BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

ROBERT THOMAS,	:	
Claimant,	:	File No. 5064599.01
vs.	:	
ARCHER DANIELS MIDLAND, CO.,	:	ARBITRATION DECISION
Employer, Self-Insured, Defendant.	:	Head Note Nos.: 1108, 1803, 3001

STATEMENT OF THE CASE

The claimant, Robert Thomas, filed a petition for arbitration and seeks workers' compensation benefits from Archer Daniels Midland, a self-insured employer. The claimant was represented by Anthony Olson. The defendant was represented by Peter Thill.

The matter came on for hearing on January 15, 2021, before Deputy Workers' Compensation Commissioner Joe Walsh in Des Moines, Iowa via Court Call videoconferencing system. The record in the case consists of Joint Exhibits 1 through 10; Claimant's Exhibits 1 through 8; and Defense Exhibits A through I. The claimant testified at hearing, in addition to Jordan Privratsky. Kristi Miller was appointed and served as the official reporter for the proceedings. The matter was fully submitted on February 26, 2021 after helpful briefing by the parties.

ISSUES

The parties submitted the following issues for determination:

1. The primary dispute in this case is the nature and extent of claimant's disability which was caused by his stipulated January 22, 2017, work injury. The claimant alleges he sustained a sequela injury on June 30, 2018, which is causally connected to his stipulated work injury. The defendant disputes this. Claimant further alleges he has sustained a mental sequela injury. The ultimate issue is whether the disability is sustained to claimant's body as a whole or a scheduled member (right eye).

2. Whether claimant sustained a mental disability as a sequela of the original work injury.

3. Whether the claimant is entitled to additional and/or underpaid healing period benefits.

4. Whether the claimant is entitled to additional and/or underpaid temporary partial disability benefits.

5. Whether the claimant is entitled to Iowa Code section 85.27 medical expenses as set forth in Claimant's Exhibits 5 and 6.

6. Whether claimant is entitled to independent medical examination (IME) expenses and costs set forth in Claimant's Exhibit 7.

7. The claimant's gross earnings are disputed. This results in a rate of compensation dispute regarding both benefits which have already been paid, as well as benefits claimant is alleging have not been paid.

STIPULATIONS

Through the hearing report, the parties stipulated to the following:

1. The parties had an employer-employee relationship.

2. Claimant sustained an injury which arose out of and in the course of employment on January 22, 2017. At the commencement of hearing, the claimant amended his petition injury date to January 22, 2017. (Transcript, page 15)

3. The parties agree that the stipulated injury is a cause of some temporary and permanent disability.

4. The claimant was single and entitled to one exemption at the time of injury.

5. Defendant has paid and are entitled to a credit for the benefits described in Defendant's Exhibits G and I.

6. Affirmative defenses have been waived.

These stipulations are accepted by the agency and with this arbitration decision are deemed binding upon the parties.

FINDINGS OF FACT

Claimant Robert Thomas was 56 years old as of the date of hearing. He lives on a small acreage in Van Horne, Iowa. He did not complete high school but earned his GED in approximately 1983. Mr. Thomas testified live and under oath at hearing. I find him to be a highly credible witness. His testimony is consistent with other portions of the record. His demeanor was simple and matter of fact. He was a good historian.

There was nothing about his demeanor which caused any concern for the truthfulness of his answers.

Mr. Thomas began working for ADM in Cedar Rapids, Iowa in July 2014. He began working in utilities and then moved to the position of maintenance technician in January 2015, working in the refinery. He performs repair and maintenance work on machinery at the plant.

Prior to the injury, Mr. Thomas usually earned $28.42 per hour and his hours varied dramatically from week to week. (*See* Claimant's Exhibit 8) He also earned different rates of pay for different hours worked. The pre-injury gross wages are disputed by the parties. (Compare Cl. Ex. 8 with Def. Ex. A) This matter is unfortunately complex with both parties arguing certain weeks are non-representative and asserting different factual claims regarding these wages. While both parties have set forth plausible average weekly wages, neither satisfactorily explained why certain weeks (that help their respective cases) should be excluded. There is little testimony or other evidence that any of the weeks set forth in the exhibits are "non-representative." Having reviewed the exhibits thoroughly, I find that Mr. Thomas averaged $1,419.00 per week prior to his work injury.

On January 22, 2017, Mr. Thomas was working in the control room while another employee was bouncing a ball against the wall. The ball hit Mr. Thomas in the eye. He had pain and redness around the right eye but he finished his shift. In fact, he continued to work for approximately a week and a half when he began having significant vision problems in his right eye. He reported the injury to his employer, ADM. ADM then directed his medical care.

Molly Camerer, OD, immediately diagnosed Mr. Thomas with retinal detachment with multiple breaks in the right eye. (Joint Exhibit 9, page 2) He was taken off work the following day. Mr. Thomas was immediately referred to the University of Iowa Hospitals and Clinics for surgical evaluation. Between February 2017 and October 2017, physicians at UIHC performed a total of four surgeries on Mr. Thomas's right eye. (Jt. Ex. 3, pp. 4-23) His symptoms during this period were quite disabling and generally unpleasant. On February 23, 2108, Ian Han, M.D., released Mr. Thomas to return to work with temporary restrictions: Full time use of eye protection, no operation of heavy equipment and no climbing ladders. (Jt. Ex. 3, p. 26) The parties have stipulated that Mr. Thomas actually returned to work on or about April 16, 2018.

Shirley Pospisil, M.D., an occupational medicine physician, began treating Mr. Thomas in March 2018. Her apparent purpose was to help establish medical restrictions in his effort to return to work. She documented extensively that Mr. Thomas continued to have concerns about depth perception, as well as other symptoms.

> Mr. Thomas comes in today for initial evaluation and work restrictions involving a right eye injury. He states that he was at work and a coworker was bouncing a ball and hit him in the right eye only. It appears seen initially didn't seek medical attention but did after he had a loss of vision.

