY OF DES MOINES,

Employer,
Self-Insured,
Defendant.

File No. 5061893

ARBITRATION

DECISION

Head Notes: 1800, 1803, 2500, 2501

STATEMENT OF FACTS

Claimant, Kent Kehlenbeck, filed a petition in arbitration seeking workers' compensation benefits against City of Des Moines, a self-insured employer, defendant, for an accepted work injury dated May 10, 2016. This case was heard on March 21, 2019, and considered fully submitted on April 8, 2019 upon the simultaneous filing of post-hearing briefs.

The record consists of joint exhibits 1-11, claimant's exhibits 1-8, along with the testimony of claimant and Sara Kehlenbeck.

ISSUES

1. The extent of claimant's industrial disability,
2. The commencement date for permanent partial disability benefits,
3. Entitlement to future medical care, and costs.

STIPULATED FACTS

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.

Defendant waives all affirmative defenses. The parties agree the claimant sustained an injury on May 10, 2016 which arose out of and in the course of his

employment. They further agree the injury was the cause of some temporary disability during a period of recovery, entitlement to which is no longer in dispute.

While the parties do not agree as to the claimant's extent of disability or commencement date for permanent partial disability benefits, they do agree that the disability is industrial in nature.

At the time of the injury, claimant's gross earnings were $1158.56 per week. Claimant was married and entitled to two exemptions. Based on those foregoing numbers the weekly benefit rate is $723.66. Prior to the hearing, claimant was paid 73 weeks of compensation at the rate of $723.66 per week.

FINDINGS OF FACTS

Claimant was a 54-year-old person at the time of the hearing. At all relevant times, he was married and entitled to two exemptions.

His educational background includes community college and an associate's degree in horticulture. As the years have passed, he has taken additional classes to keep certain licenses current such as pool certifications and pesticides licenses. He also has some training in wildfire courses and a CDL.

His past work history primarily consists of manual labor. He was a crew foreman at Glen Oaks Country Club responsible for maintenance of the golf course and surrounding grounds. This work entailed pulling of hoses, walking, drain tile irrigation, maintenance of sand bunkers, and other similar manual labor tasks. Prior to his work at Glen Oaks, he applied pesticides and fertilizers for Tru Green.

His first position for defendant employer was as assistant superintendent at Waveland Golf Course, performing similar duties to that which he did at Glen Oaks. He then moved to the parks and recreation department as a park maintenance worker. It was a physical job wherein he applied pesticides, mowing, maintenance of equipment, planting, and other landscaping work done by hand.

In 2012, claimant sustained an injury to his neck. He woke up one morning and was not able to sit up. He reported this to his employer but they did not offer medical care. He sought out treatment on his own. He first underwent physical therapy but eventually found his way to David Hatfield, M.D. On December 6, 2012, Dr. Hatfield performed a C3-C4, C4-C5, anterior decompression. Claimant was off work for approximately five months and returned to work full-time with no restrictions.

At the hearing, claimant had a difficult time standing. He breathed heavily and would often close his eyes, even while seated during the questioning. His appearance and presentation was observably unusual.

On or about May 10, 2016, claimant was moving fifty-pound bags of fertilizer. The next day he noticed pain in his neck. Claimant maintained he reported this to his

supervisor, Mike Gaul, who set up a medical appointment. Medical records show claimant sought medical attention from his personal physician, Jeffrey Lenz, M.D., on June 6, 2016. (JE 11:1) Claimant then went to Methodist Occupational Health and Wellness and was seen by Richard S. McCaughey, D.O. On June 13, 2016. (JE 1:2) Dr. McCaughey noted that claimant had a previous medical history of benign essential tremors. (JE 1:1) An MRI was ordered and claimant was referred to Dr. Hatfield once again who performed another surgery. (JE 1:4, JE 7:1) Both claimant and his wife, Sara Kehlenbeck, testified that Dr. Hatfield was reserved about claimant's chance of recovery after the second surgery.

