BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

DAN THACH,

Claimant,

vs.

TITAN TIRE CORPORATION,

Employer,

and

AMERICAN ZURICH INSURANCE COMPANY,

Insurance Carrier,
Defendants.

File No. 5058014

ARBITRATION

DECISION

Head Note Nos.: 1802, 1803, 2501, 2907

STATEMENT OF THE CASE

Dan Thach, claimant, filed a petition for arbitration against Titian Tire Corporation (hereinafter referred to as "Titan Tire") as the employer and American Zurich Insurance Company as the insurance carrier. An in-person hearing occurred in Des Moines on March 6, 2018.

The parties filed a hearing report at the commencement of the hearing. On the hearing report, the parties entered into numerous stipulations. Those stipulations were accepted and no factual or legal issues relative to the parties' stipulations will be made or discussed in either file. The parties are now bound by their stipulations.

The evidentiary record includes Claimant's Exhibits 1 through 15 and Defendants' Exhibits A through C and E. Defendants' proposed Exhibit D was excluded upon the objection of claimant. All other exhibits were received without objection.

Claimant testified on his own behalf and called his wife, Amber Thach, to testify. No other witnesses were called to testify. The evidentiary record closed at the end of the March 6, 2018 arbitration hearing.

However, defense counsel requested the opportunity to submit post-hearing briefs. Defendants' request was granted. Claimant filed a brief at the commencement

of hearing and waived the opportunity for further briefing. The case was deemed fully submitted upon the filing of defendants' post-hearing brief on April 20, 2018.

ISSUES

The parties submitted the following disputed issues for resolution:

1. Whether claimant is entitled to healing period benefits from December 1, 2016 through May 3, 2017.

2. Whether the July 28, 2016 work injury caused permanent disability and, if so, the extent of claimant's entitlement to permanent disability benefits.

3. The proper commencement date for permanent disability benefits, if any are awarded.

4. Whether the claimed past medical expenses are causally related to the July 28, 2016 work injury and should be awarded.

5. Whether costs should be assessed against either party and, if so, in what amount.

FINDINGS OF FACT

The undersigned, having considered all of the evidence and testimony in the record, finds:

Dan Thach is a 33-year-old gentleman, who sustained a stipulated low back injury as a result of his work activities with Titan Tire Corporation on July 28, 2016. Mr. Thach was born in Vietnam and came to the United States in 1993 at the age of seven or eight. He is fluent in Cambodian and English.

Mr. Thach graduated from high school in California in 2003. He attended Long Beach City College, taking business and general economics courses for approximately two years. However, he did not receive a degree.

While still residing in California, claimant worked for Toys R Us. He stocked shelves and testified that the job was seasonal in nature.

While in California, Mr. Thach also worked for a security company. He testified that he rode a bicycle in this security position to various locations. He left the security position to move to Iowa.

Mr. Thach started with Titan Tire in 2002 and worked there until 2017. He testified this was his highest paying job and that he liked the jobs he performed for Titan Tire. He worked building tractor tires. His job duties included inspections of the machine he operated and filling the machine with rubber and nylon product. Mr. Thach

testified he was required to lift up to 100 pounds without assistance while working for Titan Tire. At the time of his work injury, Mr. Thach earned $23.95 per hour and worked 56 to 60 hours per week, including occasional Saturdays.

Claimant submitted to and passed a pre-employment physical before beginning work at Titan Tire. He had no restrictions and both he and his wife described claimant as being healthy prior to July 28, 2016.

Mr. Thach did disclose a prior motor vehicle accident that occurred three to four years before his 2016 injury. He testified he was traveling at approximately 35 miles per hour when the accident occurred. He did not require surgery, had no significant residual symptoms and had no restrictions after undergoing some physical therapy and a period of recovery. Claimant testified he had no residual symptoms from the motor vehicle accident at the time of his 2016 work injury. There is no evidence to the contrary. I accept claimant's testimony and find that he had no restrictions or residual low back symptoms immediately prior to the July 28, 2016 work injury.