> He also states that he has had surgery on the left eyealso [sic] since this happened because his left retina also appears to have started to detach. He is not sure if both the right and left retinal detachments are related. He's had 5 surgeries total on his right eye. His last visual acuity of his right eye measured at 20/160. He is been seen by Dr. Wilkinson who is a low light visual light specialist. Dr. Hahn [sic] who is a retinal specialist and another doctor who implanted his lens. He is currently using steroid eyedrops secondary to swelling in his right eye. He states that he has a difficult time driving in low light. He also states that he has no depth perception and is worried about going to his place of employment again. He has not worked since the accident. He states he also has side businesses; one was driving a semi-truck. He states he is only able to drive Intrastate currently. This is because of his vision. He has fear of being able to see where he is going. He states he cannot drive at night comfortably although he does occasionally. He states he usually avoid driving at night if at all possible.

(Jt. Ex. 4, p. 1) Dr. Pospisil recommended vocational rehabilitation. Dr. Pospisil maintained temporary medical restrictions of no operating heavy equipment and no climbing ladders. (Jt. Ex. 4, p. 1) Dr. Han evaluated Mr. Thomas on March 28, 2018. He recommended restrictions of using monocular precautions and protection at all times because claimant is "functionally monocular and has no/minimal depth perception." (Jt. Ex. 3, p. 30) On April 12, 2018, Mark Wilkinson, OD, at UIHC provided an impairment rating of 79.5 percent of the right eye only. (Jt. Ex. 3, p. 31)

Mr. Thomas continued to treat for his ongoing symptoms even after his impairment rating. Dr. Pospisil had recommended a job coach to assist with his fears at work. In April 2018, she recommended further time with the job coach. She reduced his work to four hours per day. Mr. Thomas testified that he had to work on grated floors in elevated areas. He had significant anxiety. Dr. Pospisil referred him to EAP counseling and in May 2018, he saw Nancy Vermeersch, LCSW. (Jt. Ex. 5, p. 1) Mr. Thomas saw Ms. Vermeersch on May 16, 2018. The initial intake documented his injury at ADM resulting disability and anxiety about returning to work. (Jt. Ex. 5, p. 1) She saw him four more times in May and June 2018. Her notes document anger about his injury and significant anxiety. (Jt. Ex. 5, p. 3) On June 11, 2018, he returned to Dr. Pospisil. She kept him on restrictions working six hours a day and recommended he continue getting experience walking on the grates to feel more secure and competent crossing them. (Jt. Ex. 4, p. 12) She planned to increase his work to eight hours a day by July 2018.

Unfortunately, Mr. Thomas sustained a serious accident while away from work on June 30, 2018. He had gone boating with his girlfriend and her son and grandchildren on that date on Lake McBride. He testified to the following:

> A. I have a pontoon boat that we were out on. It was my girlfriend, her son, who's 24, 25 years old, and his two children.

> We were out all day, and when we docked the boat, we loaded the boat up on the trailer, pulled it out, took it up to the staging area, and we were unloading life jackets, coolers, whatever stuff we had on the boat, tying the boat down.
>
> And on the - - I don't know if you've ever been on a pontoon boat, but there's steps on the tongue of the pontoon trailer to get you up on the boat, and I missed a step and fell forward. The bumpers, I guess you could call them, they're two 2 x 4s on the front of the boat trailer that are bolted to the trailer.
>
> Fell forward, hit me directly here in the face, knocked me out, knocked the board off, and then I fell backwards on the cement on my head and laid the back of my skull open.

(Tr., pp. 41-42)

Mr. Thomas has no recollection of the incident, and, in fact, recalls nothing for about five hours thereafter. The last thing he remembered was pulling the pontoon boat and trailer up to the staging area after a normal day of boating on the lake. (Tr., p. 86) He conceded that he recalls nothing about his fall and he does not believe anyone witnessed the fall. (Tr., pp. 83, 85) His girlfriend and her son did not testify at hearing. Mr. Thomas testified that he drank less than a full beer during the course of the boating trip. He believes that he fell forward off the boat while trying to go down the ladder and hit his head and then fell backward off the boat down to the concrete which is consistent with the circumstantial evidence. (Tr., p. 42) Specifically, he believes that his lack of depth perception caused him to miss a step on the ladder. His front teeth were knocked out and he sustained a laceration on the back of his head. He specifically testified to the following: "Like I was saying, when I come to stairs, I have to grab the railing, kick the step before I go up or down. On a pontoon, there is no railing. … So I missed a step. I had nothing to hang onto to guide me." (Tr., p. 44)

Several physicians had documented claimant's difficulty with depth perception. Mr. Thomas described the problem in some detail at hearing. He testified that since his injury, he stumbles more often and has to be much more cautious just walking. He testified that he has difficulty pounding a nail or performing routine maintenance work such as lining up a bolt is much more challenging. (Tr., p. 45)

The parties dispute whether claimant's eye disability was a substantial contributing factor to his off-the-job accident on June 30, 2018. Claimant contends that his disability caused him to miss a step while climbing off the boat, while defendant contends that the fall itself is unexplained and unwitnessed and therefore unrelated to his work injury. Defendant points to the fact that claimant did not report this off-the-job injury to his employer as evidence for this proposition. The issue presented is whether this fall is a sequela of his work injury.

Unfortunately, the injuries he sustained from this accident were quite serious. Emergency records from UIHC document the following:

> 53 y.o. male presenting via EMS from scene after a fall. Patient was out boating at Lake McBride today when he had an unwitnessed fall. His friend that he was with states that he was standing on the back of pontoon in the parking lot at Lake McBride and he fell off the back of the boat. She states he was unconscious when she found him lying on the ground. He was found to have posterior scalp plaque and pressure was applied by first responders. He had 3 teeth missing secondary to the fall. He was very confused and repetitive at the scene. He was placed on backboard in a c-collar by EMS prior to arrival. He is very repetitive and amnesic of the event. He complains of dental pain. No visual changes or headache. He has a past history of right retinal detachment after an accident one year ago. … he was drinking alcohol the time of accident.