Initially, Dr. Hatfield treated the neck issue conservatively. Claimant's neck pain was a 5 out of 10 on a 10 scale. (JE 2:1) Claimant's MRI showed mild narrowing at C3-C7. (JE 2:1) Dr. Hatfield recommended an EMG to address a possible shoulder pathology with peripheral neural change. (JE 2:2) The EMG showed evidence of mild carpal tunnel syndrome on the right. (JE 3:1) Dr. Hatfield had claimant consult with partner, Jason Sullivan, M.D., regarding claimant's shoulder issues. Together, the two doctors attempted to ascertain the etiology of claimant's symptomatology. Claimant had full range of motion of his right shoulder, but positive Hawkins and positive Neer's. (JE 2:3) Based on the test results and the physical exam, Dr. Sullivan diagnosed claimant with shoulder impingement. (JE 2:4) On August 9, 2016, claimant underwent an arthrogram due to the poor MRI. The arthrogram suggested a partial-thickness tear. (JE 4:1) On August 16, 2016, Dr. Sullivan concluded that claimant's symptoms did not correlate with the objective test results pertaining to his right shoulder. (JE 2:7) Claimant was placed at maximum medical improvement (MMI) and Dr. Sullivan did not assign any work restrictions arising from the shoulder injury. (JE 2:7)

Claimant returned to Dr. Hatfield on September 26, 2016. (JE 2:10) During the examination, claimant had reduced shoulder range of motion on the right, poor right hand intrinsics, and reduced strength in the right hand. (JE 2:1) Based on the claimant's poor level of function, Dr. Hatfield agreed to perform cervical spine surgery. (JE 2:10; JE 7:1) In response to an inquiry from the defendant, Dr. Hatfield opined that the claimant's pain and weakness in the right upper extremity was related to the May 2016 lifting episode and necessitated the surgery. (JE 2:13)

After this second surgery, claimant was sore and recovery was painful. Claimant was kept off work and then returned to an accommodated position.

He first started out in the community center, working behind a desk. He was then moved to a grain house and a greenhouse. He finally settled at the Glendale Cemetery, doing makeshift work such as scanning records and documents. He was given a desk and a chair and allowed to take breaks whenever he chose.

Despite the accommodated work, claimant continued to report pain in his shoulder and/or neck. Headaches were increasing along with numbness and tingling radiating into the right arm down into his fingers.

After the surgery of December 6, 2016, claimant continued to report pain and dysfunction in the neck and right arm. (Ex. 1:4) However, on the December 19, 2016 visit to Dr. Hatfield, while claimant had a sense of paresthesias in his neck, he was no longer reporting radicular symptoms. Id. In the following days and months, other symptoms manifested including severe tension headaches and problems opposing his right thumb to his ring and small fingers. Id.

On February 23, 2017, following a difficult recovery, claimant began to have pain in his right hand and reported the inability to touch his pinky finger and thumb together. (JE 2:27)

On the July 14, 2017, visit with Dr. McCaughey, claimant reported ongoing symptoms of right hand numbness, neck pain and stiffness. (JE 1:10) An EMG showed mild bilateral CTS along with chronic radiculopathy on the right. (JE 3:1) Claimant had an underlying issue with upper extremity essential tremors but his gait was normal and he moved about the exam room without difficulty. (JE 1:10) Claimant was placed at MMI by Dr. Hatfield on August 16, 2017, with permanent restrictions. (JE 2:35)

During this August 16, 2017 visit, claimant showed poor hand intrinsics on the right, grade 5 shoulder abduction bilaterally, grade 4 biceps on the right as compared to a 5 on the left. (JE at 2:35) Dr. Hatfield concluded that the proximal symptoms suggested that there was no significant carpal tunnel component to the claimant's symptoms. (JE 2:35) Dr. Hatfield recommended a functional capacity evaluation (FCE), which was conducted on August 29, 2017. (JE 8) The FCE testing was rigorous and claimant reported significant soreness for at least three days following the testing. The testing was deemed valid and claimant was placed at the medium physical demand level. (JE 8:1)

Following the FCE, claimant returned to Dr. Hatfield who imposed final restrictions of no lifting greater than 20 pounds in the work environment and to avoid bouncing and jarring in vehicles. (JE 2:40) Imaging showed no apparent ongoing neural compression, but the EMG indicated a component of residual C5-6 radiculopathy. (Ex. 2:41)

On October 6, 2017, in a letter to the defendant, Dr. Hatfield assessed a 26 percent impairment of the whole person due the claimant's cervical condition. (JE 2:41) Dr. Hatfield did not restrict claimant from driving, only from vehicles that have poor suspension that would create a distinct bouncing/jarring ride. (JE 2:43)

