BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

JULIE COTTRELL, Claimant, vs. NEWMAN CATHOLIC SCHOOL SYSTEM, Employer, and DUBUQUE ARCHDIOCESAN PROTECTION PROGRAM, Insurance Carrier, Defendants.	:	File Nos. 5066407, 5066408 ARBITRATION DECISION Head Note Nos.: 2500, 1108, 1803

STATEMENT OF THE CASE

Julie Cottrell filed two petitions for arbitration seeking workers' compensation benefits from, the employer, Newman Catholic School System, employer, and Dubuque Archdiocesian Protection Program, the insurance carrier.

The matter came on for hearing on September 16, 2019, before Deputy Workers' Compensation Commissioner Joseph L. Walsh in Des Moines, Iowa. The record in the case consists of joint exhibits 1 through 8; claimant's exhibits 1 through 7; and defense exhibits A through H; as well the sworn testimony of claimant. Sydney Lundberg served as the court reporter. The parties argued this case and the matter was fully submitted on October 28, 2019.

ISSUES AND STIPULATIONS

Many of the issues have been stipulated by the parties through the hearing report and order. The stipulations submitted by the parties in that order are hereby accepted and are deemed binding upon the parties at this time.

Ms. Cottrell suffered two injuries which arose out of and in the course of her employment: the first on November 14, 2016, the second on February 20, 2018. The parties stipulate that the injuries caused some temporary disability during a period of

recovery, however, temporary benefits are not in dispute. Defendants dispute whether either injury caused a permanent disability. The claimant's gross wages at the time of her injuries are disputed. The claimant is seeking compensation for the alleged underpayment of temporary disability benefits, however, the dates paid are not disputed. The nature and extent of permanent disability, if any, is disputed. The remaining issues are stipulated and deemed binding.

FINDINGS OF FACT

Julie Cottrell is a pleasant 57 year old woman who lives in Mason City, Iowa. She testified live and under oath and is found to be a credible witness. Her testimony is generally consistent with the other evidence in the record. She was a good historian. There was nothing about her demeanor at hearing which caused the undersigned any concern for her veracity.

Ms. Cottrell graduated from Mason City High School in 1980 with average grades. Her work history has been in fast food, nursing homes and light production work. She also ran a pet store part-time while raising her children. She became employed at Newman Catholic School System in approximately 1997. She began in the cafeteria, however, she became a custodian in 2003. Her job duties as custodian include loading and unloading trucks, mopping floors, emptying trash containers, moving furniture, running a floor waxing machine, finishing floors, fixing miscellaneous items, setting up and tearing down for school functions, cleaning bathrooms and classrooms, changing light bulbs, snow removal and cleaning the cafeteria. She has a good work record. Ms. Cottrell had experienced a right knee problem in 2004, but had not had difficulties since that time. Ms. Cottrell testified credibly that she was not experiencing symptoms or ongoing treatment associated with her knees or low back in 2016.

Ms. Cottrell's earnings are in the record as well. She was paid bi-weekly. (Defendants' Exhibits, C, D, E) She consistently earned $444.29 per week ($888.57 bi-weekly), however, this amount excludes additional compensation, referred to as flex money or benefit dollars. Based upon the testimony of the witnesses, the flex money was additional cash compensation included in her regular paycheck to cover any additional benefits an employee may need. The bottom line is, this money was paid to Ms. Cottrell to use however she saw fit. Ms. Cottrell consistently earned an additional $55.77 per week ($111.54 bi-weekly), which was paid to her in her regular paycheck. (Def. Ex. D, pp. 9-10) I find that this compensation should be included in her average weekly earnings.

On November 14, 2016, Ms. Cottrell suffered her first stipulated work injury. On that date she was pulling a cart while another worker was pushing. Her feet became tangled up and she fell, causing injury to her right knee, left knee, and back. She reported the injury and the employer directed medical care. Her injury and condition are well-documented in the medical notes. At her first medical visit, she was placed on restrictions and provided medications. She was able to work on light-duty. In

December 2016, she was referred for an MRI of both the knee and back. (Jt. Ex. 2, pp. 14-17) Her physician recommended physical therapy which was not immediately approved and referred her to different specialists for her low back and right knee: Ronald Kloc, D.O. (low back), Michael Scherb, M.D. (right knee).

