BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

JULIO VASQUEZ,

Claimant,

vs.

DORMARK CONSTRUCTION CO.,

Employer,

and

BITUMINOUS INSURANCE CO.,

Insurance Carrier,
Defendants.

FILED
AUG 22 2016
WORKERS COMPENSATION

File No. 5047236

ARBITRATION DECISION

Head Note Nos.: 1801.1, 1803, 2500, 2700

STATEMENT OF THE CASE

Claimant, Julio Vasquez, filed a petition in arbitration seeking workers' compensation benefits from Dormark Construction Company, employer, and Bituminous Insurance Companies, insurer, both as defendants, for an alleged work injury of October 29, 2013.

The case was heard on June 15, 2016, in Des Moines, Iowa. Testimony was heard from the claimant and interpreter Daniel Chaviarria, an employee of the office of the claimant's counsel.

The written evidence consists of claimant's exhibits 1-19, defendants' exhibits A-C.

The record was closed as of June 15, 2016, and considered fully submitted on the same with no request for briefing from the parties.

ISSUES

Whether the claimant was entitled to temporary partial or temporary permanent or healing period benefits from November 5, 2013, through December 5, 2013;

Whether the work injury of October 29, 2013, was the cause of any permanent disability;

Whether claimant is entitled to alternate care; and

Whether claimant is entitled to assessment of costs itemized in Exhibit 18.

STIPULATIONS

The parties agree that claimant was injured on October 29, 2013, and that he was an employee at the time of the injury and that the injury arose out of and in the course of his employment. They agree that any permanent disability found is industrial in nature and that the commencement date of permanent partial disability benefits, if any are awarded, would be December 6, 2013, unless it is determined that claimant is not entitled to temporary benefits. If that is the case, the parties agree the commencement date would be October 29, 2013.

At the time of the injury, claimant's gross earnings were $1,031.24. He was married, entitled to 4 exemptions.

FINDINGS OF FACT

Claimant, Julio Vasquez, was a 63-year-old man at the time of the hearing. His educational history includes completion of the 9th grade in El Salvador. He does not speak, read or write English with any proficiency.

His past work history includes laborer for an electrical company where he helped bury PVC pipe in the ground, a laborer at IBP in Perry were he trimmed the fat from the pork, and then as a laborer at a chicken farm. He also worked at Stone Container stacking paper and plastic bags.

He began working for defendant employer in 2009 as a seasonal laborer. His work required lifting and carrying steel rebar, pouring concrete, and other laborer tasks related to laying steel rebar in concrete to build bridges.

He was released from work in December 2013 and in the spring was told the only work was in North Dakota and he would have to supply his own transportation.

In June of 2014, claimant obtained employment as a driver for a local landscaping company. He assisted in planting the lighter plants. He was laid off in November 2014 and was not recalled. He started work as a driver on or around April 15, 2016, with another landscaping company and does light landscaping work.

Prior to his work injury, he had no neck or back problems and was working 50-60 hours a week without restrictions.

On or about October 29, 2013, claimant was involved in a serious motor vehicle collision that left at least one passenger dead. He was seated in the front passenger seat and belted.

He was found by the Watertown Fire Rescue department walking around the crash site with neck pain. (Exhibit 1) He was taken via backboard to the emergency room at Prairie Lakes. A CT showed no signs of abnormalities other than a small focal

central disc protrusion at C3-C4. (Ex. 2, p. 6) After being diagnosed with a musculoskeletal injury, claimant was discharged with prescription medication and an order to return in follow-up with his own doctor in two days. (Ex. 2, pp. 5, 12)

He was seen on November 5, 2013, at Concentra for pain in the neck and shoulders. (Ex. 3, p. 14) Restrictions of no lifting over 20 pounds and no pushing/pulling over 40 pounds were imposed. (Ex. 3, p. 15) He continued to have neck and shoulder pain and was treated by Judith L. Nayeri D.O. at Concentra during November 2013. He underwent physical therapy and was given prescriptions and orders to ice and rest at home. Claimant had full range of motion but some tenderness upon palpation. (Ex. 3, p. 22) In mid-November, Dr. Nayeri increased claimant's restrictions to no lifting over 30 pounds and no pushing/pulling over 50 pounds. (Ex. 3, p. 25)

Nearing the end of his physical therapy treatments, claimant was still reporting pain in the upper neck, rating it 3 out of 10 on a 10 scale. (Ex. 4, p. 75)

