BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

LINA THIEDE, Claimant, vs. ELITE CASINO RESORTS, LLC, Employer, and ZURICH AMERICAN INSURANCE COMPANY, Insurance Carrier, Defendants.	File No. 5068126 A R B I T R A T I O N D E C I S I O N Head Note Nos.: 1802, 1803, 2907

STATEMENT OF THE CASE

Claimant, Lina Thiede, filed a petition in arbitration seeking workers' compensation benefits from Elite Casino Resorts, Inc., employer, and Zurich American Insurance Company, insurer, both as defendants. This matter was heard on June 15, 2020 with a final submission date of July 14, 2020.

The record in this case consists of Joint Exhibits 1-5, Claimant's Exhibits 1-11, Defendants' Exhibits A-F, and the testimony of claimant, Charles Thiede and Anna Cavanaugh.

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

ISSUES

The extent of claimant's entitlement to temporary benefits.

The extent of claimant's entitlement to permanent partial disability benefits.

Commencement date of permanent partial disability benefits.

Costs.

Claimant indicated on the hearing report, defendants' credit was an issue in dispute in this case. During an off the record discussion, it was unclear that credit was actually an issue in dispute. Defendants' counsel was instructed at hearing to send an email one week from hearing if credit was an issue in dispute in this case. Claimant's counsel did not email that credit was an issue in dispute in this case. Claimant's counsel did not raise the issue of credit in post-hearing briefs. Given this record, the issue of credit is not considered an issue in dispute in this matter and will not be discussed in this decision.

FINDINGS OF FACT

Claimant was 60 years old at the time of hearing. Claimant was born in China. Claimant graduated from high school in China. Claimant attended the Beijing Fine Arts Observatory where she graduated with a Bachelor of Arts in Dance.

Claimant came to the United States in 1988. Claimant took English classes. Claimant studied ballet, dance, art and graphics at the University of Iowa with the intent of getting her master's degree and becoming a dance instructor. (Transcript pages 11, 13-14)

Claimant worked as a dance instructor in China. While attending the University of Iowa, claimant worked as a cashier in her husband's restaurant and worked in different food service jobs. (Tr. pp. 9-16)

Clamant was a stay at home mom for six years. She worked as a teacher's aide. Claimant was certified as a CNA and worked at nursing facilities. (Exhibit A, pp. 3-4)

In approximately 2004, claimant sought employment in the casino industry. Claimant started as a waitress in 2005 at WinnaVegas Casino. Claimant took bets for horses and dog racing. Claimant trained and became a dealer at the casino. Claimant left WinnaVegas and worked as a dealer for Harrah's Casino and Ameristar Casino. In 2009, claimant began employment with Elite Casino and Resorts, also known as Riverside Casino (Riverside). (Tr. pp. 16, 49)

Claimant's prior medical history is relevant. In February of 2016, claimant injured her left wrist, after falling at home while going to the bathroom at night.

On February 22, 2016, claimant was evaluated by Scott Frisbie, P.A. Claimant was assessed as having a non-displaced left wrist scaphoid fracture. Claimant was put in a cast. Claimant was restricted from working as a dealer in the foreseeable future. (Ex. 1, pp. 1-2)

On April 4, 2016, claimant was evaluated by Thomas Ebinger, M.D. A CT scan found the scaphoid fracture was healing. Claimant was recommended to have occupational therapy. (JE2, p. 24)

Claimant returned to Dr. Ebinger on April 18, 2016. Claimant was recommended to continue exercises and occupational therapy. (Ex. 1, p. 2)

Claimant testified she was released to return to work with no restrictions, but that she was required to wear a brace when she was dealing. (Tr. p. 18; Ex. 1, p. 2)

