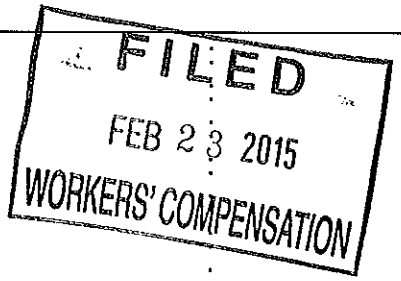
BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER



YOLANDA PERLA,

Claimant,

vs.

TYSON FRESH FOODS, INC.,

Employer,
Self-Insured,
Defendant.

File No. 5046388

ARBITRATION

DECISION

Head Note No.: 1803

STATEMENT OF THE CASE

Yolanda Perla, claimant, has filed a petition in arbitration and seeks workers' compensation from Tyson Fresh Foods, Inc., self-insured employer, defendant.

This matter came on for hearing before deputy workers' compensation commissioner, Jon E. Heitland, on December 4, 2014, in Des Moines, Iowa. The record in the case consists of claimant's exhibits 1 through 15; defense exhibits AA through FF; joint exhibits A through H; as well as the testimony of the claimant and Ahmed Ibrahm.

ISSUES

The parties presented the following issues for determination:

1. Whether the claimant sustained an injury arising out of and in the course of employment on April 12, 2013.

2. Whether the alleged injury is a cause of temporary disability.

3. Whether the alleged injury is a cause of permanent disability.

4. Whether the claimant is entitled to temporary total disability or healing period benefits during a period of recovery.

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

6. The commencement date for any permanent partial disability benefits awarded.

7. The correct rate of compensation for the claimant.

8. Whether the claimant is entitled to payment of medical expenses pursuant to Iowa Code section 85.27.

FINDINGS OF FACT

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

Claimant testified she brings this action for aggravation of her rheumatoid arthritis and a shoulder injury she feels is caused by her work.

She is 53 years old. She was born in Guatemala. She moved to the U.S. in 1991. She is a U.S. citizen. She has worked for Tyson, defendant employer, for 17 ½ years. Prior to that, she had worked in California doing child care, and in Virginia she worked at restaurants. Her education consists of attending school for only three years. She can read Spanish a little, English not at all. The forms she was asked to fill out at Tyson were sometimes in Spanish, sometimes not.

She is married. Her spouse, Julio Rivera, was at the hearing with her. She was married to him on the date of injury, but they are currently separated and living apart. She did not file a joint tax return in 2013, but rather she filed as head of household.

Her work in her early years working for Tyson included using a saw to cut meat; then she used a knife for five years; then she worked packaging bellies. She then asked for a different job, but for many years they did not give her that job. Since November 2012, until she went off work in August 2014, she worked packing ribs. She would take a rib from the line and place it in a box. From there she walked to another spot and grabbed boxes from a high level, very rapidly, and then placed three to four ribs in the box, arranging them because some are large and will not fit in the box. Then she would push them down the line. If the boxes stacked up, they would be over her shoulder height. She is short but she did not know her height. She thought the boxes weighed 20 pounds, but she learned they weighed between 40 and 50 pounds. Stacking the boxes over her head happened from a half hour to two hours per day, or if things were not working right, all day long.

The temperature was cold. Once she was working, she warmed up and did not feel the cold. She demonstrated to the deputy her hands, which are deformed from rheumatoid arthritis. She has had those deformities since 2006. She continued to do her work at Tyson with those deformities, but with a lot of pain. Sometimes she would have to go to the hospital to get medication for the pain. She received good reviews for her work.

She treated with Lawrence Rettenmaier, M.D. She discussed with him whether she could continue to do her work at Tyson. He told her he wanted to help her, but if he gave her a letter for her job, they could fire her.

She asked Mark Kirkland, D.O., Tyson's doctor, to write a letter to Tyson's to get her moved to a different job, but he did not do so and she feels he deceived her. Claimant was emotional in giving this testimony.