(Jt. Ex. 3, p. 35-36) His diagnoses included a subgaleal hematoma, post-concussive syndrome, and C2 cervical chip fractures. He was off work beginning July 1, 2018.

He followed up with UIHC on July 12, 2018, where the following is documented. "53-year-old male with significant head injury 10 days ago, with loss of consciousness, seen in emergency department with negative head CT but reports continued dizziness especially with specific movements of his head." (Jt. Ex. 3, p. 46) At that time, he had some blurred vision in his left eye. He was diagnosed with post-concussive syndrome and instructed to establish care with a primary provider. (Jt. Ex. 3, p. 47) In August 2018, Richard Burton, DDS, surgically removed the damaged remains of his missing teeth. (Jt. Ex. 3, p. 51) Later dental implants were installed.

On August 13, 2018, he established care with Linn County Physical Therapy for vestibular therapy.

> The patient reports on June 30, 2018 he was unloading a pontoon boat. He tripped or missed a step, hitting his mouth, knock his front teeth out and sustain a LOC event. He reported that his visual deficits in his right eye caused the accident. He fell backwards and hit his head. Per CT report he sustained a head injury with 5 min. LOC. He had staples in back of head and a CT scan that was reported as negative on 6/30/18. He had persistent dizziness since original injury and a 2nd CT scan was performed on 7/25/18.

(Jt. Ex. 6, p. 1) He underwent 17 sessions of vestibular therapy and was discharged from this treatment on January 2, 2019 with a 90 percent improvement in symptoms. (Jt. Ex. 6, pp. 5-34) He returned to work at ADM on December 17, 2018.

In September 2018, Mr. Thomas continued to treat with Dr. Han for his right eye. (Jt. Ex. 3, pp. 55-56) He was still having significant symptoms. Dr. Han opined he may benefit from steroid injections but Mr. Thomas opted to continue with observation and

eye drops first. Jeffrey Krivit, M.D., evaluated Mr. Thomas on October 23, 2018, for the symptoms of dizziness. (Jt. Ex. 7, p. 1) He had no treatment recommendations other than continuing with the vestibular therapy he began in August, noting it had improved some since he began.

After he returned to work, Mr. Thomas continued to have treatment for his eye condition. In January 2019, he was still only working six hours per day. His work tasks were quite limited. (Jt. Ex 4, p. 15) Dr. Pospisil recommended attempting to perform more work tasks and continue to work with a job coach and EAP counseling. Mr. Thomas expressed concern about driving a fork truck and using the elevated grating or using ladders. Dr. Pospisil released the six hour per day restriction in March 2019, however, maintained other restrictions. (Jt. Ex. 4, p. 18) His final permanent restrictions were set forth by Dr. Pospisil on April 1, 2019. He was instructed to "continue to adjust to grating and ladders" and only engage in "fork truck driving" at his discretion. (Jt. Ex. 4, p. 20)

Throughout 2019, he saw both Dr. Han and Dr. Pospisil occasionally and continued to progress in his treatment. He increased his work activities during this period. Dr. Han provided further treatment options, however, Mr. Thomas primarily chose more conservative options.

In April 2020, Jami Maxson, M.D., evaluated Mr. Thomas for his mental health at Mercy Medical Center. She diagnosed him with major depressive disorder and recommended Lexapro which he has continued to take up through the date of hearing. Over the course of 2020, these symptoms improved some. In September and November 2020, Dr. Han evaluated Mr. Thomas in follow up and noted worsening vision. Dr. Han performed two intravitreal steroid injections. (Jt. Ex. 3, pp. 83, 86)

In addition to the records of the treating physicians who documented claimant's treatment from 2017 to 2020, several physicians provided expert medical opinion reports.

As described above, Dr. Wilkinson prepared an impairment rating report on April 12, 2018. He assessed Mr. Thomas's best corrected vision was 20/200 in the right eye. (Jt. Ex. 3, p. 31) Mr. Thomas had not reached MMI at this time. He further assessed his visual field was constricted to 18 degrees. This provided for a Functional Acuity Score of 50 and a Functional Field Score (FFS) of 41. (Jt. Ex. 3, p. 31) Based upon these assessments he determined a Functional Vision Score of 20.5 which equals a 79.5 percent impairment rating of the right eye.

On April 22, 2020, Dr. Han provided a report to defense counsel on defense counsel letterhead. He provided a statement that Mr. Thomas had complained about depth perception problems following his January 2017, work injury, however, he had not complained of vertigo. (Jt. Ex. 3, p. 77) It is noted this report is not truly an expert opinion, but rather a statement of his recollection of claimant's report of symptoms following the work injury.

On July 23, 2020, Dr. Pospisil also issued a report to defense counsel. She opined that claimant had not complained of or reported vertigo during her treatment of him and that such complaints are related to his head injury (in the fall from the boat) rather than the original eye injury. (Def. Ex. B, pp. 2-3)

On July 31, 2020, claimant secured an IME report from David Dwyer, M.D., a board certified ophthalmologist. (Cl. Exs. 1, pp. 1, 13) Dr. Dwyer reviewed numerous medical reports, took a history from Mr. Thomas and examined him thoroughly. Dr. Dwyer opined that claimant's right eye vision was approximately 20/667. (Cl. Ex. 1, p. 6) He opined this was likely related to the January 22, 2017, work incident, diagnosing chronic cystoid macular edema, profound loss of acuity and visual fields, photophobia, loss of depth perception and presybyopia. (Cl. Ex. 1, p. 7)

> Apparently Mr. Thomas was struck in the eye by a rubber ball that was bounced off a wall but it is unclear how much force hit the eye. Of note, while being examined for the right eye injury, the patient was found to have tears and/or thin areas of the retina on the other eye (that were then treated prophylactically with laser). Interestingly, the patient had an extensive retinal exam after another blunt trauma to the right eye when he was 14 years old and there was no indication of retinal tears or thin areas at that time. Even if Mr. Thomas had pre-existing thin areas of the retina, I believe that it is more likely than not that the retinal detachment and all subsequent problems (except presbyopia) were precipitated by the blunt trauma that occurred on 1/22/17. (Presbyopia is the gradual loss of close focusing ability, a normal finding in someone who is 55 years old, and this patient's near vision in the left eye is normal with reading glasses).