On April 27, 2016, claimant and her supervisor were returning from the break room at the casino. Claimant's supervisor accidentally stepped on claimant's right foot, causing claimant to trip and fall. Claimant was wearing her left wrist brace at the time of the fall. Claimant was eventually assisted to her feet by two co-workers. Claimant said that after the fall she felt pain in her left shoulder, her left upper extremity and her neck. (Tr. pp. 18-20; JE5, p. 147)

On April 28, 2016, claimant was evaluated by Daniel Hogan, M.D. with a painful left wrist. (JE1, pp. 5-6)

Claimant returned to Dr. Hogan on May 9, 2016. Claimant had improvement with the left wrist, but had left shoulder pain. Claimant was restricted to dealing cards four hours per day. (JE1, p. 9)

Claimant returned to Dr. Ebinger on May 23, 2016. Claimant was found to have excellent range of motion in the left wrist. She was found to be at maximum medical improvement (MMI) and returned to work without restrictions. (JE2, p. 25)

Claimant was evaluated by Erneste Perea, M.D., on June 2, 2016. Claimant had persistent pain and limited range of motion in the left shoulder. An MRI was recommended, which claimant canceled as claimant wanted to "use her own medicine." (JE1, p. 17) Claimant was eventually referred to Steindler Clinic for an orthopedic evaluation. Claimant was taken off dealing card games. (JE1, pp. 17, 22)

Claimant underwent an MRI of the left shoulder on August 25, 2016. It showed an approximate 50 percent bursal-sided cuff tear and a labral tear. (JE2, p. 26; JE3, p. 48)

Claimant was given a left shoulder cortisone injection on September 9, 2016. (JE2, p. 26)

Claimant was evaluated by Mark Mysnyk, M.D., an orthopedic surgeon, on January 27, 2017. Claimant was given the option of continuing to work eight hours a day with no blackjack dealing or surgery. (JE2, pp. 28-29)

Claimant returned in follow-up with Dr. Mysnyk on April 25, 2017. Surgery was discussed and chosen as a treatment option. (JE2, p. 31)

Claimant saw Elayne Gustoff, ARNP, on February 8, 2018 with increased left elbow pain and paresthesia. Claimant was assessed as having a lateral epicondylitis on the left elbow and cubital tunnel syndrome on the left. Claimant was not allowed to deal blackjack and was told to wear an elbow strap. Claimant was not allowed to work more than four hours per shift. (JE3, p. 73)

Claimant testified that, on or about February 16, 2018, the casino called her and told her they could no longer accommodate her restrictions. (Tr. pp. 25-27)

On February 28, 2018, claimant underwent an MRI to the left wrist. It showed a mild positive ulnar variance, mild to severe tendinosis and a left ulnar neuropathy. (JE3, p. 83)

Claimant saw Joseph Buckwalter, M.D., on April 17, 2018 for the left elbow pain. Claimant was recommended to have EMG/NCS tests. Claimant was given an ECU injection. (JE3, p. 96) Claimant testified the injection did not result in any improvement in symptoms. (Tr. p. 27)

Claimant had EMG/nerve conduction studies on her left upper extremity on May 8, 2018. The testing was normal. (JE3, p. 100)

Claimant returned to Dr. Buckwalter on May 15, 2018. Dr. Buckwalter found claimant at MMI for her cubital tunnel syndrome. (JE3, p. 111)

Claimant saw Dr. Buckwalter on June 12, 2018. Claimant was found to be at MMI for her left elbow. Claimant was told to wear her left elbow strap when not dealing blackjack and restricted to four hours per shift with light duty for the remainder of the shift. (JE3, p. 118)

Claimant returned to Dr. Mysnyk on June 22, 2018 for an evaluation of her left shoulder. Dr. Mysnyk had no further treatment for claimant and did not believe an MRI would be beneficial. He found claimant at MMI for the left shoulder and recommended a functional capacity evaluation (FCE). Claimant was not allowed to return to work given the restrictions from Dr. Buckwalter and was off work for another month. (JE2, pp. 37-39)