Claimant underwent a rotator cuff surgery on her shoulder by Kyle Galles, M.D. She is still off work following that surgery, per Dr. Galles' orders. She is currently in physical therapy for the surgery. She no longer feels she can do her work at Tyson. She was able to do the work up until the day of her surgery. Her husband Julio drove her to her medical appointments from their home in Perry, Iowa.

On cross examination, claimant stated she was separated from her husband, Julio Rivera. He is the father of her youngest child, who is now age 15 and lives with claimant. Claimant claims her as a dependent on her tax returns. Claimant files tax returns every year. (Exhibit CC) She has always filed as head of household. She takes care of most or all of the expenses of her house, and the expenses of her dependent children. Her husband may have lived with her for a couple of months in 2013 while looking for work. He sometimes lives with her, sometimes not. He may stay two or three months, then leaves. He usually has his own place to live. They were married in 1994, and separated in 1997. She has always relied on her tax preparer in deciding what status to use for her tax returns.

Claimant stated she likes to swim, and goes swimming two times per week. But she is not doing it right now because of the cold weather and because she cannot because of her shoulder. Dr. Galles has not restricted her from swimming, and in fact encouraged her to get exercise.

Her tax return shows a small amount of income from selling Amway products. She used to have five to ten customers but only did it for one or two years. But now because of her pain in her hands she no longer sells Amway. She still smokes two to three cigarettes per day.

She can speak a few words of English at work, such as asking permission for something. She did try a free English class offered by Tyson, but the people she drove to the class with made fun of her and she gave it up.

She was diagnosed with rheumatoid arthritis in 2006 by Dr. Rettenmaier. No one in her family has this disease. Her pain was in her wrist and hand. She did not have pain in her shoulders. She later had ankle pain also, maybe three years after the hand pain started. Her hand pain started in 2002.

She started having shoulder pain in 2012, when she moved to the ribs job. She was asked if she had shoulder pain as early as 2007, when she first started seeing Dr. Rettenmaier, and claimant said no. Dr. Rettenmaier did provide some relief for her arthritis, by giving her pain medications and injections. However, she still has arthritis symptoms. She has flare-ups in her pain. Her records indicate she is stiff upon waking

up in the morning, but as she moves around, it gets better. When her body gets cold, it is worse, and it gets better as she warms up.

Claimant first reported her pain to her supervisor, Ahmed Ibrahm, and then to someone at the nurse's station. Claimant tore a tendon in her back, near her coccyx, when placing a box at a very high location. That is when she asked Ahmed to take her to the nurses' station. Claimant reported her other pain at that time as well, but the tendon is not part of this claim. Exhibit E, page 91, is the injury report for that tendon injury.

Exhibit H, page 139, is a video showing claimant's job, and claimant performing it. The video purports to have been taken in July 2013, but claimant does not know when it was taken.

She saw Dr. Kirkland, who did not prescribe medication for her. She was still taking medications from Dr. Rettenmaier. Dr. Kirkland never restricted her from performing her work, so claimant continued to do her same job while treating with him. Tyson paid for all of the medical treatment associated with Dr. Kirkland.

In the spring of 2014, she was seen by Dr. Galles. His treatment was paid for by claimant's group health insurance. He took her off work and she collected short-term disability benefits. Those benefits stopped, and she has applied for long-term disability benefits, but they have not started yet. She did not collect workers' compensation benefits during her time off work.

Her range of motion has improved since the surgery with Dr. Galles. The problem now is the surgery, she cannot lift her arm, and could not while taking an oath for her testimony. She cannot drive. She agreed her arm hurts because she just had surgery.

On re-direct examination, claimant said she is still treating with Dr. Galles. She has a follow-up appointment with him in a few days. He has not found her to be at maximum medical improvement yet for her arm. She still has issues with her ability to move her shoulder. Julio has moved back into the house to help her take care of herself since her surgery. She struggles to eat. She is not able to cook or clean her house. She is not able to take care of her daughter. She has a disabled son living with her, age 31, and he requires caretaking. He has a heart murmur, and has had three major open heart surgeries, with incisions up and down his chest. She was able to care for him before her surgery, but she cannot now. Before the surgery, she did these duties but with pain. She needs to support both of her children.