(Cl. Ex. 1, pp. 7-8)

Regarding the June 30, 2018, pontoon boat incident, Dr. Dwyer opined the following:

> Interestingly, in June of 2018 the patient fell off a pontoon boat in a parking lot and hit his face. This resulted in a closed head injury involving loss of consciousness and the loss of teeth. It is conceivable that his unilateral vision loss contributed to this fall. Mr. Thomas is still fully employed at the same company where the injury occurred although accommodations have been made to limit activities that require binocular vision. He would have difficulty or not be qualified to perform activities that require precise depth perception, such as operating a fork-lift, crane or other dangerous machinery. He has difficulty walking on the "grating" of many of the floors at his place of employment. Mr. Thomas feels he cannot safely climb a ladder. However, his current visual state should create no limitations on physical activities that require reasonable lifting, carrying or ambulating and would not necessitate any special accommodations to interact with other people. He should use protective eyewear as an added precaution to protect his "good" left eye. Mr.

> Thomas currently has an unrestricted driver's license but avoids driving in the rain or at night. With the loss of depth perception he would probably not qualify for an interstate commercial driver's license. Because he was right eye dominant the patient is now unable to use a rifle to hunt anymore.

(Cl. Ex. 1, p. 8) He assigned an impairment rating of 37 percent of the whole person. (Cl. Ex. 1, pp. 9-10) His calculations used a section of the AMA Guides to the Evaluation of Permanent Impairment, Fifth Edition, based upon examinations of both eyes using his Functional Vision Score. (Cl. Ex. 1, p. 9) He described the primary difference between his rating and the rating provided by Dr. Wilkinson.

> In April of 2018 Mark Wilkinson, OD from the University of Iowa calculated an impairment rating for the right eye only. He found acuity in the right eye was 20/200 giving a Functional Acuity Score (FAS) of 50. By the time I examined the patient on 7/29/2020 the acuity had dropped to "count fingers at 6 feet" or roughly equivalent to 20/667, giving a Functional Acuity Score of 25. With such profound loss of central vision, the loss of the central 10 degrees of visual field is ignored. Therefore I added 50 to the remaining field points between 10 degrees and 20 degrees to come up with a Functional Field Score (FFS) in the right eye of 60. Notice the visual field score in the left eye and bilaterally was decreased a little. This is because the patient's nose typically blocks a little of the nasal field. Normally this is offset by the temporal field in the other eye. But since Mr. Thomas's right eye has extremely constricted fields the field of limitation to the right eye must be considered in the patient's overall Visual Impairment Rating. Dr. Wilkinson also did not account for the extra vision difficulties from glare, light sensitivity and loss of depth perception under binocular conditions that I considered by subtracting 10 from the Functional Vision Score (FVS).

(Cl. Ex. 1, p. 10) Dr. Dwyer's opinions are highly convincing and credible.

Dr. Wilkinson responded in a report to defense counsel dated August 21, 2020. He opined that Dr. Dwyer used an incorrect legal standard by rating Mr. Thomas's overall loss of vision for both eyes. (Jt. Ex. 3, p. 82) Dr. Wilkinson also opined that his loss of vision was only 20/250 as of June 2020.

Mr. Thomas secured a second IME report from Sunny Kim, M.D. (Cl. Ex. 2) Dr. Kim examined Mr. Thomas, reviewed records and performed neurocognitive testing. He provided the following diagnoses: (1) right eye blindness due to blunt trauma, (2) mild traumatic brain injury, (3) neck pain due to hyperextension injury resulting in C2 chip fracture, and (4) chronic dizziness most likely due to vertebrobasilar insufficiency following cervical spine hyperextension injury. (Cl. Ex. 2, p. 6) He deferred answering questions related to mental health condition. (Id.) He opined that the traumatic brain injury, the cervical injury and chronic dizziness were a result of the June 30, 2018, fall on the pontoon boat. (Cl. Ex. 2 p. 6) "Mr. Thomas was at greater risk of fall as a direct

consequence of the loss of vision and depth perception." (Cl. Ex. 2, p. 6) He assigned an impairment rating of 5 percent of the whole body for the TBI, and 10 percent of the whole body for cerebral impairment. (Cl. Ex. 2, pp. 6-7) He opined Mr. Thomas reached maximum medical improvement as of October 7, 2020, and the treatment received was all reasonable and medically necessary.

Finally, Dr. Pospisil provided an expert opinion report to defense counsel on October 27, 2020. She opined that the eye impairment should only be assessed to the right eye because it was the only eye affected by the work injury. (Def. Ex. B, p. 4) With regard to the fall on the boat, she opined the following:

> I have also been asked to comment on the 6/30/18 pontoon boat mishap. It is my understanding Mr. Thomas has been able to drive a vehicle without accommodation. To my knowledge, his driving has not been restricted because of his loss of vision in in [sic] his right eye. In my opinion, if he has difficulty climbing the stairs on his own pontoon boat trailer, he should reconsider driving on public roads where the situation is variable and unknown. I do not believe that the accident of falling off of the trailer should be considered a sequela of the loss of vision connected to the work incident.

(Def. Ex. B, p. 4)

Mr. Thomas testified that he is functionally blind in his right eye. He can see the shape of a television screen across a room but can make out nothing on the screen. (Tr., p. 30) He has difficulty driving and avoids night driving as much as possible. He lives on an acreage and has challenges with tasks such as repairing a fence because of his depth perception issues. There are certain aspects of his job he performs differently. He attempts to avoid the grating when possible. He also still avoids going higher than four feet up on a ladder. (Tr., p. 56) The employer has done an excellent job of accommodating him and finding work for him within his abilities. Maintenance superintendent Jordan Privratsky testified live and under oath at hearing. He testified that the claimant's position can be stressful, however, he has not observed Mr. Thomas act inappropriately or in an angry fashion. He testified he is unaware of any additional accidents or near misses in the refinery since the January 2017, work injury. (Tr., pp. 107-08)

CONCLUSIONS OF LAW

There are a number of factual and legal issues submitted for determination. The first question submitted is claimant's average weekly wages prior to his injury.