On July 28, 2016, claimant was filling a machine when he experienced low back symptoms. (Claimant's Exhibit 12) He was taken to the emergency room, where he was diagnosed with a lumbar strain. (Claimant's Ex. 3) He was seen the same day by an occupational medicine physician, Daniel C. Miller, D.O. Dr. Miller also diagnosed a lumbar strain. (Claimant's Ex. 4, p. 2)

Unfortunately, claimant's symptoms were not short-lived and did not resolve. Instead, he was referred to an orthopaedic spine surgeon, Trevor Schmitz, M.D. Dr. Schmitz obtained an MRI, but opined that the MRI did not explain claimant's numbness and tingling on the left side. (Claimant's Ex. 6, p. 2) Dr. Schmitz ordered an EMG. However, the EMG came back normal and did not demonstrate any lumbar radiculopathy. (Claimant's Ex. 6, pp. 6-7)

Dr. Schmitz also ordered physical therapy for claimant's low back injury. Claimant participated in the therapy. However, on December 2, 2016, the therapist noted that claimant was exhibiting "moderate atypical pain behavior" and that claimant had poor compliance with the therapy treatment. The therapist called and reported her observations and opinions to Dr. Schmitz. (Claimant's Ex. 7, pp. 19– 21)

Dr. Schmitz released claimant from his care, declaring maximum medical improvement on November 30, 2016. Dr. Schmitz released claimant without permanent restrictions, noted that the imaging studies performed did not correlate with claimant's reported symptoms, and opined that claimant has a zero percent permanent impairment as a result of the July 28, 2016 work injury. (Claimant's Ex. 6, pp. 13, 18)

After being released by Dr. Schmitz, claimant obtained a second opinion from his personal family medical provider, Lori Denton, PA-C. Ms. Denton indicated that claimant was not physically capable of returning to his former job or performing any heavy lifting, bending, twisting or reaching. (Claimant's Ex. 9, p. 14) Ms. Denton

referred claimant to a pain specialist for a potential opinion regarding surgery as well. Amy Lynch, D.O., evaluated claimant and opined that claimant was not a surgical candidate and she recommended no further treatment modalities. (Claimant's Ex. 9, p. 20)

Claimant was subsequently evaluated by David J. Boarini, M.D., a neurosurgeon. Dr. Boarini noted an odd gait that was non-physiological. He noted that claimant had a normal EMG and he observed nothing significant on claimant's MRI. Dr. Boarini opined that he could not provide a medical explanation for claimant's asserted symptoms. (Claimant's Ex. 9, p. 45)

Claimant was next referred to and evaluated at the neurosurgery clinic within the University of Iowa Hospitals and Clinics by Andrew J. Grossbach, M.D., on May 16, 2017. Dr. Grossbach opined that there was not a surgical lesion demonstrated on claimant's previous MRI. He ordered a repeat MRI, which occurred on August 8, 2017. Again, the MRI demonstrated some degenerative changes but no disk herniation or surgical lesion. (Claimant's Ex. 10, pp. 1, 3)

Care was assumed in the neurosurgery clinic by Kingsley O. Abode-Iyamah, M.D., a fellow associate. Dr. Abode-Iyamah recommended a discogram. That discogram returned a positive finding that claimant has some annular tears. Nevertheless, given claimant's age, Dr. Abode-Iyamah recommended against a lumbar fusion for claimant's low back injury. (Claimant's Ex. 10, pp. 6, 23)

Having run out of treatment options and having been discharged from further care, claimant obtained an independent medical evaluation, performed by Sunil Bansal, M.D. on November 16, 2017. Dr. Bansal diagnosed claimant with L3-4 and L4-5 disc bulges and annular tearing in claimant's lumbar spine. Dr. Bansal declared maximum medical improvement to have occurred on May 3, 2017, after Dr. Boarini evaluated claimant. Dr. Bansal assigned an eight percent (8%) permanent impairment to claimant's low back and opined that claimant cannot lift more than 25 pounds occasionally, cannot perform frequent bending or twisting, and that claimant cannot stand or walk more than 60 minutes at a time. (Claimant's Ex. 11, pp. 15-17)

Defendants also obtained an independent medical evaluation, performed by Robert L. Broghammer, M.D. on February 5, 2018. Dr. Broghammer opines that claimant has age appropriate degenerative changes, a lumbar strain, and that claimant's ongoing symptoms are idiopathic and not work related. (Defendants' Ex. A, p. 16) Dr. Broghammer assigns maximum medical improvement on November 30, 2016, consistent with Dr. Schmitz's release from care. (Defendants' Ex. A, p. 17) Dr. Broghammer also assigns a zero percent (0%) permanent impairment rating and no work restrictions to the July 28, 2016 work injury. (Defendants' Ex. A, pp. 18-19) Dr. Bansal and Dr. Broghammer each authored supplemental reports, dealing with the issue of discograms and their usefulness as a diagnostic tool.

