



This confirms claimant was not at maximum medical improvement in May 2005. The deputy's determination that claimant did not reach maximum medical improvement until February 28, 2006, when a permanent restriction against working overtime was imposed, is affirmed. The award of temporary partial disability benefits between May 31, 2005 and February 28, 2006, is also affirmed.

In addition, the award of penalty benefits for failing to pay those temporary partial disability benefits is also affirmed. The May 31, 2005, note by P.A. Davis was not ambiguous or subject to interpretation. He clearly limited the finding of maximum medical improvement to the temporary flare-up, not the underlying condition, and also clearly intended to keep following claimant's medical progress. A penalty for ignoring the plain meaning of that record is appropriate.

All other aspects of the arbitration decision and rehearing decision are affirmed.

Defendants shall pay the costs of the appeal, including the preparation of the hearing transcript.

Pursuant to a standing order of delegation of authority by the workers' compensation commissioner pursuant to Iowa Code section 86.3, the undersigned enters this ruling for the workers' compensation commissioner. There is no right of appeal of this ruling to the workers' compensation commissioner.

Signed and filed this 2nd day of July, 2009.

  
JON E. HEITLAND  
DEPUTY WORKERS'  
COMPENSATION COMMISSIONER

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