Before her surgery in August 2014, claimant was doing her regular job at Tyson. She had a great deal of pain, and struggled to do her work. Dr. Kirkland in May 2014, recommended she look for another job.

Exhibit E shows when claimant reported her injury in April 2013, to the employer, noting pain all over her body. A diagram shows this also, including pain in the shoulder.

She has not received any benefits since she has been off work for her surgery. Exhibit FF, page 86, shows her short-term disability benefits have run out. Exhibit 12 also shows this. Claimant has applied for long-term disability. Claimant has made payments out of her paychecks for this benefit every week, without any contribution by the employer.

Defendant called Ahmed Ibrahm as a witness. He has worked for Tyson almost 11 years. He has worked on the line for three years, and became a safety captain for a year and a half, then a trainer for another year and a half, and now is a supervisor. He has supervised both the night and day shifts, and different lines. Right now he supervises the sirloin tables. He knows claimant as one of the workers he has supervised. He has supervised her for three years, and he is familiar with her job.

He stated when the line stops, there is a buzzer the workers can push to get some help. He agreed her job of packing ribs involved putting ribs in the boxes and moving them down the line. Claimant did that job as shown in the video before she left for her surgery with Dr. Galles.

The line would stop maybe once a week, for about ten or fifteen minutes. While the line is down, workers would push the buzzer to alert the supervisor to come and stack the boxes to keep the line running. Claimant and other workers would have to stack an empty box on top of the box already on the line when it is stopped, and supervisors would come take them off. This is because there are two lines.

Claimant would not be physically picking up the boxes, which weigh 40 pounds, but would have to push them down the line. Claimant worked 40 hours per week, so the shutdown was only a small fraction of her time.

Claimant was able to communicate with him. One time she reported pain in her hip to him, pulling a muscle. She never complained of shoulder pain. He described her as a good worker with good attendance. She has seniority but she liked her job and did not try to move. Tyson has light duty jobs, so if Dr. Galles released her to light duty, there would be a job for her. Claimant previously boxed bellies. In that job, the bellies weighed about 10 pounds. Her job description says it requires reaching at or above shoulder height. (Exhibit 5)

On re-direct examination, the witness stated claimant's normal work duties normally involved grabbing an empty box at a height that was not above shoulder level. Each work station is ergonomically designed so there would not be any high reaching.

He agreed on an average day claimant would have to reach for a box more than once, perhaps three or four or five times per day. He demonstrated claimant's work duties, which showed reaching up to get an empty box above shoulder level. He said it is up to the worker how high boxes are stacked.

Claimant stands at table in between and puts product into a box, then pushes, not lifts, the 40-pound box going onto a conveyor. When shown the video of claimant working, the witness stated claimant had stacked the empty boxes too high. He also said the video shows claimant reaching for the third one up, whereas she should be grabbing the lowest one. He said the video shows claimant doing her job incorrectly. Claimant was the worker who decided how high the empty boxes should be stacked, and she could have changed it.

Claimant was called on rebuttal. She stated the line broke down at least once a day. When the buzzer is pushed, the supervisors do not come fast. The filled boxes pile up, which involves reaching higher than her shoulders. The empty boxes are stacked high, and require lifting above shoulder height.

CONCLUSIONS OF LAW

The first issue is whether the claimant sustained an injury arising out of and in the course of employment on April 12, 2013. Defendants at hearing changed their position and acknowledged a work injury, but still denied causal connection between the shoulder surgery, temporary or permanent disability, and work activities.

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 R. App. P. 6.14(6).