On July 10, 2018, claimant underwent an FCE. He found claimant could work in the sedentary physical demand level. Claimant could carry up 20 pounds. (JE2, p. 40)

On August 29, 2018, claimant was evaluated by Eric Aschenbrenner, M.D. Dr. Aschenbrenner found that claimant had a 12 percent permanent impairment to the left upper extremity for the shoulder. He found that claimant had a 2 percent permanent impairment to the left upper extremity for the cubital tunnel syndrome. This resulted in a

combined value of 14 percent to the left upper extremity, converting to an 8 percent permanent impairment to the body as a whole. Dr. Aschenbrenner restricted claimant to lifting up to 15 pounds floor to waist, and gripping with the left. He also limited claimant to use of the left arm for gross motor tasks. He also recommended claimant follow restrictions found in the FCE. (JE3, pp. 124-127)

On November 14, 2018, claimant applied for Iowa Vocational Rehabilitation Services (IVRS).

Claimant was seen in February of 2019 for initial evaluation with IVRS. (Ex. 8, p. 43, Tr. p. 80)

At that time, a plan of services was outlined. (Ex. 8, p. 43) Claimant went to China in the spring of 2019. Claimant's IVRS counselor was on maternal leave beginning in August 2019. At the time of hearing, claimant had not applied for work through IVRS. Claimant testified she plans to continue to work with IVRS. (Tr. p. 59)

In a February 14, 2019 report, Mark Taylor, M.D., gave his opinions of claimant's condition following an IME. Claimant had pain in the left shoulder. Claimant had hand pain and pain over the left elbow, wrist and forearm. Claimant had pain over the left side of the neck. Dr. Taylor opined that claimant's shoulder and left upper extremity symptoms were related to her fall at work in April of 2016. He opined that claimant's neck pain could be related to his shoulder pain. (Ex. 1, pp. 1-10)

Dr. Taylor found that claimant had a 14 percent permanent impairment for the left shoulder. He found claimant had a 3 percent permanent impairment to the left upper extremity for the ulnar nerve problems. He also opined that claimant had an initial 3 percent permanent impairment to the left upper extremity for her wrists. The combined values for all permanent impairments resulted in a 19 percent permanent impairment to the left upper extremity. This converted to an 11 percent permanent impairment to the body as a whole. (Ex. 1, p. 10) He also gave claimant a 3 percent "provisional" rating for the cervical spine. (Ex. 1, pp. 10-11)

Dr. Taylor recommended claimant undergo additional evaluation for her cervical spine and have a second opinion regarding her left shoulder. He opined that claimant had reached MMI for the shoulder on June 22, 2018 and June 12, 2018 for the arm. He was unable to place claimant at MMI for the cervical spine. Dr. Taylor agreed with Dr. Aschenbrenner regarding permanent restrictions. (Ex. 1, p. 11)

Claimant returned to Dr. Mysnyk on April 5, 2019. Claimant's shoulder was unchanged from the June 22, 2018 visit. Claimant had neck pain and headaches. Dr. Mysnyk found claimant at MMI for the shoulder. (JE2, pp. 41-42)

In a July 3, 2019 report, Benjamin MacLennan, M.D., gave his opinions of claimant's condition following an IME. Claimant had ongoing left shoulder pain since

her injury. Claimant indicated her shoulder surgery did not help with her symptoms. Dr. MacLennan recommended against a cervical MRI. He recommended pain management and physical therapy for claimant's neck condition. Dr. MacLennan opined it was more likely than not claimant aggravated a pre-existing condition in her neck with her April of 2016 work injury. He indicated claimant could do light duty and could work partial hours as a dealer regarding her cervical spine. He was unable to opine if claimant had permanent impairment for the cervical spine. (Ex. F)

Claimant was evaluated by Patrick Hitchon, M.D., on December 5, 2019 for neck pain. Claimant's cervical x-rays showed mild degenerative changes. EMG and nerve conduction velocity testing from April 2018 was normal. Continued conservative pain management was recommended. (JE3, pp. 132-134)