After his visit with Dr. Nayeri on December 6, 2013, claimant was released to work without restrictions. Dr. Nayeri's examination revealed no signs of injury:

> MUSKULOSKELETAL:
> Cervical:
> Pt. is in no apparent distress
> Gross exam of the cervical spine reveals no swelling, deformity, abnormal curvature, or other abnormalities
> Cervical ROM is normal in all planes
> Palpation of the cervical spine is negative for spinous and paraspinous tenderness
> Sensory testing of the upper extremity is normal bilaterally without deficit
> Reflex testing reveals normal biceps, triceps, and brachioradialis reflexes bilaterally.

(Ex. 3, p. 32)

Claimant stated that no interpreter was allowed into the room during his visits with Dr. Nayeri and the medical records do not record the presence of one. Claimant did not feel Dr. Nayeri fully comprehended his problems.

Claimant continued to complain of neck pain every day and that lying down, walking, lifting, looking up, down, right and left exacerbated his pain. (Ex. 5, p. 81)

On May 29, 2014, claimant was evaluated by Lynn Nelson, M.D. (Ex. 5) During the examination, claimant reported pain during range of motion tests and upon palpation:

> Gait, heel and toe walking is unremarkable. Skin overlying his neck is intact and benign. Flexion elicits pain in the neck at one to two

> fingerbreadths above the sternum, and extension elicits pain at 40°. Bilateral lateral flexion is painful at 50°. Bilateral lateral rotation is nonpainful. The patient reports pain on palpation midline at C6-7.

(Ex. 5, p. 78) Dr. Nelson found claimant's radiography studies normal and did not mention the C3-C4 focal central disc protrusion.

Based on the examination, the normal CT and x-rays, Dr. Nelson did not believe that claimant sustained any structural or neurologic injury from the motor vehicle accident. He recommended no further treatment or restrictions. (Ex. 5, p. 79)

Claimant was evaluated and examined by Robin L Sassman, M.D. on February 16, 2015. (Ex. 6) Claimant reported pain in his neck and both shoulders with increased pain upon movement. Dr. Sassman recorded no reduction in range of motion in the shoulders and only a slight reduction on the right and left rotation. Claimant did report a burning sensation when he extended his head and with rotational movements. (Ex. 6, p. 94)

Dr. Sassman recommended an MRI and possibly further treatment. She did not agree that claimant was at maximum medical improvement (MMI). (Ex. 6, p. 95) However, if it was determined claimant was at MMI, she would assign a 15 percent impairment based on a DRE Cervical Category III categorization. (Ex. 6, p. 96) She would also recommend that Vasquez be limited in lifting, pushing, pulling and carrying to 30 pounds occasionally from floor to waist, 30 pounds occasionally from waist to shoulder and 10 pounds rarely over the shoulder. Gripping and grasping, as well as upper extremity activities, should be limited to at or below shoulder height and only occasionally. She also recommended Vasquez not use vibratory or power tools. (Ex. 6, p. 96)

Upon the recommendation of Dr. Sassman, claimant was seen at Iowa Ortho for a second opinion on July 9, 2015, with Todd J. Harbach, M.D. (Ex. 7) Claimant had pain during the range of motion tests and exhibited some decreased flexion from the right and left. (Ex. 7, p. 100) After examination, Dr. Harbach concluded the following:

> I believe with a reasonable degree of medical certainty that the patient sustained an injury to his cervical spine that can be best characterized as a whiplash injury, which is stretching and tearing of the ligamentous muscular attachments in his cervical spine. His evaluation in the emergency department after the accident included a CT scan, which did not show any fracture. The CT scan also showed a small, insignificant central disc bulge at C4-C5 that more than likely pre-existed the accident. The patient was complaining of predominant cervical pain and radiation of pain into his shoulders. Today on exam, he has 70% cervical pain, 30% pain that radiates into his trapezius and to the shoulder, but does not have any radicular findings on exam. He does not have any loss of sensation anywhere on his skin. He is not tender over his deltoids nor does he have

any atrophy of any musculature. He is a little bit tender and tight in the cervical paraspinous musculature and in the trapezius muscles.

(Ex. 7, p. 106)

He further went on to find claimant sustained a five percent impairment:

Question 2: Please provide your opinion regarding Mr. Vasquez's impairment, and whether based on the structural integrity of Mr. Vasquez's spine he requires restrictions.