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.

If the employee is paid on a daily or hourly basis or by output, weekly earnings are computed by dividing by 13 the earnings over the 13-week period immediately preceding the injury. Any week that does not fairly reflect the employee's customary earnings that fairly represent the employee's customary earnings, however. Section 85.36(6).

The burden is on the claimant to prove his gross wages. Both parties have submitted exhibits purporting to provide the correct average weekly wage. (*Compare* Def. Ex. A *with* Cl. Ex. 8) Having reviewed these exhibits in conjunction with the testimony, I find the correct average weekly wage is $1,419.00 per week. This amount appears to be both customary and representative of his real earnings in the 13-week period prior to his work injury. Both parties argued to exclude certain weeks as "nonrepresentative", however, there is a paucity of evidence that any particular week is nonrepresentative. Based upon the evidence presented, his hours and rate of pay varied significantly from week to week, although it is true he usually worked 40 hours or more. Having found his gross wages to be $1,419.00 per week, using the correct rate book, I conclude that his weekly rate of compensation is $796.19.

The next issue is the nature and extent of claimant's disability. Claimant contends that he sustained a sequela injury on June 30, 2018. The defendant disputes this, arguing he sustained an unexplained, unwitnessed, personal fall. The issue is one of causation.

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).

When an injury occurs in the course of employment, the employer is liable for all of the consequences that "naturally and proximately flow from the accident." Iowa Workers' Compensation Law and Practice, Lawyer and Higgs, section 4-4. The Supreme Court has stated the following. "If the employee suffers a compensable injury and thereafter suffers further disability which is the proximate result of the original injury, such further disability is compensable." Oldham v. Scofield & Welch, 222 Iowa 764, 767, 266 N.W. 480, 481 (1936). The Oldham Court opined that a claimant must present sufficient evidence that the disability was naturally and proximately related to the original work injury.

An employer may be liable for a sequela of an original work injury if the employee sustained a compensable injury and later sustained further disability that is a proximate result of the original injury. Mallory v. Mercy Medical Center, File No. 5029834 (Appeal February 15, 2012). A sequela can be an after effect or secondary effect of an injury. Lewis v. Dee Zee Manufacturing, File No. 797154, (Arb. September 11, 1989). One form of sequela of a work injury is an adverse effect from medical treatment for the original injury. Where treatment rendered with respect to a compensable injury itself causes further injury, the subsequent injury is also compensable. Yount v. United Fire & Casualty Co., 256 Iowa 813, 129 N.W.2d 75 (1964). For example, the death of a claimant who died on the operating table during surgery for a work injury may be compensable, since the injury caused the need for surgery. Breeden v. Firestone Tire, File No. 966020, (Arb. February 27, 1992). As another example, a claimant who fell as a result of dizziness from medication he was taking to treat a work injury is to be compensated for both the original injury and the resulting fall as a sequela of the first injury. Hamilton v. Combined Ins. of America, File Nos. 854465, 877068, (Arb. February 21, 1991).

A sequela can also take the form of a secondary effect on the claimant's body stemming from the original injury. For example, where a leg injury causing shortening of the leg in turn alters the claimant's gait, causing mechanical back pain, the back condition can be found to be a sequela of the leg injury. Fridlington v. 3M, File No. 788 758, (Arb. November 15, 1991).

A sequela can also take the form of a later injury that is caused by the original injury. For example, where a leg injury leads to the claimant's knee giving out in a grocery store, the resulting fall is compensable as a sequela of the leg injury. Taylor v. Oscar Mayer & Co., III Iowa Ind. Comm. Rep. 257, 258 (1982).

The question presented here is whether the claimant has proven that his lack of depth perception from his stipulated eye injury substantially contributed to his personal fall on his boat on June 30, 2018. As noted by the defendant, the claimant's burden in this case is particularly challenging because the fall is unwitnessed and the claimant has no recollection of the fall because he suffered a serious head injury and loss of consciousness from the fall itself. The defendant argues strongly that the claimant has no medical evidence that the fall itself was caused by his original eye injury to a reasonable degree of medical certainty.

Having reviewed all of the evidence in the record, I find that the claimant has met his burden of proof. The greater weight of evidence supports a finding that the claimant's eye injury and resulting lack of depth perception was, more likely than not, a substantial contributing factor to his fall on June 30, 2018. This is based upon the expert witness testimony from Dr. Dwyer and Dr. Kim, as well as the medical notes of the treating physicians which documented Mr. Thomas's lack of depth perception prior to the June 2018 fall. When combined with the highly credible testimony of Mr. Thomas, I find that he has, in fact met his burden of proof.[1]

The defendant correctly observed that Mr. Thomas cannot even testify to the fact that his fall was caused by his lack of depth perception. This is true and it undoubtedly posed a tricky problem for Mr. Thomas in this case. The severity of his head injury renders this impossible. Mr. Thomas did, however, testify regarding the circumstantial evidence in this case which is consistent with the contemporaneous medical reports. Mr. Thomas likely fell forward first, hitting his face and knocking his teeth out. He testified that the bumper on the rear of the boat (where he climbs down) was broken. He also testified that he was found on his back with a laceration on the back of his head, indicating that after he hit his face, he fell backward off the boat. These facts are recorded in the contemporaneous medical records from the UIHC emergency department. (Jt. Ex. 3, p. 36) Mr. Thomas immediately believed the fall was caused by his lack of depth perception and this is also recorded in contemporaneous records. (Jt. Ex. 3, p. 36; Jt. Ex. 6, p. 1) These facts are consistent with Mr. Thomas falling while trying to get off the pontoon boat (rather than tripping over a life jacket or slipping on water). Falling while exiting the boat with no handrail is exactly the type of fall which his lack of depth perception would have caused.