In a May 11, 2020 letter, Dr. Taylor indicated he reviewed records from Drs. MacLennan and Hitchon. Dr. Taylor did not change his opinion regarding his IME following review of these records. (Ex. 1, p. 15)

Claimant testified she had pain in her neck and shoulder. She said she gets headaches every day. Claimant said her pain increases with increased activity. (Tr. p. 31) Claimant was taking over-the-counter medication for pain at the time of hearing. (Tr. p. 35)

Claimant said that given her pain restrictions, she did not believe she could return to any of her prior jobs. She said she could not return to working full time as a dealer. (Tr. pp. 41-46, 50)

Anna Cavanaugh testified she is the human resource business partner at Riverside. In that capacity, she is familiar with claimant's injury and claimant's workers' compensation claim. Ms. Cavanaugh testified that in February of 2018, Riverside discussed, with claimant, the possibilities of working in the casino's gift shop or boutique. She said claimant told Riverside she wanted to work table games and not work in the gift shop or the boutique. Ms. Cavanaugh testified that claimant chose to remain off work. (Tr. pp. 89-93, 102-104)

Ms. Cavanaugh said that in February of 2020, Riverside discussed, with claimant, the possibility of claimant to work the front desk or the buffet. Claimant returned in either late February of early March to attempt to work at the front desk. Claimant told Ms. Cavanaugh she was comfortable with Excel, Word and using email. Ms. Cavanaugh testified that on or about May 13, 2020, she learned the front desk position was not a good fit for claimant due to claimant's lack of typing and computer skills. Claimant was told to take a look at the website for another job. The next day, the casino closed due to COVID-19. (Tr. pp. 95-98)

Ms. Cavanaugh testified that, at the time of hearing, the only job she could identify the claimant could do, was work as a hostess in the buffet with some accommodations. (Tr. pp. 104-105)

Claimant testified she discussed the retail positions at Riverside in the gift shop and boutique with Ms. Cavanaugh in either February of 2018 or October 2019. Claimant said she was told the jobs were not open in the two retail positions. (Tr. pp. 108-109) Claimant testified she has tried every job offered to her at Riverside. (Tr., p. 109)

Charles Thiede testified he is claimant's husband. He said claimant's shoulder and neck appear to impact her the most. He said claimant does not get good sleep. He said claimant is tired and has difficulty with concentration. (Tr. pp. 114-117) He said that because of claimant's injury, claimant's social and recreational activities have been limited. (Tr. pp. 118-121)

CONCLUSIONS OF LAW

The first issue to be determined is the extent of claimant's entitlement to temporary benefits.

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

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.

When an injured worker has been unable to work during a period of recuperation from an injury that did not produce permanent disability, the worker is entitled to temporary total disability benefits during the time the worker is disabled by the injury. Those benefits are payable until the employee has returned to work, or is medically capable of returning to work substantially similar to the work performed at the time of injury. Section 85.33(1).

Claimant contends she is due a running award of temporary benefits because, allegedly, claimant has not reached MMI regarding her neck condition. Defendants contend that claimant has already reached MMI.

Claimant was found to be at MMI for her cubital tunnel syndrome on May 15, 2018. (JE3, p. 111) Claimant was found to be at MMI for her lateral epicondylitis on June 12, 2018. (JE3, p. 118) Claimant was found to be at MMI for her shoulder condition on June 22, 2018. (JE2, pp. 37-39)

Claimant has been assessed as having a neck injury. Claimant was evaluated by Dr. MacLennan. Dr. MacLennan noted x-rays and diagnostic testing did not show significant neurological impairment. He opined claimant could have aggravated her neck as a result of her work injury. He recommended conservative treatment for the neck pain. (Ex. F, p. 48)