Answer: According [to] the AMA Guides to the Evaluation of Permanent Impairment, 5th Edition, the patient fits into DRE cervical category II, which comes from table 15-3 on page 392. He does have clinical history and examination that are compatible with this specific injury. He does have muscle guarding and spasm. He does have some mild loss of range of motion and has non-verifiable radicular complaints. Therefore, I believe he rates a 5% permanent and partial impairment of the whole person.

(Ex. 7, p. 106)

He did not believe restrictions were necessary and was critical of Dr. Sassman's opinions:

Answer: First, to opine on her final impairment rating. The patient does not have clinical signs of radiculopathy on exam or by historical complaint. Rather, he has radiation of axial-based cervical pain without objective findings of cervical radiculopathy on exam. These findings should include parasthesias, weakness or pain in the distribution of a particular nerve root. He does not have those findings today on exam. Therefore, I do not agree with her final impairment rating as DRE category III. I feel very confident that this patient fits into DRE cervical category II.

Next I will comment on limitations posed by Dr. Sassman: As far as lifting no more than 30 pounds and other limitations as she describes, she states that they were based on her observations during her exam, although I do not believe that she actually put him through a day of work as a functional capacity evaluation would do. Therefore, I am not convinced that this is a true objective finding. I would recommend a full functional capacity evaluation done where the patient is put through a one or two-day period at work and see how they are able to respond and be rated objectively on their ability to perform repetitive tasks at the heavy, medium, light/sedentary, or unable to work categories.

(Ex. 7, pp. 105-106)

Dr. Nelson was also critical of Dr. Sassman's findings. In a May 28, 2015, letter, he stated:

> This letter is in response to your written inquiry dated May 21, 2015. I reviewed the IME by Dr. Robin Sassman. I also rereviewed [*sic*] the patient's cervical spine plain films of May 29, 2014, and cervical spine MRI scan of October 29, 2013. The cervical scan demonstrates a small disk protrusion centrally at C3-4 which does not effect significant thecal sac impingement, nor does it lateralize to involve the neural foramen. The scan demonstrates some degree of degenerative changes. The cervical spine plain films are basically unremarkable.
>
> The patient's neurologic exam is basically unremarkable.

(Ex. A, p. 1)

Claimant had one more medical visit in 2016. On March 29, 2016, he was seen at Broadlawns Medical Center for neck and shoulder pain. (Ex. 8) X-rays showed mild narrowing at C5-C6 but he had full range of motion with mild pain in the posterior neck and upper back muscles. (Ex. 8. p. 109)

A vocational study was performed using Dr. Sassman's limitations. (Ex. 9, p. 114)

> Taking into consideration the limitations outlined by Dr. Sassman, Mr. Vasquez would not be able to return to the work he has performed prior to his October 29, 2013 work injury because it required heavy to very heavy lifting or constant reaching, handling and fingering. He is now limited to less than the full range of medium work with lifting, pushing, pulling and carrying limited to 30 pounds occasionally and is also limited to occasional gripping, grasping and upper extremity activities. Mr. Vasquez has lost access to 92.2% of the jobs he had access to prior to his work related injury.

(Ex. 9, p. 114)

On September 16, 2015, claimant's counsel wrote to inquire whether the permanent partial disability rating would be paid and whether an functional capacity evaluation (FCE) would be provided. (Ex. 10, p. 123) On September 17, 2015, both were denied on the basis that Dr. Harbach stated that the claimant's spine was structurally sound and that Dr. Harbach would not recommend permanent restrictions. (Ex. 10, p. 124)

Claimant testified that as a light duty worker, he earned less than his ordinary wage. In November of 2013, his base wage was $18.95. He would be entitled to a variance depending on the town in which he was working. He testified that while he was working light duty, he would work less hours and at a much lower rate of pay – around $13.00 or $13.50.

This testimony was unrebutted and determined to be credible.

Claimant believes he is currently under restrictions. He prefers work close to his family. He continues to have pain in his back, but works through the pain to support his family. He would like to obtain a permit to drive a school bus.

CONCLUSIONS OF LAW

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).

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).

Prior to claimant's work injury, he had no pain or neck pain. Even after the injury, his radiographic studies showed little degenerative disease. He was in good health and worked without restrictions. After the motor vehicle accident, claimant has reported nagging pain in his neck and shoulders.