Dr. Scherb treated Ms. Cottrell's right knee for a brief period. He reviewed the MRI and performed a corticosteroid injection in his office. He ordered physical therapy which was performed in January 2017. (Jt. Ex. 3, p. 22; Jt. Ex. 4, pp. 41-46) She did not have any further treatment for her knee condition. There is little explanation in the record about why her treatment ended exactly, but it did.

Dr. Kloc treated Ms. Cottrell for lumbar spondylosis, facet joint arthritis with facet-mediated pain. He causally-connected her condition to her fall at work and recommended injections. (Jt. Ex. 3, p. 27) On February 16, 2017, Ms. Cottrell underwent a medial branch block of her lumbar spine. (Jt. Ex. 3, p. 28) She then underwent physical therapy through April 12, 2017, but had little relief. Dr. Kloc recommended a series of epidural steroid injections, which she had on May 11, 2017, June 14, 2017 and September 6, 2017. Again, she reported no improvement. (Jt. Ex. 3, p. 39) Dr. Kloc prescribed Gabapentin. Her symptoms did not subside and she was eventually seen by Trevor Schmitz, M.D., at Iowa Ortho in December 2017. Dr. Schmitz essentially opined that he could not explain all of her symptoms based upon her clinical presentation and radiographic reports. He advised against surgery and ordered an FCE "to see what objectively she can or cannot do or to see if it is an invalid study." (Jt. Ex. 5, p. 64)

Claimant's counsel arranged an FCE at Athletico in Mason City on February 13, 2018. The defendants apparently arranged an FCE in Des Moines, which Ms. Cottrell cancelled or did not attend. This evaluation was deemed valid by the evaluator and it placed her in the medium work category. (Jt. Ex. 6, pp. 81-82) Athletico restricted her from frequent repetitive squatting, lifting more than 30 pounds floor to waist, lifting more than 20 pounds waist to shoulder, as well as some limitations pushing heavy weights.

On February 20, 2018, Ms. Cottrell suffered her second stipulated work injury. At the time, she was working without restrictions. While lifting a heavy bag of ice melt she felt an immediate pop and burning sensation. She was immediately referred for medical treatment. After being seen in the clinic, she was provided medications, taken off work, and referred to a neurosurgeon. (Jt. Ex. 1, p. 10)

Sandeep Bhangoo, M.D., evaluated Ms. Cottrell on March 13, 2018. He had a full history of both of her injuries, evaluated Ms. Cottrell and reviewed her MRI films. He provided the following opinion.

> I told her today that she has essentially two issues, the stenosis in the lumbar spine with her leg symptoms as well as her back pain. My suspicion is that the acute back pain that got significantly worse after the 02/20/2018 injury is mostly a myofascial injury. I do not think that there is

> any good surgical treatment for that and I would recommend discontinuing heavy lifting at work. She states that the pain has improved significantly over the last week since she has been off work and I think that is probably the best way to treat that. So I wrote her a note that she should stay off work for the next 3 weeks and I will see her at that time. In the meantime, we can start her on physical therapy. As far as the lumbar stenosis, I told her that her leg pain could be coming from that, that has not worsened significantly since the 2016 study, but treatment for that would be an L4-L5 bilateral laminectomy. I explained that procedure to her today and I told her that in the presence of an acute back sprain, myofascial injury, it is probably not a good idea and she agrees with that.

(Jt. Ex. 7, p. 95)

After her evaluation by Dr. Bhangoo, Ms. Cottrell underwent physical therapy. Dr. Bhangoo saw her again and discontinued therapy on April 3, 2018. "She is definitely doing much significantly better. She still has quite a bit of pain that bothers her and states the physical therapy made her miserable." (Jt. Ex. 7, p. 96) Dr. Bhangoo placed her on a 10-pound restriction with no bending, pushing or pulling for the next six weeks. (Jt. Ex. 7, p. 96) Ms. Cottrell testified that she was not allowed to return to work with this restriction.