The real question presented is: Based upon all of the evidence which is actually in the record, what was the most likely cause of his fall? It is true that since the fall was unwitnessed and Mr. Thomas cannot describe it himself, there are a number of possibilities. It is possible that he tripped over a life jacket or something else on the boat. It is possible he slipped in some water remaining on the boat. It is even possible that he had too much to drink and/or he was engaging in some type of risky behavior on the boat when the accident occurred.[2] But at the end of the day, the most likely scenario is that he was descending from the boat when he misjudged the step while declining due to the functional blindness in his right eye. While this case would have been much easier if claimant had maintained his memory of the event and could testify credibly to the fact that his lack of depth perception substantially contributed to the fall, the greater weight of the evidence still supports such a finding.

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[1] It is noted that I have found Mr. Thomas to be a highly credible witness. While he could not testify to the exact manner in which he fell, his explanation based upon the circumstantial evidence in the record, is highly convincing. Moreover, his testimony regarding the problem caused by his lack of depth perception is compelling. He testified that he has challenges with simple tasks like walking in snow, or on grating, or even hammering a nail.

[2] Mr. Thomas testified credibly that he consumed less than a beer on the lake that day. He was quite candid about the circumstances as he received a ticket regarding the fact that the children on the boat were not in life jackets. The evidence in the record reflects that Mr. Thomas had engaged in a pleasant day of boating with his girlfriend, his girlfriend's son and her grandchildren. There is no evidence in the record to suggest he was intoxicated or that drinking contributed to his fall in any way.

The defendant spent a great deal of time in their brief pointing out that the claimant's own physicians refused to state to a reasonable degree of medical certainty that the claimant's lack of depth perception was the cause of his fall. I am not troubled by this in this particular case. I read those opinions to simply acknowledge that those physicians did not witness the actual event itself. Dr. Dwyer opined the following: "It is conceivable that his unilateral vision loss contributed to this fall." (Cl. Ex. 1, p. 8) Dr. Kim opined: "Mr. Thomas was at a greater risk of fall as a direct consequence of the loss of vision and depth perception." (Cl. Ex. 2, p. 6) In fact, the treating physicians also documented his vision problems. Dr. Han evaluated Mr. Thomas on March 28, 2018. He recommended restrictions of using monocular precautions and protection at all times because claimant is "functionally monocular and has no/minimal depth perception." (Jt. Ex. 3, p. 30) During this precise period of time Dr. Pospisil maintained Mr. Thomas on restrictions of no operating heavy equipment because of the lack of depth perception. On June 11, 2018, Dr. Pospisil documented his challenges with walking on grating and use of ladders due to his loss of depth perception. (Jt. Ex. 4, p. 12) As of June 2018, he was still working only six hours per day pursuant to her restrictions. (Jt. Ex. 4, p. 11)

I do not find it surprising that neither physician stated definitively that the claimant's eye injury was "more likely than not" a substantial contributing factor to the fall. To do so would require personal knowledge of the fall or at least some type of expertise in accident reconstruction. In other words, the question is a mixed question of expert medical opinion with the facts. Ordinarily, an expert medical opinion is a question of whether an injury caused or substantially contributes to a particular medical condition. In this instance, the question is whether the medical condition, in this case functional blindness in the right eye and resulting loss of depth perception, substantially contributed to a fall which caused a serious head and neck injury. It is well established that an expert medical opinion need not be couched in definitive terms in this type of situation, when combined with convincing lay testimony. Determination of that necessary causal nexus is essentially within the domain of expert medical testimony, although expert testimony that a mere possibility of a causal relationship may be sufficient if coupled with non-expert testimony that no preexisting condition was involved. Bradshaw v. Iowa Methodist Hosp., 251 Iowa 375, 101 N.W.2d 167 (1960). I find that this case is similar to Hamilton v. Combined Ins. of America, File Nos. 854465, 877065 (Arb. February 22, 1991), *affirmed on appeal.*

Finally, defendant did obtain an expert opinion from Dr. Pospisil. She rendered the following expert opinion. "In my opinion, if he has difficulty climbing the stairs on his own pontoon boat trailer, he should reconsider driving on public roads where the situation is variable and unknown. I do not believe that the accident of falling off of the trailer should be considered a sequela of the loss of vision connected to the work incident." (Def. Ex. B, p. 4) I read her opinion to be a legal opinion, more than a medical opinion. The fact is that while Dr. Pospisil did not restrict Mr. Thomas from driving on public roads, he had, even prior to June 2018, restricted himself to some degree. It is documented that he expressed concerns to Dr. Pospisil about driving and even operating a forklift. (Jt. Ex. 4, p. 1)

The next issue is whether the claimant is entitled to temporary partial, temporary total or healing period benefits. The claimant is seeking healing period benefits from February 10, 2017, through April 15, 2018, and July 1, 2018, through December 16, 2018, in addition to temporary partial benefits from April 16, 2018, through June 3, 2018, and December 17, 2018, through February 18, 2019. The defendant has already paid healing period benefits from February 10, 2017, through April 15, 2018, and temporary partial from April 16, 2018, through June 3, 2018, but using a lower average weekly wage to calculate rate and temporary partial disability. The benefits from July 1, 2018, through December 16, 2018, reflects the period of time claimant was off work due to the sequela injury, which I have found compensable. The period from December 17, 2018, through February 18, 2019, is apparently a claim for temporary partial benefits related to light-duty work following the sequela injury.