There are three expert opinions in this case. Two of the medical examiners are orthopaedic doctors who opine that while claimant may have sustained a whiplash or soft tissue injury, he does not have lasting problems that would impair his ability to work. The other medical examiner is an occupational health doctor who would impose several work restrictions based on the claimant's reduced range of motion in the neck, reported complaints of pain, and possible radiculopathy.

The latter's opinions are rejected.

Dr. Sassman opined that claimant belonged in the DRE III category due to radiculopathy. However, there were no complaints of radiculopathy in the medical records. In her own examination, Dr. Sassman recorded intact sensation but tenderness to palpation along the dermatomes. Based on the DRE III categorization, Dr. Sassman must have concluded that the tenderness constituted "severe radiculopathy" which is the requirement of the DRE III. (Table 15-5, p. 392 of the AMA Guides to the Evaluation of Permanent Impairment, Fifth Edition).

Dr. Sassman also recommended a second opinion from an orthopaedic specialist. Dr. Harbach was that second opinion. He disagreed with Dr. Sassman's rating and wrote that "the patient does not have clinical signs of radiculopathy of exam or by historical complaint. Rather, he has radiation of axial-based cervical pain without objective findings of cervical radiculopathy on exam." (Ex. 7, p. 106) In essence, Dr. Sassman interpreted the results incorrectly and did not diagnose the claimant appropriately. Objective findings of radiculopathy would include "paresthesias, weakness or pain in the distribution of a particular nerve root." (Ex. 7, p. 106)

Dr. Harbach went on to conclude that the claimant's injury did result in a permanent impairment of five percent but that there were no work restrictions he would impose.

Dr. Harbach's opinions are given the most weight. They take into account the claimant's ongoing complaints of pain as well as the objective examination results. Dr. Harbach did recommend an FCE, although none was conducted.

Based on Dr. Harbach's opinion, along with the claimant's credible complaints of pain, it is determined that claimant has sustained permanent disability arising out of his work injury of October 29, 2013.

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.

Claimant is a hard worker and is motivated to return to work. He sought out employment after not being able to meet his employer's unusual demands to provide transportation to a job in a completely different state. He has continued to work. He is uneducated and while he displayed some understanding of the English language during the hearing, he is not fluent in speaking, reading, or writing English. His entire work history, other than work at IBP, has been primarily heavy manual labor.

Based on the foregoing, it is determined claimant has sustained a 25 percent impairment of the whole person.

Claimant also seeks temporary partial benefits for November 5, 2013, through December 5, 2013. During that time, claimant worked light duty work. He testified that as a light duty worker, he earned less than his ordinary wage. In November of 2013, his base wage was $18.95. He would be entitled to a variance depending on the town in which he was working. He testified that while he was working light duty, he would work less hours and at a much lower rate of pay – around $13.00 or $13.50.

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).

This testimony was unrebutted and determined to be credible. Claimant did not provide more specifics such as pay stubs or hourly wage sheets, however, the defendants should be able to calculate the shortfall, if any.

The next issue is whether claimant is entitled to alternate care, but in practice, it merely appears that claimant is requesting ongoing care for his lingering neck pain.

> [T]he employer is obliged to furnish reasonable services and supplies to treat an injured employee, and has the right to choose the care . . . . The treatment must be offered promptly and be reasonably suited to treat the injury without undue inconvenience to the employee.

Iowa Code section 85.27(4) (2016).

In this case, the claimant has a work-related neck injury with axial pain. He is entitled to ongoing medical care associated with that injury. To the extent that is what is requested through the claim for alternate medical care, this is granted. The defendants maintain the right, at this time, to direct care.

Finally, we turn to the issue of penalty. Claimant was not paid any permanent benefits prior to the hearing.

In Christensen v. Snap-on Tools Corp., 554 N.W.2d 254 (Iowa 1996), and Robbennolt v. Snap-on Tools Corp., 555 N.W.2d 229 (Iowa 1996), the supreme court said:

> Based on the plain language of section 86.13, we hold an employee is entitled to penalty benefits if there has been a delay in payment unless the employer proves a reasonable cause or excuse. A reasonable cause or excuse exists if either (1) the delay was necessary for the insurer to investigate the claim or (2) the employer had a reasonable basis to contest the employee's entitlement to benefits. A "reasonable basis" for denial of the claim exists if the claim is "fairly debatable."