Considering the competing medical opinions, I note the credentials of Dr. Boarini, Dr. Schmitz, and Dr. Grossbach. Each is highly qualified as a neurosurgeon or orthopaedic spine surgeon. Their credentials give their opinions significant credibility. Moreover, their consistent analysis also leads me to a conclusion that claimant's low back condition is not a surgical condition. Three highly qualified surgeons have specifically recommended against surgery.

On the other hand, another neurosurgeon, Dr. Abode-Iyamah, recommended a discogram, which appears to have demonstrated annular tears in claimant's lower back. Given that Dr. Boarini had no medical explanation for claimant's symptoms, that Dr. Schmitz similarly offered no additional care despite ongoing symptoms, and given that Dr. Grossbach appears to have relied heavily on the MRI findings, I identify the discogram is a potential test that may provide some objective explanation for claimant's ongoing symptoms.

I acknowledge the critique offered by Dr. Broghammer about the use and reliability of discograms. Yet, a neurosurgeon ordered the test. Noting that a physician working in the neurosurgery department at the University of Iowa Hospitals and Clinics ordered the discogram, I am quite doubtful that the test provides no diagnostic worth and that its only value is to cause damage to claimant's disks, as asserted by Dr. Broghammer.

Although his credentials may not be equivalent to the trained spine surgeons, I ultimately accept the medical opinion of Dr. Bansal as the most credible and convincing in this situation. His opinion provides an explanation for the ongoing symptoms. His opinion utilizes all of the medical testing, including the discogram, which was not available to Drs. Boarini, Schmitz, or Grossbach.

Dr. Broghammer asserts that the ongoing symptoms are simply idiopathic, and not work related, despite the fact that claimant had no ongoing symptoms at the time of the injury. Dr. Bansal's opinion provides an affirmative explanation for the ongoing symptoms, including the positive results of the discogram. I find the opinions of Dr. Bansal most convincing in this case.

Therefore, I find that claimant has proven he sustained a permanent injury to his low back as a result of the July 28, 2016 work injury. I find that claimant sustained an eight percent (8%) permanent impairment of the whole person as a result of this low back injury. I find that claimant requires permanent work restrictions, including no lifting over 25 pounds on an occasional basis, no frequent bending or twisting, and no standing or walking for more than 60 minutes continuously.

Claimant offered a vocational report authored by Phil Davis, M.S. Mr. Davis offers an opinion that assumes the accuracy of Dr. Bansal's opinions and relies exclusively upon those restrictions and opinions. While a risky litigation strategy, in this instance, I do accept the opinions of Dr. Bansal. Mr. Davis opines that claimant sustained at least a 50 percent loss of access to the labor market as a result of his

injuries. Mr. Davis estimates that claimant has also sustained a loss of earnings totaling approximately 66-67 percent. (Claimant's Ex. 15, p. 6)

Defendants also obtained a vocational assessment performed by Lana K. Sellner, M.S. Ms. Sellner opines that claimant continues to be employable in the general labor market. She notes his employment as an Uber driver, cab driver, and as a coffee shop shift manager since the date of injury. Ms. Sellner identifies some potential positions within the labor market for which claimant is qualified and that he could perform, assuming the application of Dr. Bansal's restrictions. The anticipated median hourly wages for the positions she identifies range from $10.40 per hour to $15.48 per hour. (Defendants' Ex. B, p. 35)

As noted previously, claimant earned $23.95 per hour at the time of the injury. Assuming that claimant could find a position near the middle of the range offered by Ms. Sellner, claimant would be earning in the $12.50 per hour range. This represents nearly a 48 percent reduction in claimant's actual earnings after this injury. Nevertheless, Ms. Sellner estimates that claimant has a loss of access to the labor market in the 15 to 28 percent range. (Defendants' Ex. B, p. 36)

I find that neither of the vocational experts' opinions is completely accurate. Mr. Davis appears to overestimate the likely actual loss of earnings. Claimant is capable of earning more than his current position at $8.00 per hour. However, Ms. Sellner's opinions demonstrate that claimant has likely lost more earning capacity in the future than the 15-28 percent loss of access she estimates as a conclusion.

Considering Mr. Thach's age, educational background, employment history, ability to return to work but inability to return to his pre-injury job, his motivation level, permanent impairment, permanent restrictions, situs and severity of the injury, as well as all other factors of industrial disability outlined by the Iowa Supreme Court, I find that claimant has proven a 45 percent loss of future earning capacity.