The claimant has the burden of proving by a preponderance of the evidence that the alleged injury actually occurred and that it both arose out of and in the course of the employment. Quaker Oats Co. v. Ciha, 552 N.W.2d 143 (Iowa 1996); Miedema v. Dial Corp., 551 N.W.2d 309 (Iowa 1996). The words "arising out of" referred to the cause or source of the injury. The words "in the course of" refer to the time, place, and circumstances of the injury. 2800 Corp. v. Fernandez, 528 N.W.2d 124 (Iowa 1995). An injury arises out of the employment when a causal relationship exists between the injury and the employment. Miedema, 551 N.W.2d 309. The injury must be a rational consequence of a hazard connected with the employment and not merely incidental to the employment. Koehler Electric v. Wills, 608 N.W.2d 1 (Iowa 2000); Miedema, 551 N.W.2d 309. An injury occurs "in the course of" employment when it happens within a period of employment at a place where the employee reasonably may be when performing employment duties and while the employee is fulfilling those duties or doing an activity incidental to them. Ciha, 552 N.W.2d 143.

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).

It is axiomatic that claimant is not precluded from entitlement to benefits just because she had a pre-existing condition, if that condition has been shown to have been aggravated by work. Thus the statements that claimant would have continued to have rheumatoid arthritis symptoms even if she had not worked at Tyson have little relevance, as she is entitled to be compensated if her work has aggravated or accelerated that condition.

It is also a basic principle of workers' compensation law that an injured worker's negligence or fault in their injury is not relevant. Workers' compensation is a "no fault" system. The fact claimant may have stacked the empty boxes in violation of a rule does not preclude her entitlement to compensation for her work injury.

Claimant asserts her preexisting condition of rheumatoid arthritis in her hands was aggravated and accelerated by her work at Tyson. She also argues she has suffered a shoulder impingement injury date of April 12, 2013, as a result of her repetitive work activities.

Defendant Tyson denied all liability for this claim until the hearing, at which time they acknowledged the shoulder injury but still denied any permanency for that condition, as well as denying liability for the shoulder surgery.

The record indicates claimant's work involved working with a conveyor belt that breaks down, although the testimony is in conflict as to how often. When it does, claimant has to lift boxes to stack them onto the belt. She also has to regularly grab empty boxes from a stack, which she stated, and the video confirmed, is higher than her head. She is five foot three inches tall, and this requires overhead lifting. The regular work she does putting ribs into boxes and pushing down the line is repetitive work.

Dr. Rettenmaier stated the shoulder impingement and resulting surgery are causally connected to claimant's work. (Exhibit 1; Exhibit A, pp. 36-38) Dr. Rettenmaier also said claimant's pre-existing rheumatoid arthritis was aggravated by her work at Tyson. (Joint Exhibit A, pp. 51-53)

Defendants sent claimant to Dr. Kirkland in September 2013. He also concluded claimant's rheumatoid arthritis was both aggravated and accelerated by her work. (Jt. Ex. G, p. 106)

Claimant treated with Dr. Rettenmaier during the summer of 2013, and continues to treat with him today. His records show he felt she was suffering shoulder pain from mechanical issues. (Ex. A, pp. 43-45)

Dr. Kirkland initially stated claimant's shoulder condition was caused by her work. Dr. Kirkland later changed his opinion to stating claimant's recommended rotator cuff repair surgery would be more related to her rheumatoid arthritis than her work. He assigned claimant a rating of four percent for the shoulder injury. (Ex. G, pp. 120-121)

Dr. Galles performed the rotator cuff repair in August, 2014. He noted again that repetitive lifting at work contributed to the condition. (Ex. H, pp. 131-132) Claimant remains off work following this surgery as she is not yet at maximum medical improvement for that condition.

On October 12, 2014, Dr. Galles stated it was difficult to state whether work caused the need for the rotator cuff repair, as rheumatoid arthritis patients are susceptive to rotator cuff problems. (Jt. Ex. H, p. 140)

Dr. Kirkland did not recommend any surgery for claimant's shoulder. He did not take claimant off work or give her any restrictions. He diagnosed AC joint internal derangement, and recommended physical therapy, home exercise and medications. He felt any surgery would be for her rheumatoid arthritis, which he did not recommend due to the severity of her arthritis. His rating of impairment was for the rheumatoid arthritis and not for the AC derangement. He felt she would have the rheumatoid arthritis symptoms whether she worked at Tyson or not.