Christensen, 554 N.W.2d at 260.

The supreme court has stated:

> (1) If the employer has a reason for the delay and conveys that reason to the employee contemporaneously with the beginning of the delay, no penalty will be imposed if the reason is of such character that a reasonable fact-finder could conclude that it is a "reasonable or probable cause or excuse" under Iowa Code section 86.13. In that case, we will defer to the decision of the commissioner. See Christensen, 554 N.W.2d at 260 (substantial evidence found to support commissioner's finding of legitimate reason for delay pending receipt of medical report); Robbennolt, 555 N.W.2d at 236.
>
> (2) If no reason is given for the delay or if the "reason" is not one that a reasonable fact-finder could accept, we will hold that no such cause or excuse exists and remand to the commissioner for the sole purpose of assessing penalties under section 86.13. See Christensen, 554 N.W.2d at 261.
>
> (3) Reasonable causes or excuses include (a) a delay for the employer to investigate the claim, Christensen, 554 N.W.2d at 260; Kiesecker v. Webster City Meats, Inc., 528 N.W.2d at 109, 111 (Iowa 1995); or (b) the employer had a reasonable basis to contest the claim—the "fairly debatable" basis for delay. See Christensen, 554 N.W.2d at 260 (holding two-month delay to obtain employer's own medical report reasonable under the circumstances).
>
> (4) For the purpose of applying section 86.13, the benefits that are underpaid as well as late-paid benefits are subject to penalties, unless the employer establishes reasonable and probable cause or excuse. Robbennolt, 555 N.W.2d at 237 (underpayment resulting from application of wrong wage base; in absence of excuse, commissioner required to apply penalty).

> If we were to construe [section 86.13] to permit the avoidance of penalty if any amount of compensation benefits are paid, the purpose of the penalty statute would be frustrated. For these reasons, we conclude section 86.13 is applicable when payment of compensation is not timely . . . or when the full amount of compensation is not paid.

Id.

(5) For purposes of determining whether there has been a delay, payments are "made" when (a) the check addressed to a claimant is mailed (Robbennolt, 555 N.W.2d at 236; Kiesecker, 528 N.W.2d at 112), or (b) the check is delivered personally to the claimant by the employer or its workers' compensation insurer. Robbennolt, 555 N.W.2d at 235.

(6) In determining the amount of penalty, the commissioner is to consider factors such as the length of the delay, the number of delays, the information available to the employer regarding the employee's injury and wages, and the employer's past record of penalties. Robbennolt, 555 N.W.2d at 238.

(7) An employer's bare assertion that a claim is "fairly debatable" does not make it so. A fair reading of Christensen and Robbennolt, makes it clear that the employer must assert facts upon which the commissioner could reasonably find that the claim was "fairly debatable." See Christensen, 554 N.W.2d at 260.

Meyers v. Holiday Express Corp., 557 N.W.2d 502 (Iowa 1996).

While the claim may have been fairly debatable after Dr. Nelson's opinion, once defendants were in possession of the opinion of Dr. Harbach, a medical expert they retained, who assigned a 5 percent impairment, the defendants' continued non-payment became untenable. Coupled with the fact that they did not immediately convey the reason for their denial to the claimant (the Harbach opinion was received on August 5, 2015, and the denial was not sent until September 17, 2015, and only after a query sent by the claimant's counsel), claimant is entitled to a penalty award of 50 percent of the entirety of the late permanent partial disability payments.

ORDER

THEREFORE IT IS ORDERED

Defendants shall pay unto claimant one hundred (100) weeks of permanent partial disability benefits at the weekly benefit rate of six hundred sixty-seven and 74/100 dollars ($667.74) per week and commencing from December 6, 2013.

Defendants shall pay unto claimant temporary partial period benefits from November 5, 2013, through December 5, 2013.

Defendants shall provide ongoing medical care for the work related injuries.

Defendants shall pay fifty (50) percent on any of the permanent partial disability benefits owed up to the issuance of this decision pursuant to Iowa Code section 86.13.

Accrued benefits shall be paid in a lump sum, together with interest, as allowed by law.

Costs are assessed to defendants as itemized in Exhibit 18.

Defendants shall file all requisite reports in a timely manner.

Signed and filed this 22nd day of August, 2016.

JENNIFER S. GERRISH-LAMPE
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

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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.