In addition to his claim for permanent disability, Mr. Thach also asserts a claim for healing period benefits. Claimant acknowledges that defendants paid healing period benefits from July 29, 2016 through September 6, 2016. Claimant returned to work at Titan Tire on September 7, 2016. (Claimant's Ex. 4, p. 14; Defendants' Ex. C, p. 40) However, claimant contends that he is entitled to additional healing period benefits from December 1, 2016 through May 3, 2017. Defendants stipulate that claimant was off work during the claimed healing period. (Hearing Report)

The award of additional healing period benefits will depend on factual findings on two issues. First, whether claimant was capable of substantially similar employment as that performed on the date of injury and, second, when claimant achieved maximum medical improvement.

Defendants contend that claimant achieved maximum medical improvement (MMI) on the date that Dr. Schmitz discharged him and declared MMI, specifically

November 30, 2016. Claimant contends that he did not achieve MMI on November 30, 2016. Instead, he continued to seek additional care and opinions of various additional medical providers. He contends that he was not capable of substantially similar employment.

Dr. Schmitz released claimant from his care, declared MMI, and assigned permanent impairment based upon claimant's condition as of November 30, 206. Dr. Schmitz also released claimant to return to work without restrictions as of November 30, 2016.

However, claimant continued to have significant symptoms after the release by Dr. Schmitz. Claimant shortly thereafter sought treatment with his personal medical provider, Lori Denton, PA-C. Ms. Denton opined that claimant was not capable of returning to his former job and recommended additional evaluation and treatment. Claimant sought additional evaluation and treatment after Ms. Denton's recommendations.

Claimant contends that he did not achieve maximum medical improvement until May 3, 2017, when surgery was ruled out by Dr. Boarini and on the date when Dr. Bansal declared MMI. Having reviewed the various medical providers' opinions and explained why I accepted Dr. Bansal over other opinions, I again accept the opinion of Dr. Bansal on this issue. I find that Ms. Denton was correct. With the ongoing symptoms claimant reported, claimant was not capable of performing substantially similar work between December 1, 2016 and May 3, 2017. He did not achieve MMI until May 3, 2017 according to Dr. Bansal. That opinion is accepted. Therefore, I find that claimant did not return to work, was not capable of substantially similar employment, and was not at MMI between December 1, 2016 and May 3, 2017.

Having accepted the parties' stipulation that claimant was not working during the disputed healing period, I find that claimant was not capable of performing substantially similar employment during the claimed healing period from December 1, 2016 through May 3, 2017. I also find that claimant achieved maximum medical improvement on May 3, 2017.

Mr. Thach also asserts a claim for past medical expenses. At the commencement of hearing, the undersigned clarified with the parties the issues pertaining to the disputed medical expenses. Defendants stipulated at the time of hearing that the fees or prices charged by the medical providers are fair and reasonable. They also stipulated that the treatment rendered was reasonable and necessary. (Hearing Report)

Defendants disputed whether the disputed medical expenses are causally related to the July 28, 2016 work injury. However, defendants stipulated that the disputed expenses "are at least causally connected to the medical condition(s) upon which the claim of injury is based." (Hearing Report)

Having accepted the parties' stipulations and having found that claimant did not achieve maximum medical improvement until May 3, 2017, I note that there were treatments at the University of Iowa Hospitals and Clinics that occurred after the date of MMI. However, those treatments were additional evaluations to seek alternate remedies for the symptoms caused by this work injury. Relying upon the stipulation of the parties that the disputed medical expenses are all related to the disputed low back condition, I find that all of the treatment expenses outlined and summarized in claimant's second amended list of medical bills/liens are causally related to the July 28, 2016 work injury.

CONCLUSIONS OF LAW

The claimant has the burden of proving by a preponderance of the evidence that the injury is a proximate cause of the disability on which the claim is based. A cause is proximate if it is a substantial factor in bringing about the result; it need not be the only cause. A preponderance of the evidence exists when the causal connection is probable rather than merely possible. George A. Hormel & Co. v. Jordan, 569 N.W.2d 148 (Iowa 1997); Frye v. Smith-Doyle Contractors, 569 N.W.2d 154 (Iowa App. 1997); Sanchez v. Blue Bird Midwest, 554 N.W.2d 283 (Iowa App. 1996).