Dr. Rettenmaier has treated claimant since 2007. In March 2013, he noted she was having increasing shoulder pain, which he stated was due to work activity. (Jt. Ex. A, p. 36) He gave her bilateral shoulder injections in June 2013. On June 21, 2013, he stated he felt her shoulder pain was not caused by her rheumatoid arthritis, but was

more likely caused by a shoulder impingement. On September 19, 2013, he noted her work was aggravating her pre-existing rheumatoid arthritis, and that this was causing her temporary symptoms. (Jt. Ex. A, pp. 51-53). In September 2014, Dr. Rettenmaier again stated claimant's work was a substantial factor in bringing about both her right shoulder condition and the need for the right shoulder surgery, from impingement and over-use. (Ex. 1) Overall, Dr. Rettenmaier, who was treating claimant for years, concluded her shoulder impingement was caused by her work, and not her rheumatoid arthritis; and that her rheumatoid arthritis had been aggravated by her work.

Claimant was referred by Dr. Rettenmaier to Dr. Galles. In July 2014, he found claimant to have a full thickness rotator cuff tear, and noted she does repetitive lifting of 30 to 40 pounds at work. (Jt. Ex. H, p. 132) He performed rotator cuff surgery on July 30, 2014. He stated he is not able to state whether claimant's job was the cause of her having to undergo shoulder surgery. (Jt. Ex. H, p. 140)

Dr. Kirkland on August 1, 2014, stated he felt claimant's shoulder surgery was more related to her rheumatoid arthritis than her work activities. He assigned a rating of four percent of the body as a whole, but stressed this was related to her rheumatoid arthritis and not her work.

Thus, Dr. Rettenmaier, the treating doctor, feels claimant's shoulder condition is caused by her work, and her rheumatoid arthritis was aggravated by her work. Dr. Galles cannot say either way. Dr. Kirkland, after initially stating claimant's work caused her shoulder condition, later stated her work did not cause the need for her shoulder surgery.

Significantly, Dr. Kirkland stated on December 11, 2013,

> I would causatively relate the condition for acromioclavicular joint internal derangement to Ms. Perla's work activities. This is based on going over the job description and also have Ms. Perla describe her motions when she is doing her job. She does a lot of reaching with her hands out front of her and also above her head, which can accumulate stress in the acromioclavicular joints.
>
> . . . .
>
> It is my opinion that Ms. Perla's work at Tyson does aggravate and accelerate her preexisting rheumatoid arthritis condition.

(Ex. G, pp. 108)

He also stated, "Ms. Perla will continue to be symptomatic with rheumatoid arthritis regardless of whether she is working at Tyson." (Ex. G, pp. 108-109) The latter statement is not surprising given that claimant's rheumatoid arthritis condition was pre-existing her employment with defendant.

Thus, at least as of December 2013, both Dr. Rettenmaier and Dr. Kirkland were in agreement claimant's work was aggravating her rheumatoid arthritis condition and causing her acromioclavicular condition.

But by August 2014, in response to an inquiry by defense counsel, Dr. Kirkland stated he still did not recommend surgery for claimant's shoulder condition, due to her rheumatoid arthritis and her smoking. He also stated:

> Certainly Yolanda's work at Tyson will aggravate her shoulder because of her rheumatoid arthritis. . . . It is my opinion that any type of shoulder surgery for Yolanda is related more so to her rheumatoid arthritis than her current work at Tyson.
>
> It would follow that any impairment is related to the rheumatoid arthritis and not the work at Tyson.

(Ex. G, pp.120-121)

This later opinion is difficult to square with Dr. Kirkland's earlier statement claimant's rheumatoid arthritis was aggravated by her work at Tyson's. Overall, Dr. Kirkland's records show an opinion claimant's rheumatoid arthritis was indeed aggravated by her work, but he questions whether the need for shoulder surgery is caused by her work. Yet he earlier stated the shoulder injury was work related.