On May 9, 2018, Dr. Schmitz reevaluated Ms. Cottrell. He reviewed the FCE she had underwent before her second injury. "I do think she warrants these restrictions as it was a valid study." (Jt. Ex. 5, p. 67) Dr. Schmitz placed her at maximum medical improvement (MMI). Dr. Schmitz wrote an addendum less than 10 days later indicating he was unaware the FCE was not approved by the workers' compensation carrier. He released her to work without restrictions pending an approved FCE. (Jt. Ex. 5, p. 69)

In the meantime, Ms. Cottrell was reexamined by Dr. Bhangoo. He authored a report to Healthworks Occupational Health on May 5, 2018.

> I would say based on her most recent injury, she is about 3 months out now, which would indicate maximal medical improvement. However, I think this is probably more likely a continuation of his long-term back issue that she has been having where she had a previous injury and was evaluated by a doctor in Des Moines. From my standpoint, I can defer all further management of this to him as requested by Workers' Compensation so that she has 1 physician managing her issue. In my estimation what the patient told me was that she had a functional capacity evaluation that was done after that injury. They had recommended that she go back to work. She did that to the best of her ability and she had reinjured her back. What this tells me is that the functional capacity evaluation that was done previously probably did not sufficiently measure out her risk for future injury. In my estimation then a further functional capacity evaluation may be of marginal utility.

(Jt. Ex. 7, p. 97) On June 5, 2018, after conferencing with claimant's counsel, Dr. Bhangoo placed an indefinite 10 pound lifting restriction on Ms. Cottrell. (Jt. Ex. 7, p. 99) On July 12, 2018, Dr. Bhangoo saw Ms. Cottrell and recommended she continue on the 10-pound lifting restriction until she received an FCE. (Jt. Ex. 7, p. 101)

On July 18, 2018, Ms. Cottrell underwent a second FCE at ARC Physical Therapy where she had apparently been scheduled back in January 2018, prior to the second injury. (Jt. Ex. 8, p. 107) The new FCE was deemed invalid "due to the client, Julie Cottrell, performing inconsistently during a repeated measures protocol." (Jt. Ex. 8, p. 108) The invalid report turned out quite comparable to the valid report through Athletico, placing Ms. Cottrell in the medium work category and placing reasonable lifting restrictions on her. (Jt. Ex. 8, p. 109) Dr. Schmitz reviewed this and allowed Ms. Cottrell to return to work without restrictions on August 1, 2018. (Jt. Ex. 5, pp. 71-72)

In September 2018, Dr. Schmitz assigned a zero percent impairment rating for Ms. Cottrell's lumbar spine injury. (Jt. Ex. 5, p. 74) He noted that while Ms. Cottrell had MRI findings of stenosis and spondylolisthesis, neither condition "would have been caused by the accident in question" and "were most certainly chronic underlying changes for her." (Jt. Ex. 5, p. 74)

In January 2019, Steven Aviles, M.D., at Iowa Ortho evaluated Ms. Cottrell's right knee. She had not had any treatment for the right knee since she saw Dr. Scherb in January 2017. Dr. Aviles actually examined both knees. He diagnosed osteoarthritis. He released her to return to work without restrictions and assigned a zero impairment rating. (Jt. Ex. 5, pp. 77, 79)

Ms. Cottrell was evaluated by John Kuhnlein, D.O., in June 2019. After performing a review of relevant medical records, examining Ms. Cottrell and reviewing the history with her, he prepared an expert medical report on July 25, 2019. He diagnosed degenerative disc disease (lumbar spine) with spinal stenosis, degenerative joint disease right knee with tricompartmental degenerative arthritis, and degenerative joint disease left knee with tricompartmental degenerative arthritis. (Cl. Ex. 1, p. 15) Dr. Kuhnlein opined and convincingly explained in detail that each of these diagnoses were causally related to her November 14, 2016, work injury. (Cl. Ex. 1, pp. 15-17) He did not seem to opine that the February 2018, work injury resulted in any additional permanent disability. (Cl. Ex. 1, p. 17) Dr. Kuhnlein further opined that Ms. Cottrell achieved MMI on May 15, 2018. He assigned impairment ratings of 8 percent of the whole body (DRE Lumbar Category II) for her lumbar spine; 45 percent of the right leg; and 51 percent of the left leg. (Cl. Ex. 1, pp. 18-19) He recommended significant permanent restrictions.