The question of causal connection is essentially within the domain of expert testimony. The expert medical evidence must be considered with all other evidence introduced bearing on the causal connection between the injury and the disability. Supportive lay testimony may be used to buttress the expert testimony and, therefore, is also relevant and material to the causation question. The weight to be given to an expert opinion is determined by the finder of fact and may be affected by the accuracy of the facts the expert relied upon as well as other surrounding circumstances. The expert opinion may be accepted or rejected, in whole or in part. St. Luke's Hosp. v. Gray, 604 N.W.2d 646 (Iowa 2000); IBP, Inc. v. Harpole, 621 N.W.2d 410 (Iowa 2001); Dunlavey v. Economy Fire and Cas. Co., 526 N.W.2d 845 (Iowa 1995). Miller v. Lauridsen Foods, Inc., 525 N.W.2d 417 (Iowa 1994). Unrebutted expert medical testimony cannot be summarily rejected. Poula v. Siouxland Wall & Ceiling, Inc., 516 N.W.2d 910 (Iowa App. 1994).

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

In this case, I found that Mr. Thach has proven he sustained a permanent disability as a result of the July 28, 2016 low back injury at Titan Tire. Therefore, I conclude that claimant has carried his burden of proof and is entitled to an award of permanent disability in some amount. Moreover, claimant has proven that his injury is

an unscheduled injury to the low back that is not covered by any of the specific scheduled injuries contained in Iowa Code section 85.34(2). Therefore, claimant's injury is considered unscheduled and compensated with industrial disability pursuant to Iowa Code section 85.34(2)(u).

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

Functional impairment is an element to be considered in determining industrial disability which is the reduction of earning capacity, but consideration must also be given to the injured employee's age, education, qualifications, experience, motivation, loss of earnings, severity and situs of the injury, work restrictions, inability to engage in employment for which the employee is fitted and the employer's offer of work or failure to so offer. McSpadden v. Big Ben Coal Co., 288 N.W.2d 181 (Iowa 1980); Olson v. Goodyear Service Stores, 255 Iowa 1112, 125 N.W.2d 251 (1963); Barton v. Nevada Poultry Co., 253 Iowa 285, 110 N.W.2d 660 (1961).

Compensation for permanent partial disability shall begin at the termination of the healing period. Compensation shall be paid in relation to 500 weeks as the disability bears to the body as a whole. Section 85.34.

Having considered all of the relevant industrial disability factors, I found that Mr. Thach proved a 45 percent loss of future earning capacity. This entitles claimant to a 45 percent industrial disability award, or an award of 225 weeks of permanent partial disability benefits. Iowa Code section 85.34(2)(u).

The Iowa Supreme Court has specifically noted that permanent partial disability benefits commence whenever the first factor of Iowa Code section 85.34(1) is met. Evenson v. Winnebago Industries, Inc., 881 N.W.2d 360 (Iowa 2016). I found that claimant did not achieve maximum medical improvement until May 3, 2017. However, reaching maximum medical improvement is not necessarily the first factor to be achieved to terminate the healing period. Id.

Mr. Thach returned to lighter duty work at Titan Tire on September 7, 2016. He was not yet at MMI or medically capable of performing substantially similar employment by that date. Therefore, claimant's return to work on September 7, 2016 represents the first factor to be achieved pursuant to Iowa Code section 85.34(1) to terminate healing period benefits. Once claimant achieves one of the factors outlined in Iowa Code section 85.34(1), permanent disability benefits should commence. Therefore, I conclude that permanent disability benefits should commence on September 7, 2016 and be paid continuously thereafter until paid in full. Evenson v. Winnebago Industries, Inc., 881 N.W.2d 360 (Iowa 2016).

Although permanent partial disability benefits commenced, claimant may also be entitled to payment of intermittent healing period benefits that are payable concurrently with permanent partial disability benefits. Id. In this instance, claimant seeks additional healing period benefits from December 1, 2016 through May 3, 2017. I accepted the parties' stipulation that claimant was not working during this period of time. I found that Mr. Thach was not medically capable of performing substantially similar employment during the claimed healing period. Finally, I found that claimant did not achieve MMI until May 3, 2017. Therefore, I conclude that claimant is entitled to healing period benefits from December 1, 2016 through May 3, 2017, payable concurrently with the accrued permanent partial disability benefits. Iowa Code section 85.34(1); Evenson v. Winnebago Industries, Inc., 881 N.W.2d 360 (Iowa 2016).