Dr. McCaughey affirmed these restrictions during the October 9, 2017, visit and noted claimant had residual neck achiness and stiffness along with weakness of the right hand, but that he moved about the exam room without difficulty and with a normal gait. (JE 1:12)

He began to see Christian Ledet, M.D. for treatment of his neck and shoulder pain. (JE 10) Claimant exhibited shoulder tenderness at the rotator cuff. (JE 10: p. 5) He

also spoke about his depression with Dr. Ledet. Claimant testified that he is "not the same person he was before." Dr. Ledet has administered injections in the shoulder and arm and has recommended cognitive therapy for pain management. (JE 10:4) On February 15, 2019, Dr. Ledet suggested that claimant suffered from multifocal pain including axial cervical pain, right shoulder pathology, and carpal tunnel syndrome all contributing to the neck and arm pain. (JE 10:11)

Claimant testified that his personal doctor is prescribing medication for depression.

Claimant's work for the defendant employer ceased after a review of the job openings. (Ex 3:1) Defendant employer offered claimant an interoffice mail courier position, however, he did not feel comfortable driving the vehicle because it did not have safety cameras. He has poor periphery vision and inability to move his neck. Claimant maintained he could have continued doing his work at the Glendale Cemetery. He had discovered that there were unclaimed lots in the cemetery that were subsequently sold. (Ex. 4:1) He was confident that the income from the sale of those unclaimed lots could have covered his wages. (Ex. 4:1)

On July 17, 2018, Dr. Kuhnlein performed an independent medical examination (IME) at the request of the claimant. (Ex. 1) In the historical section, Dr. Kuhnlein recorded that directly following the work injury, claimant developed neck pain, radiating into the right arm with symptoms of numbness, tingling and paresthesias extending down the right arm. (Ex. 1.2) His current symptoms as of July 17, 2018, were constant headaches, right-sided neck pain radiating through the right trapezius into the right shoulder area and then down the right arm mostly on the posterior side. He also experienced occasional numbness and tingling in the right arm, neck pops, right hand numbness and tingling mostly in the right thumb and the right ring and small fingers. He had difficulty opposing the right thumb to the right ring and small finger, as well, though he could oppose the right thumb to the index and middle fingers. He also described decreased range of motion in the right shoulder. (Ex. 1:6) Dr. Kuhnlein opined the May 10, 2016 injury aggravated a pre-existing spinal stenosis at C3-C4, C4-C5 and pre-existing disease at C5-C6 with subsequent right chronic C5-C6 radiculopathy. (Ex. 1:11) Dr. Kuhnlein also attributed the inability to oppose the thumb to the right ring and small finger was caused by the May 10, 2016 injury, as well as the development of adhesive capsulitis in the right shoulder. (Ex. 1:11)

Dr. Kuhnlein could not opine to a reasonable degree of medical certainty whether the right hand atrophy or headaches were related to the May 10, 2016 injury, and ruled out the essential tremor and bilateral median mononeuropathy as causally connected to the May 10, 2016, injury. (Ex. 1:11)

Dr. Kuhnlein did recommend future care including treatment for the right shoulder adhesive capsulitis and pain management for the cervical spine symptoms and chronic radiculopathy. (Ex. 1:11)

For impairment, Dr. Kuhnlein assessed a 36 percent whole person impairment as a result of the spinal surgery, reduced range of motion, radiculopathy, pain and dysfunction. (Ex. 1:12) Further, Dr. Kuhnlein recommended the following restrictions:

> All restrictions are because of the cervical condition and radiculopathy. Material handling restrictions would include lifting 35 pounds occasionally from floor to waist, 30 pounds occasionally from waist to shoulder as long as weights are kept close to his body, 20 pounds occasionally from waist to shoulder if he is lifting more than elbows distance away from his body and 10 pounds occasionally over the shoulder.
>
> Nonmaterial handling restrictions would include sitting, standing, or walking on an as-needed basis for comfort with the ability to change positions for comfort. Mr. Kehlenbeck can stoop or squat occasionally, occasionally bend at the waist, or crawl occasionally. Mr. Kehlenbeck can kneel without restriction. Mr. Kehlenbeck cannot work on ladders or at height because of an inability to maintain a three-point safety stance and work efficiently and safely with the right upper extremity. He can frequently climb stairs. Mr. Kehlenbeck can work at or above shoulder height occasionally. He can grip or grasp without restrictions below shoulder height and occasionally at or above shoulder height within the material handling restrictions outlined above. There are no lower extremity restrictions.
>
> There are no vision, hearing, or communication restrictions. Mr. Kehlenbeck can travel for work but may need to take breaks to stretch from time to time. If he is driving for work, he will need to drive a vehicle that does not limit his posterior vision, so he should not be driving straight vans or parcel vans. The vehicle would need a backup camera and bilateral side mirrors. He can use hand or power tools on an occasional basis within the material handling restrictions outlined above. There are no environmental restrictions. There are no personal protective equipment restrictions. Mr. Kehlenbeck cannot work on production lines because of the decreased range of motion of his neck and the ongoing radiculopathy. There are no shiftwork issues.

(Ex. 1:12, 13)

Claimant testified that he would not be able to perform any of his past employment with his current restrictions. He also does not believe that there is a sedentary work job he could do, although he did maintain he could have continued doing the document scanning for the city. He has applied for a variety of positions at grocery stores and hardware stores via the Internet, often with the help of his wife.

More recently, he has applied at a golf course in northeast Nebraska. It appeared that he was specifically looking for an employer to accommodate his restrictions rather

than seeking employment for positions that fit within his work restrictions. During one in-person interview, he was informed that it might not be possible to meet his weight restrictions.

Claimant admitted on cross examination that these applications were completed so that he was in compliance with the unemployment law. He has not received any response to his online applications.

As for treatment, he testified that there is little treatment that alleviated his pain including pain relievers and/or narcotics.

He has applied for Social Security Disability and was denied. The matter may be on appeal.

Currently, at-home tasks such as lawn care, snow care, gardening and the like are taken care of by his children. He is not able to engage in past hobbies of golfing or target shooting. Part of the challenge is due to tremors in his hands. The tremors affect his ability to write or do photography or any fine detail work. Claimant maintained that Dr. Hatfield associated these hand tremors with the work injury; however, there is no medical record of this. Dr. Kuhnlein opined that the tremor is not related. (Ex. 1:11) According to his wife, prior to the injury, claimant was a "doer" but after the surgery, he has been in constant pain.

Claimant is unsure of whether he would be able to work in an office setting. He was not certain he could sit for two to four hours and maintained the need to move around at least twice per hour.

CONCLUSIONS OF LAW

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

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).

While a claimant is not entitled to compensation for the results of a preexisting injury or disease, its mere existence at the time of a subsequent injury is not a defense. Rose v. John Deere Ottumwa Works, 247 Iowa 900, 76 N.W.2d 756 (1956). If the claimant had a preexisting condition or disability that is materially aggravated, accelerated, worsened or lighted up so that it results in disability, claimant is entitled to recover. Nicks v. Davenport Produce Co., 254 Iowa 130, 115 N.W.2d 812 (1962); Yeager v. Firestone Tire & Rubber Co., 253 Iowa 369, 112 N.W.2d 299 (1961)

Defendant has agreed claimant sustained an injury to his neck arising out of a work injury on May 10, 2016, however dispute the extent of the disability. There are two opinions on claimant's impairment. Dr. Hatfield, claimant's long time surgeon, assessed claimant with a 26 percent whole person impairment. Dr. Kuhnlein, an independent medical examiner, set claimant's impairment at 36 percent of the whole body.

Claimant also maintains that in addition to the neck, claimant has suffered a right shoulder injury that is not at MMI and depression arising from the May 10, 2016, work injury.

In support of the shoulder injury, claimant points to the opinions of Dr. Kuhnlein and suggests, erroneously, that Dr. Kuhnlein's opinions are unrebutted. Dr. Sullivan treated claimant for the presumed right shoulder injury and concluded that though the

right shoulder had a partial-thickness rotator cuff tear, the right shoulder injury had reached MMI on August 16, 2016. Claimant did not return to Dr. Sullivan for treatment but continued to treat with Dr. Hatfield and subsequently Dr. Ledet for pain in the shoulder and neck. In the visit with Dr. Ledet, claimant did exhibit shoulder tenderness at the rotator cuff. (JE 10: p. 5) Dr. Ledet administered a diagnostic intra-articular right shoulder injection. (JE 10:5) During the February 15, 2019, medical visit, Dr. Ledet suggested that claimant suffered from multifocal pain including axial cervical pain, right shoulder pathology, and carpal tunnel syndrome all contributing to the neck and arm pain. (JE 10:11)

Based on the foregoing, it is determined claimant has sustained a right shoulder injury from which he still suffers pain and discomfort. Dr. Kuhnlein has stated that claimant's condition is unresolved, but rather than unresolved, it appears claimant's pain is ongoing. Dr. Kuhnlein did not express what treatment, if any, would improve claimant's condition.