On August 8, 2019, Dr. Bhangoo conferenced with claimant's counsel and essentially signed off in agreement with Dr. Kuhnlein's medical opinions regarding Ms. Cottrell's low back. (Jt. Ex. 7, pp. 105-106)

Ms. Cottrell has continued to work for the employer with no formal restrictions in place. She has suffered no loss of pay as a result of her work injury at the time of hearing. Ms. Cottrell testified that she could no longer perform a number of the jobs she previously held due to her conditions. Her supervisor, Isaac Weiss testified credibly for the employer. He testified that Ms. Cottrell is a proud person who does not want to ask for help. She does, at times, however, ask for help especially with heavy lifting. He also allows her to sit when needed.

CONCLUSIONS OF LAW

The first question is whether either of claimant's admitted injuries is a cause of any permanent disability, and if so, the nature and extent of such disability. By a preponderance of evidence, I find that claimant's November 14, 2016, injury is a proximate cause of disability in the claimant's low back and bilateral knees.

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.

The expert opinions as to the medical causation in this case are conflicted. I find the greater weight of evidence supports a finding that the claimant's injury on November 14, 2016, is a substantial aggravating or contributing factor to her conditions in her low back and bilateral knees. I base this upon the opinions of Dr. Kuhnlein, Dr. Bhangoo, the credible testimony of the claimant and the supporting treatment notes from the authorized physicians.

I have weighed this evidence against the opinion of Dr. Schmitz, who opined the claimant suffered no permanent functional disability in her low back resulting from either work injury. Dr. Schmitz, however, provided an incomplete opinion. He opined that Ms. Cottrell's condition in her low back was not caused by her work injury, however, he failed to address whether the condition was lit up or otherwise materially aggravated by her November 14, 2016, work injury. As noted by Dr. Kuhnlein's opinion, Ms. Cottrell was asymptomatic in her low back prior to this injury. Following the well-documented injury, she immediately experienced consistent symptoms of disability and pain in her low back and right knee. I find Ms. Cottrell to be a credible witness. I believe that she did not have a disabling condition prior to the November 2016, work injury. She was performing all parts of her job without any restrictions or accommodations prior to this work injury.

I find that the February 20, 2018, work injury was a temporary aggravation of her November 14, 2016, low back injury. As outlined extensively by Dr. Bhangoo, this work injury caused her low back symptoms to flare up, necessitating some additional treatment and time off work, however, the evidence suggests that it did not result in any permanent condition.

I further find that the November 14, 2016, work injury lit up or materially aggravated the degenerative condition in claimant's right knee as outlined by Dr. Kuhnlein. As a sequela of this condition, claimant aggravated her left knee condition. Dr. Kuhnlein's opinion is much more detailed and thorough than the opinions of Dr. Scherb or Dr. Aviles, who really provide very little analysis for their positions.

For these reasons, I find the claimant has met her burden that her November 14, 2016, injury is a proximate cause of disability.

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. of Iowa, 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.

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).

