

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

LOREN PESICKA, JR.,

Claimant,

vs.

SNAP-ON LOGISTICS COMPANY,
a/k/a SNAP-ON TOOLS
MANUFACTURING COMPANY,Employer,
Self-Insured,
Defendant.

File No. 5018910

REMAND DECISION

Head Notes: 1703, 1802, 2502,
2907

STATEMENT OF THE CASE

This matter is before the Iowa Workers' Compensation Commissioner on remand from the Iowa Court of Appeals from a decision dated July 21, 2021.

On December 26, 2006, this agency approved an Agreement for Settlement in this matter filed by the parties for an injury date of October 3, 2002.

On February 12, 2015, claimant filed a petition for review-reopening of the Agreement for Settlement regarding the October 3, 2002, injury.

On January 20, 2017, the review-reopening decision was issued. That decision found, in part, that claimant was due permanent partial disability benefits of 25 percent for the lower extremity, and that claimant was underpaid healing period benefits in the amount of \$589.96 (Review-Reopening Decision, page 12)

On March 1, 2017, a rehearing decision was entered, affirming that claimant was owed healing period benefits, but that the benefits should be recalculated, taking into consideration the effect of late payments being first applied to interest and then to the outstanding principal. (Rehearing Decision, page 2) A calculation method was detailed, and the parties were ordered to follow the calculation method. The parties were ordered that if they could not reach an agreement, they were to employ the services of a CPA to run the calculation. (Rehearing Decision, p. 6)

On January 18, 2019, an appeal decision was entered, affirming the calculation method detailed in the March 1, 2017, rehearing decision. The matter was remanded back to the deputy commissioner to specifically calculate the healing period benefits owed. On February 22, 2019, the remand to the deputy commissioner was affirmed via an appeal rehearing decision.

On February 25, 2019, claimant filed a petition for judicial review.

In an August 26, 2019, decision, the district court remanded the case back to the agency for a determination of the amount due for healing period benefits, interest, and the amount of owed payment of permanent partial disability benefits using the methods detailed in the rehearing decision. All other aspects of the agency decision were affirmed.

Claimant appealed the District Court's decision to the Iowa Supreme Court on October 18, 2019.

In a July 21, 2021, decision, the Iowa Court of Appeals remanded the case back to the agency for determination of the amount of healing period benefits due, interest, and the amount of overpayment of the permanent partial disability benefits using methods detailed in the rehearing decision. All other aspects of the agency's decision were affirmed. Claimant filed an application for further review, which was denied. The procedendo for this case was issued by the Iowa Court of Appeals on September 14, 2021. The remand decision in this matter was delayed, in part, due to the death of claimant's prior counsel.

ISSUES

1. The amount of healing period benefits due.
2. Interest due to claimant.
3. Overpayment of permanent partial disability benefits due as a credit.

FINDINGS OF FACT

The findings of fact detailed in the review-reopening, rehearing, and appeal decisions adequately detail the record in this case and will not be repeated in this decision.

On October 6, 2022, the parties filed a joint stipulation. Based on that joint agreement, the parties stipulated to the following:

- That claimant was owed a total of \$649.85 for the benefit periods of April 22, 2009, through August 5, 2009; April 21, 2010, through June 6, 2010; July 1, 2010, through July 18, 2010; October 19, 2011, through February 12, 2012; and October 21, 2015, through December 12, 2015.
- That claimant was owed \$287.33 in interest on past due healing period benefits for the benefit periods as detailed above.
- That defendant is liable for a penalty of \$324.93 regarding underpaid healing period benefits for the periods as detailed above.

- That defendant overpaid past permanent partial disability benefits to claimant in the amount of \$11,890.76. This amount is a credit for defendant on future benefits, including, but not limited to, permanent partial disability benefits asserted in the review-reopening petition.
- That defendant would pay costs consistent with the rehearing decision. These costs include reimbursement for half of John Kuhnlein, D.O.'s independent medical evaluation (IME) fee to claimant.

ORDER

THEREFORE IT IS ORDERED:

That defendant shall pay six hundred forty-nine and 85/100 dollars (\$649.85) for the benefit periods of April 22, 2009, through August 5, 2009; April 21, 2010, through June 6, 2010; July 1, 2010, through July 18, 2010; October 19, 2011, through February 12, 2012; and October 21, 2015, through December 12, 2015.

That defendant shall pay two hundred eighty-seven and 33/100 dollars (\$287.33) in interest on past due healing period benefits for the periods detailed above.

That defendant shall pay claimant three hundred twenty-four and 93/100 (\$324.93) in penalty for underpaid healing period benefits for the periods detailed above.

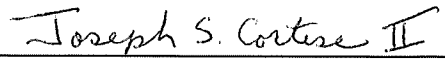
That defendant shall be given a credit in the amount of eleven thousand eight hundred ninety and 76/100 dollars (\$11,890.76) for the past overpayment of permanent partial disability benefits to claimant.

That defendant shall pay costs.

That defendant shall pay one-half of Dr. Kuhnlein's IME fee.

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

Signed and filed this 19th day of October, 2022.



JOSEPH S. CORTESE, II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served, as follows:

Nick Platt (via WCES)

Joni Ploeger (via WCES)