Finally, claimant seeks assessment of his costs. Costs are assessed at the discretion of the agency. Iowa Code section 85.40. Exercising the agency's discretion and recognizing that claimant has prevailed on the disputed issues in this case, I conclude that it is appropriate to assess claimant's costs in some amount.

Claimant seeks assessment of his filing fee totaling $100.00. This cost is appropriate and assessed pursuant to 876 IAC 4.33(7).

Mr. Thach seeks assessment of the cost of Dr. Bansal's supplemental report totaling $198.00. This is a reasonable fee for Dr. Bansal's report, and assessment of the cost of a physician's report in lieu of testimony is permissible. Des Moines Area Regional Transit Authority v. Young, 867 N.W.2d 839 (Iowa 2015). Dr. Bansal's fee totaling $198.00 is therefore assessed pursuant to 876 IAC 4.33(6).

Finally, Mr. Thach requests assessment of his vocational expert's report fee, which totals $1,652.90. Review of the invoice claimant attaches from his vocational expert demonstrates that the fee requested includes charges for Mr. Davis' interview of claimant, travel time, mileage expenses, file review, research, and delivery charges, as well as the actual report fee. Pursuant to Des Moines Area Regional Transit Authority v. Young, 867 N.W.2d 839 (Iowa 2015), only the expense related to drafting a report in lieu of offering testimony is a permissible cost under agency rule 876 IAC 4.33(6).

In this instance, Mr. Davis does not break down his total time spent solely on preparation of his report. Instead, he lumps together the majority of his work, including file review, research and report as one time entry of 9.5 hours and one charge totaling $1,187.50. The remainder of the charges contained on the invoice are clearly not reimbursable costs pursuant to the Young case. Presumably, Mr. Davis spent more time reviewing, researching and formulating his opinions than he did drafting a report summarizing those opinions. However, I do not intend to speculate as to the total time spent on each of these tasks in an effort to craft a cost assessment.

The requirements and limitations of agency rule 876 IAC 4.33(6) were clearly stated and set forth by the Iowa Supreme Court in Young in 2015 and were clearly known long before this case was tried. Claimant failed to obtain or produce a

breakdown of the expenses incurred to permit an assessment of the vocational report charges. Any effort I would make to estimate the charges would be pure speculation. Therefore, I conclude that the vocational expenses should not be assessed in this case.

ORDER

THEREFORE, IT IS ORDERED:

Defendants shall pay claimant healing period benefits from December 1, 2016 through May 3, 2017.

Defendants shall pay claimant two hundred twenty-five (225) weeks of permanent partial disability benefits commencing on September 7, 2016, and paid continuously thereafter until paid in full.

All weekly benefits shall be paid at the rate of six hundred ninety-eight and 41/100 dollars ($698.41).

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).

Defendants are entitled to a credit for all weekly benefits paid to date against this award.

With respect to claimant's past medical expenses contained and summarized in claimant's second amended list of medical bills/liens filed at the commencement of the arbitration hearing, defendants shall pay directly to any medical providers, reimburse any third-party payers, or reimburse claimant for any out-of-pocket expenses and shall hold claimant harmless for all such medical expenses and claims.

Defendants shall reimburse claimant's costs totaling two hundred ninety-eight and 00/100 dollars ($298.00).

Defendants shall file subsequent reports of injury (SROI) as required by this agency pursuant to rules 876 IAC 3.1(2) and 876 IAC 11.7.

Signed and filed this 29th day of August, 2018.

WILLIAM H. GRELL
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

Copies to:

Greg A. Egbers
Attorney at Law
2454 S.W. 9th St.
Des Moines, IA 50315
gregegbers@hemmingerlaw.com

Gene R. La Suer
Luke Draisey
Attorney at Law
215 Tenths St., Ste. 1300
Des Moines, IA 50309-3993
genelasuer@davisbrownlaw.com
lukedraisey@davisbrownlaw.com

WHG/sam

Right to Appeal: This decision shall become final unless you or another interested party appeals within 20 days from the date above, pursuant to rule 876-4.27 (17A, 86) of the Iowa Administrative Code. The notice of appeal must be in writing and received by the commissioner's office within 20 days from the date of the decision. The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday. The notice of appeal must be filed at the following address: Workers' Compensation Commissioner, Iowa Division of Workers' Compensation, 1000 E. Grand Avenue, Des Moines, Iowa 50319-0209.