Considering all of the relevant and appropriate factors of industrial disability, I find that the claimant has suffered a 35 percent loss of earning capacity as a result of her November 14, 2016, work injury. Claimant was 57 years old at the time of hearing. She is a high school graduate. She has held mostly entry-level service sector type positions in her work life. She does not have high demand work skills. Her position as a custodian is likely the best job she has held in her career. The condition in her low back and knees is significant. Dr. Kuhnlein is a highly respected medical evaluator. He provided an 8 percent whole body rating for her low back condition and assigned high ratings to each knee. I conclude the restrictions assigned in her February 13, 2018, FCE are a valid reflection of her functional capabilities. She is in the low end of the medium work category. I find that the FCE from Athletico is the best indication of her physical work restrictions in the record. She should not be lifting greater than 30 pounds floor to waist or do repetitive squatting. (Jt. Ex. 6, p. 81) Her condition is moderately disabling for a high school educated worker with limited technology skills. Fortunately for her, her employer has done an excellent job of utilizing her skills and abilities. While her work is undoubtedly accommodated to some degree, she is still performing the majority of the essential functions of the position of custodian. Her supervisor testified that he helps her with the heavier aspects of her job.

Nevertheless, in the objective, competitive world of work, Ms. Cottrell is undoubtedly a less attractive candidate in the competitive job market. The disability is moderate to significant. Considering all of the relevant factors of industrial disability, I find the claimant has suffered a loss of earning capacity of 35 percent. I conclude this entitles her to 175 weeks of compensation commencing May 9, 2018.

The next issue is the claimant's need for alternate medical care.

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. Iowa Code section 85.27 (2013).

By challenging the employer's choice of treatment – and seeking alternate care – claimant assumes the burden of proving the authorized care is unreasonable. See Long v. Roberts Dairy Co., 528 N.W.2d 122 (Iowa 1995). Determining what care is reasonable under the statute is a question of fact. Id. The employer's obligation turns on the question of reasonable necessity, not desirability. Id.; Harned v. Farmland Foods, Inc., 331 N.W.2d 98 (Iowa 1983).

An application for alternate medical care is not automatically sustained because claimant is dissatisfied with the care he has been receiving. Mere dissatisfaction with the medical care is not ample grounds for granting an application for alternate medical care. Rather, the claimant must show that the care was not offered promptly, was not reasonably suited to treat the injury, or that the care was unduly inconvenient for the claimant. Long v. Roberts Dairy Co., 528 N.W.2d 122 (Iowa 1995).

For alternate medical care, claimant is seeking an authorized treating physician for her bilateral knee condition. I find that the defendants have not really provided the claimant any treatment recommendations for her condition because the physicians they selected were of the opinion that her degenerative condition was not causally connected to her work injury. Dr. Scherb released her early on in her treatment with very little explanation. Much later, Dr. Aviles simply opined that her condition was not causally connected. I reject opinion and find that Dr. Kuhnlein's causation opinion is more thorough and utilizes the proper legal standard. This is the only authorized medical appointment Ms. Cottrell has had for her knees since Dr. Scherb released her without explanation. I find this "treatment" is not reasonable. It may be that there is not treatment any effective treatment available for the claimant's bilateral knees at this time. Nevertheless, the defendants shall name an authorized treating physician, other than Dr. Scherb and Dr. Kloc to evaluate and treat claimant's bilateral knees.

The next issue is gross wages.

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).

I find that the flex compensation that claimant receives in lieu of benefits is compensation which must be included in her average weekly wages. This money is paid to her in her regular paychecks and can be spent any way claimant sees fit. It is part of her average customary wage. As such, I find that claimant's gross earnings prior to her November 14, 2016, work injury was $500.06 per week.

ORDER

THEREFORE IT IS ORDERED:

File No. 5066408:

The claimant shall take nothing further from these proceedings.

File No. 5066407:

Defendants shall pay the claimant one hundred seventy-five (175) weeks of permanent partial disability benefits at the rate of three hundred sixteen and 30/100 ($316.30) per week commencing May 9, 2018.

Defendants shall pay accrued weekly benefits in a lump sum.

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

Defendants shall authorize a knee specialist other than Dr. Aviles or Dr. Scherb to evaluate the claimant's need for further treatment for her bilateral knee conditions consistent with this decision.

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

Costs are taxed to defendants.

Signed and filed this _9th__ day of July, 2020.

JOSEPH L. WALSH
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

The parties have been served, as follows:

Joanie Grife (via WCES)

Christopher Fry (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.