It is concluded the greater weight of the evidence shows claimant's rheumatoid arthritis was aggravated by her work activities. It also shows claimant suffered an impingement injury to her shoulder, and that injury necessitated shoulder surgery. Claimant has suffered a cumulative injury arising out of and in the course of her employment on April 12, 2013, and that injury has resulted in an aggravation of her rheumatoid arthritis and an impingement injury to her shoulder, along with the need for shoulder surgery, and those conditions and the surgery are found to be causally related to her work. It is further found claimant has suffered both temporary and permanent disability as a result of her work injury.

The next issue is whether the claimant is entitled to temporary total disability or healing period benefits during a period of recovery.

Claimant is still treating with Dr. Rettenmaier, and she is still off work from her shoulder surgery. Claimant has clearly not reached maximum medical improvement. She is entitled to a running award of healing period benefits commencing August 5, 2014.

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

As claimant has not reached maximum medical improvement, this issue is not ripe for adjudication at this time.

The next issue is the commencement date for any permanent partial disability benefits awarded.

This issue is also not ripe for adjudication.

The next issue is the correct rate of compensation for the claimant.

Claimant asserts a rate of $393.93 in the hearing report. However, in her post-hearing brief claimant refers to a rate of $393.39. It will be assumed the requested rate on the hearing report is in error, as a rate of $393.93 does not appear in the appropriate rate book but $393.39 does. Defendants argue the correct rate is $371.56. The parties agree on the average weekly wage of $562.97, but disagree on the number of exemptions. Claimant states she is entitled to the marital exemption because she is still married, although separated. She seeks a rate based on married with three exemptions. Defendants point out claimant has filed as head of household for many years, so she should be considered single, with two exemptions.

Claimant points out she is still married, and is therefore entitled to three exemptions—for herself, her husband, and her minor dependent child.

Normally, the exemptions used to determine the rate of compensation are the same as the person's exemptions for income tax. The exemptions actually claimed on the income tax return are inferred to be correct in the absence of evidence to the contrary. Webber v. West Side Transport, File No. 1278549, (App. December 20, 2002). The agency has long recognized that the actual exemptions properly claimed on the income tax return controls this issue. DeRaad v. Fred's Plumbing and Heating, File No. 1134532 (App. January 16, 2002), Rhoades v. Torgerson Construction Co., File No. 1012085 (App. January 31, 1995), Keeling v. Cedar Rapids Community Schools, File No. 891809 (App. February 26, 1993).

However, this is a rebuttable presumption. The number of exemptions used to determine rate is the number the worker could claim on their tax return, not necessarily the number they did. Iowa Code section 85.61(6)(a)(b).

In this case, claimant has clearly shown she is legally married. She so testified, and there is no contrary evidence in the record. She therefore could have claimed married status when filing her tax returns, although for reasons undisclosed she did not. The fact she was separated from her husband much of the year does not change her marital status.

It is therefore concluded claimant's calculation of rate is correct.

The next issue is whether the claimant is entitled to payment of medical expenses pursuant to Iowa Code section 85.27.

As claimant has established a work injury, defendants will be ordered to pay for claimant's medical expenses and medical mileage submitted at the hearing.

Defendants have also stipulated by post-hearing email communication they do not dispute defendants did not contribute to the long-term disability benefits plan which paid benefits to claimant, and therefore defendants do not claim a credit for those benefits. They do claim a credit for short-term disability benefits under Iowa Code section 85.38(2). Claimant has agreed defendants are entitled to a credit for the short-term disability benefits paid.

ORDER

THEREFORE IT IS ORDERED:

Defendants shall pay unto the claimant running healing period benefits from July 30, 2014, at the rate of three hundred ninety-three and 39/100 dollars ($393.39) per week and continuing until the requirements for termination of healing period are met.

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 be given credit for benefits previously paid.

Defendants shall pay the claimant's prior medical expenses submitted by claimant at the hearing.

Defendants shall pay the future medical expenses of the claimant necessitated by the work injury.

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 23rd day of February, 2015.

Jon E. Heitland

JON E. HEITLAND
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

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JEH/kjw

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.