Healing period compensation describes temporary workers' compensation weekly benefits that precede an allowance of permanent partial disability benefits. Ellingson v. Fleetguard, Inc., 599 N.W.2d 440 (Iowa 1999). Section 85.34(1) provides that healing period benefits are payable to an injured worker who has suffered permanent partial disability until the first to occur of three events. These are: (1) the worker has returned to work; (2) the worker medically is capable of returning to substantially similar employment; or (3) the worker has achieved maximum medical recovery. Maximum medical recovery is achieved when healing is complete and the extent of permanent disability can be determined. Armstrong Tire & Rubber Co. v. Kubli, Iowa App., 312 N.W.2d 60 (Iowa 1981). Neither maintenance medical care nor an employee's continuing to have pain or other symptoms necessarily prolongs the healing period.

An employee is entitled to appropriate temporary partial disability benefits during those periods in which the employee is temporarily, partially disabled. An employee is temporarily, partially disabled when the employee is not capable medically of returning to employment substantially similar to the employment in which the employee was engaged at the time of the injury, but is able to perform other work consistent with the employee's disability. Temporary partial benefits are not payable upon termination of temporary disability, healing period, or permanent partial disability simply because the employee is not able to secure work paying weekly earnings equal to the employee's weekly earnings at the time of the injury. Section 85.33(2)

If an employee is entitled to temporary partial benefits under subsection 3 of this section, the employer for whom the employee was working at the time of injury shall pay to the employee weekly compensation benefits, as provided in section 85.32, for and during the period of temporary partial disability. The temporary partial benefit shall be sixty-six and two-thirds percent of the difference between the employee's weekly earnings at the time of injury, computed in compliance with section 85.36, and the employee's actual gross weekly income from employment during the period of temporary partial disability. If at the time of injury an employee is paid on the basis of the output of the employee, with a minimum guarantee pursuant to a written employment agreement, the minimum guarantee shall be used as the employee's weekly earnings at the time of injury. However, the weekly compensation benefits shall

not exceed the payments to which the employee would be entitled under section 85.36 or section 85.37, or under subsection 1 of this section. Section 85.33(4)

Having found that claimant's appropriate average weekly wages were $1,419.00 per week, I find that claimant should have been paid healing period benefits from February 10, 2017, through April 15, 2017, using the rate of $796.19. He should have been paid temporary partial benefits from April 16, 2017, through June 3, 2017, based upon an average weekly wage of $1,419.00. Defendant is responsible for the difference.

Having found that claimant's June 30, 2018 sequela injury was a proximate result of his admitted work injury, I find that claimant is entitled to healing period benefits from July 1, 2018, through December 16, 2018, which is the period of time he was off work due to the sequela injury. Claimant also seeks temporary partial from December 17, 2018, through February 18, 2019, while he was apparently on light-duty after returning to work from his sequela injury. I find claimant has not sustained his burden of proof for this second period of temporary partial benefits. There are wage records in evidence demonstrating he worked reduced hours during this period of time, however, there is no corresponding testimony or other evidence linking this reduction to his injury.

The next issue is the extent of claimant's industrial disability. As a result of the June 30, 2018, sequela injury, Mr. Thomas has sustained permanent conditions in his head and neck described by Dr. Dwyer. (Cl. Ex. 2, pp. 6-7) This places the claimant's disability in his body as a whole, and his permanent disability must be evaluated industrially.

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 Ry. 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 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.

Although claimant is close to a normal retirement age, proximity to retirement cannot be considered in assessing the extent of industrial disability. Second Injury Fund of Iowa v. Nelson, 544 N.W. 2d 258 (Iowa 1995). However, this agency does consider voluntary retirement or withdrawal from the work force unrelated to the injury. Copeland v. Boones Book and Bible Store, File No. 1059319, (App. November 6, 1997). Loss of earning capacity due to voluntary choice or lack of motivation is not compensable. Id.

Fortunately for everyone involved, Mr. Thomas has maintained employment with ADM in his regular job. It is accommodated in that he is working under permanent restrictions and the employer allows him to work within those restrictions.

Nevertheless, claimant's disability must be assessed without regard to those accommodations. It is important to note, industrial disability is evaluated without respect to accommodations which are (or are not) made by an employer. The Iowa Supreme Court views "loss of earning capacity in terms of the injured worker's present ability to earn in the competitive job market without regard to the accommodation furnished by one's present employer." Thilges v. Snap-On Tools, 528 N.W.2d 614, 617 (Iowa 1995).

Mr. Thomas was 56-years-old as of the date of hearing. He did not complete high school but earned his GED in approximately 1983. He has a manual labor work history and has worked at ADM since 2014. He is skilled in maintenance and repair work on industrial machinery. Thus, in spite of his lack of formal education, his earning capacity is substantial as evidenced by his actual earnings at ADM.

As a result of his work injury, he is functionally blind in his right eye. He also sustained a related sequela injury resulting in a traumatic brain injury which still causes some dizziness, as well as fracture in his cervical spine. His final permanent restrictions were set forth by Dr. Pospisil on April 1, 2019. He was instructed to "continue to adjust to grating and ladders" and only engage in "fork truck driving" at his discretion. (Jt. Ex. 4, p. 20) Dr. Dwyer opined the following:

> He would have difficulty or not be qualified to perform activities that require precise depth perception, such as operating a fork-lift, crane or other dangerous machinery. He has difficulty walking on "grating" of many of the floors at his place of employment. Mr. Thomas feels he cannot safely climb a ladder. … He should use protective eyewear as an additional precaution to protect his "good" left eye. Mr. Thomas currently has an unrestricted driver's license, but avoids driving in the rain or at night. With his loss of depth perception he would probably not qualify for an interstate commercial driver's license.

(Jt. Ex. 1, p. 8) Mr. Thomas testified because of his disability, he does not weld or wear a respirator at work which prevents him from working in certain areas of the plant. (Tr., pp. 55-56, 106, 113-114) He also avoids heights. Claimant's supervisor acknowledged

the employer has accommodated Mr. Thomas and acknowledged candidly that it would be unlikely that ADM would hire someone with his limitations. (Tr., p. 112)

In the competitive labor market, Mr. Thomas would undoubtedly be a far less attractive candidate in the field of maintenance. His inability to use ladders, work at heights or operate heavy equipment would essentially preclude him from a number of high-paying jobs in this field.