Dr. Hitchon indicated x-rays showed mild degenerative changes in the cervical spine. He noted that EMG and nerve conduction velocity testing done in May of 2018 was normal. He also recommended conservative treatment. (JE3, p. 134)

Dr. Taylor found claimant was not at MMI for her neck injury. Dr. Taylor also gave a provisional rating for the neck. Dr. Taylor's opinions suggest that claimant's cervical spine problems could be related to the shoulder. (Ex. 1, pp. 10-11)

In brief, Drs. MacLennan and Hitchon were unable to identify a neurological rationale for claimant's neck pain. Dr. MacLennan suggested claimant's neck pain is due to an aggravation of a pre-existing degenerative condition in the cervical spine. Dr. Taylor suggests claimant's neck pain may be caused by periscapular pain. Other than the provisional rating from Dr. Taylor, there is little evidence claimant's neck pain will result in a permanent disability.

Claimant suggests that because she is still receiving conservative treatment for her neck, a running award of healing period benefits is appropriate. (Claimant's Post-Hearing Brief, pp. 29-30) However, if claimant has no permanent impairment to her neck, healing period benefits are not appropriate for the neck injury. Claimant suggests that because she is still receiving conservative care for her neck, this is sufficient grounds for a running award of healing period benefits. Claimant cites no precedent for this argument. The undersigned was unable to find any case law or agency precedent indicating the identification of neck pain and conservative treatment is grounds alone for a running award of temporary benefits. Given this record, claimant has failed to carry her burden of proof that she is due a running award of healing period benefits or temporary total disability benefits.

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

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

In Guyton v. Irving Jensen Co., 373 N.W.2d 101 (Iowa 1985), the Iowa court formally adopted the “odd-lot doctrine.” Under that doctrine a worker becomes an odd-lot employee when an injury makes the worker incapable of obtaining employment in any well-known branch of the labor market. An odd-lot worker is thus totally disabled if the only services the worker can perform are “so limited in quality, dependability, or quantity that a reasonably stable market for them does not exist.” Id., at 105.

Under the odd-lot doctrine, the burden of persuasion on the issue of industrial disability always remains with the worker. Nevertheless, when a worker makes a prima facie case of total disability by producing substantial evidence that the worker is not employable in the competitive labor market, the burden to produce evidence showing availability of suitable employment shifts to the employer. If the employer fails to produce such evidence and the trier of facts finds the worker does fall in the odd-lot category, the worker is entitled to a finding of total disability. Guyton, 373 N.W.2d at 106. Factors to be considered in determining whether a worker is an odd-lot employee include the worker’s reasonable but unsuccessful effort to find steady employment, vocational or other expert evidence demonstrating suitable work is not available for the worker, the extent of the worker’s physical impairment, intelligence, education, age, training, and potential for retraining. No factor is necessarily dispositive on the issue. Second Injury Fund of Iowa v. Nelson, 544 N.W.2d 258 (Iowa 1995). Even under the odd-lot doctrine, the trier of fact is free to determine the weight and credibility of evidence in determining whether the worker’s burden of persuasion has been carried, and only in an exceptional case would evidence be sufficiently strong as to compel a finding of total disability as a matter of law. Guyton, 373 N.W.2d at 106.

Claimant was 60 years old at the time of hearing. Claimant graduated from high school. Claimant has a bachelor's degree in dance from China. She has worked as a dance instructor. Claimant has worked as a cashier in a restaurant. Claimant has also had a number of food service jobs. Claimant has trained and worked as a dealer.