Maximum medical improvement does not mean claimant has returned to a pre-injury state, but rather that claimant is not anticipated to improve. Armstrong Tire & Rubber Co. v. Kubli, 312 N.W.2d 60 (Iowa Ct. App. 1981). Neither maintenance medical care nor an employee's continuing to have pain or other symptoms necessarily prolongs the healing period.

There is not sufficient medical evidence that claimant's right shoulder condition will improve with additional treatment. Therefore, it is determined claimant is at MMI for his right shoulder. The appropriate commencement date for PPD benefits is August 17, 2017, which is the date set by Dr. Hatfield for claimant's neck symptomatology.

As for the issue of depression, while claimant is receiving treatment for it, there is not sufficient evidence to support a finding that the work injury was a substantial factor in claimant's depression. Dr. Kuhnlein did not offer any opinion on claimant's mental state and Dr. Ledet did not offer an opinion on causation of claimant's depression to the work injury. Therefore, it is determined claimant has not carried his burden as it relates to the mental health claim.

Thus, the extent of industrial disability is measured by the injury to the claimant's neck and shoulder and pain in the right upper extremity.

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's ongoing permanent disability arises out of the neck, right shoulder and pain radiating into the right arm. The parties agree claimant cannot return to the positions he held pre-injury. He was offered a courier position, but claimant declined on the basis that he did not believe he could perform the task without appropriate safety cameras.

He did archival and office work for the City and he testified he believed he would be able to continue to do that work. The FCE placed claimant in the medium category for labor while Dr. Hatfield's restrictions were no lifting above 20 pounds and no driving in a bouncing/jarring vehicle.

Claimant's past work history has been primarily heavy labor other than the work performed for the City. Despite this office work experience, the defendant was not able to find another position for the claimant other than the courier position. Claimant testified he is not able to do lawn care or prior hobbies.

His work searches have been cursory. He has applied for jobs that are not within his qualifications rather than ones that are suited to his current physical state. It does not appear he has applied for driving jobs, clerical jobs, or other positions that are within his restrictions. Instead, he applies for positions that are outside his restrictions with the expectations these employers will make accommodations. When he does not get an interview, the claimant asserts it is because of his current condition. He does not portray himself as someone who is serious about returning to work.

Based on the foregoing, including claimant's age, work experience, education and physical condition, it is determined claimant has sustained a 65 percent industrial loss.

Claimant also seeks ongoing care for his neck, shoulder and right arm injuries.

The employer shall furnish reasonable surgical, medical, dental, osteopathic, chiropractic, podiatric, physical rehabilitation, nursing, ambulance, and hospital services and supplies for all conditions compensable under the workers' compensation law. The employer shall also allow reasonable and necessary transportation expenses incurred for those services. The employer has the right to choose the provider of care, except

where the employer has denied liability for the injury. Section 85.27. Holbert v. Townsend Engineering Co., Thirty-second Biennial Report of the Industrial Commissioner 78 (Review-Reopening October 1975).

Claimant is entitled to ongoing care and treatment for his neck and shoulder along with the pain radiating into his right arm.

ORDER

That defendant is to pay unto claimant three hundred twenty-five (325) weeks of permanent partial disability benefits at the rate of seven hundred twenty-three and 66/100 dollars ($723.66) per week from August 17, 2017.

That defendant, City of Des Moines 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, City of Des Moines shall file subsequent reports of injury as required by this agency pursuant to rule 876 IAC 3.1(2).

That defendant, City of Des Moines shall pay the costs of this matter pursuant to rule 876 IAC 4.33.

Claimant is entitled to ongoing care and treatment for his neck and shoulder along with the pain radiating into his right arm.

Signed and filed this 22nd day of May, 2019.

JENNIFER S. GERRISH-LAMPE
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

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JGL/sam

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.