It is noted that Mr. Thomas also suffers from depression and has continued to receive treatment for this problem through the date of hearing. I find that his condition may not permanent and even if it is, it has a negligible impact on his industrial disability. His own expert, Dr. Kim, deferred on this topic indicating he did not detect a permanent mental health condition. In any event, he has undoubtedly experienced some depression and anxiety as a result of the work injury. Having considered all of the relevant factors for industrial disability, I find the claimant has sustained a 45 percent loss of earning capacity. I conclude that this entitles him to 225 weeks of compensation. The parties dispute the date these benefits should commence.

Permanent partial disability benefits commence upon the termination of the healing period. Iowa Code section 85.34(1). As the Iowa Supreme Court explained, the healing period terminates and permanent partial disability benefits commence at the earliest of claimant's return to work, medical ability to return to substantially similar employment, or the point at which the claimant achieves maximum medical improvement. Evenson v. Winnebago Industries, Inc., 881 N.W.2d 360, 374 (Iowa 2016). I find the benefits should commence on June 4, 2018, the date his initial healing period (including temporary partial) ended.

The next issue is 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 is entitled to an order of reimbursement only if he has paid treatment costs; otherwise, to an order directing the responsible defendants to make payments directly to the provider. See, Krohn v. State, 420 N.W.2d 463 (Iowa 1988). Defendants should also pay any lawful late payment fees imposed by providers. Laughlin v. IBP, Inc., File No. 1020226 (App., February 27, 1995).

Since I have found the claimant's sequela injury to be a compensable sequela of the original work injury, I find the defendant is responsible for all of the Section 85.27 expenses set forth in Claimant's Exhibits 5 and 6.

The final issue involves claimant's medical evaluations under Section 85.39 and the cost of reports under Section 85.40.

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.

Defendants are 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).

Iowa Code section 86.40 states:

> **Costs.** All costs incurred in the hearing before the commissioner shall be taxed in the discretion of the commissioner.

Iowa Administrative Code Rule 876—4.33(86) states:

> **Costs.** Costs taxed by the workers' compensation commissioner or a deputy commissioner shall be (1) attendance of a certified shorthand reporter or presence of mechanical means at hearings and evidential depositions, (2) transcription costs when appropriate, (3) costs of service of the original notice and subpoenas, (4) witness fees and expenses as provided by Iowa Code sections 622.69 and 622.72, (5) the costs of doctors' and practitioners' deposition testimony, provided that said costs do not exceed the amounts provided by Iowa Code sections 622.69 and 622.72, (6) the reasonable costs of obtaining no more than two doctors' or practitioners' reports, (7) filing fees when appropriate, (8) costs of persons reviewing health service disputes. Costs of service of notice and subpoenas shall be paid initially to the serving person or agency by the party utilizing the service. Expenses and fees of witnesses or of obtaining doctors' or practitioners' reports initially shall be paid to the witnesses, doctors or practitioners by the party on whose behalf the witness is called or by whom the report is requested. Witness fees shall be paid in accordance with Iowa Code section 622.74. Proof of payment of any cost shall be filed with the workers' compensation commissioner before it is taxed. The party initially paying the expense shall be reimbursed by the party taxed with the cost. If the expense is unpaid, it shall be paid by the party taxed with the cost. Costs are to be assessed at the discretion of the deputy commissioner or workers' compensation commissioner hearing the

case unless otherwise required by the rules of civil procedure governing discovery. This rule is intended to implement Iowa Code section 86.40.

Iowa Administrative Code rule 876—4.17 includes as a practitioner, "persons engaged in physical or vocational rehabilitation or evaluation for rehabilitation." A report or evaluation from a vocational rehabilitation expert constitutes a practitioner report under our administrative rules. Bohr v. Donaldson Company, File No. 5028959 (Arb. November 23, 2010); Muller v. Crouse Transportation, File No. 5026809 (Arb. December 8, 2010). The entire reasonable costs of doctors' and practitioners' reports may be taxed as costs pursuant to 876 IAC 4.33. Caven v. John Deere Dubuque Works, File Nos. 5023051, 5023052 (App. July 21, 2009).

Having reviewed Claimant's Exhibit 7 thoroughly in conjunction with the other evidence in the record, I find the claimant is entitled to 85.39 IME expenses in the amount of $1,450.00 for the report of Dr. Dwyer. The claimant is entitled to costs in the amount of $1,013.95.

ORDER

THEREFORE IT IS ORDERED:

Defendants shall pay all weekly benefits at the rate of seven hundred ninety-six and 19/100 dollars ($796.19) per week.

Defendant shall pay the claimant healing period benefits from February 10, 2017, through April 15, 2017, and July 1, 2018, through December 16, 2018.

Defendant shall pay temporary partial disability benefits from April 16, 2017, through June 3, 2018 using the correct average weekly wage of one thousand four hundred nineteen and no/100 dollars ($1,419.00) per week.

Defendant shall pay two-hundred and twenty-five (225) weeks of permanent partial disability benefits commencing June 4, 2017.

Defendant shall pay accrued weekly benefits in a lump sum.

Defendant shall pay interest on unpaid weekly benefits awarded herein as set forth in Iowa Code section 85.30.

Defendant shall be given credit for the benefits previously paid.

Defendant shall file subsequent reports of injury as required by this agency pursuant to rule 876 IAC 3.1(2).

Costs are taxed to defendant.

Signed and filed this __2nd___ day of November, 2021.

JOSEPH L. WALSH
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

The parties have been served, as follows:

Anthony Olson (via WCES)

Peter Thill (via WCES)

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 filed via Workers' Compensation Electronic System (WCES) unless the filing party has been granted permission by the Division of Workers' Compensation to file documents in paper form. If such permission has been granted, the notice of appeal must be filed at the following address: Workers' Compensation Commissioner, Iowa Division of Workers' Compensation, 150 Des Moines Street, Des Moines, Iowa 50309-1836. The notice of appeal must be received by the Division of Workers' Compensation 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 legal holiday.