Dr. Aschenbrenner and Dr. Taylor both gave opinions regarding claimant's permanent impairment. As detailed in Dr. Taylor's IME report, his findings of permanent impairment are similar to those of Dr. Aschenbrenner. (Ex. 1, p. 10) The main difference between the two ratings is that Dr. Taylor found that claimant had a 3 percent permanent impairment for loss of range of motion in the left wrist. The record indicates that claimant has sustained a loss of range of motion in the left wrist. Given this, it is found that Dr. Taylor's opinions regarding permanent impairment are slightly more convincing than those of Dr. Aschenbrenner. Given this record, it is found that claimant has an 11 percent permanent impairment to the body as a whole due to permanent impairments for her shoulder and upper extremity. (Ex. 1, p. 10)

Dr. Taylor agreed with Dr. Aschenbrenner's permanent restrictions, which are based on the FCE. The FCE found that claimant can work at a sedentary work level. Dr. Taylor also adopted Dr. Buckwalter's restrictions. Given this record, it is found that claimant has permanent restrictions consistent with the FCE and with those prescribed by Dr. Buckwalter.

In February of 2018, claimant was given restrictions limiting her to working four hours per shift. (JE3, p. 73) On approximately February 16, 2018, defendant employer contacted claimant and told her they could not accommodate those restrictions. (Tr. pp. 25-27)

Claimant attempted to return to work at the casino front desk. Both claimant and defendant employer agree that claimant's return to work at the desk was not a good fit, as claimant did not have the necessary typing and computer skills.

Ms. Cavanaugh testified the employer contacted claimant several times to have claimant work in retail jobs at the casino. Ms. Cavanaugh testified that claimant chose to remain off work. (Tr. pp. 89-93, 102-104) Claimant testified she wanted to return to work at Riverside, but was told the two retail jobs were not open. (Tr. p. 109)

The record does not contain any written offers from defendant employer of available work for claimant. It appears no written offers of work were produced to claimant, although Ms. Cavanaugh testified defendant employer possessed such records. (Tr. pp. 100-101) Ms. Cavanaugh also testified at hearing, that at the time of hearing there was only one possible job claimant could work, that being a modified hostess position. (Tr. pp. 104-105)

Claimant's unrebutted testimony is that she is unable to return to work at her prior jobs. No doctor or expert has opined that claimant cannot return to work. No

vocational expert has opined that claimant is precluded from the workforce. There is no evidence that claimant has looked for work outside of the casino.

Claimant has an 11 percent permanent impairment to the body as a whole. She is limited to mostly sedentary work. Claimant's unrebutted testimony is that she is unable to return to work to her prior jobs. Claimant was not allowed to return to work part time as a dealer. No doctor or expert has opined that claimant cannot return to work. No expert has opined that claimant is precluded from returning to work. Claimant has not looked for work outside the casino. When all relevant factors are considered, it is found that claimant has a 70 percent loss of earning capacity or industrial disability.

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

As noted above, there is little evidence in the record that claimant has a permanent impairment regarding her neck. It is also unclear if claimant's neck pain is a symptom of her shoulder injury. Claimant was found to be at maximum medical improvement by Dr. Mysnyk on June 22, 2018 for her left shoulder. Given this record, claimant's permanent partial disability benefits shall commence as of June 22, 2018.

The final issue to be determined is costs. Costs are assessed at the discretion of the agency. Claimant has prevailed on most of the issues in this case. Given this record, claimant's costs, as detailed in Exhibit 11, are awarded to claimant.

ORDER

THEREFORE, IT IS ORDERED:

That claimant is not granted a running award of healing period or temporary total disability benefits.

That defendants shall pay claimant three hundred fifty (350) weeks of permanent partial disability benefits commencing on June 22, 2018 at the rate of four hundred eighty-two and 37/100 dollars ($482.37) per week.

Defendants shall pay interest on unpaid weekly benefits awarded herein as set forth in Iowa Code section 85.30. Defendants 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 defendants shall receive credit for benefits previously paid.

That defendants shall pay claimant's costs, as identified in Exhibit 11.

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

Signed and filed this 4th day of January, 2021.

JAMES F. CHRISTENSON
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

The parties have been served, as follows:

Emily Anderson (via WCES)
Dillon Besser (via WCES)

Kathryn R. Johnson (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.