BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

CONSTANCE SCHLABACH,

Claimant,

vs.

PLEASANT VALLEY COMMUNITY SCHOOL DISTRICT,

Employer,

and

ACCIDENT FUND NATIONAL INSURANCE COMPANY,

Insurance Carrier,
Defendants.

File No. 5049947

ARBITRATION

DECISION

Head Note No.: 1803

STATEMENT OF THE CASE

Constance Schlabach, claimant, filed a petition in arbitration seeking workers' compensation benefits from defendant employer, Pleasant Valley Community School District and their workers' compensation insurance carrier, Accident Fund National Insurance Company. The arbitration hearing was held on September 7, 2017. The parties submitted post-hearing briefs on October 30, 2017, and the matter was considered fully submitted on that date.

The evidentiary record includes: Joint Exhibits JE1 through JE27.

At hearing, Claimant and Mr. Ray LaFrentz, the Director of Operations at Pleasant Valley School District both provided testimony.

The parties filed a hearing report at the commencement of the arbitration hearing. On the hearing report, the parties entered into various stipulations. All of those stipulations were accepted and are hereby incorporated into this arbitration decision and no factual or legal issues relative to the parties' stipulations will be raised or discussed in this decision. The parties are now bound by their stipulations.

ISSUES

The parties submitted the following disputed issues for resolution:

1. The extent of Industrial Disability.

2. Costs.

FINDINGS OF FACT

After a review of the evidence presented, I find as follows:

Claimant, Constance Schlabach, was 66 years old at the time of the hearing. (Transcript page 37) She graduated from high school in 1969 and has no additional formal education. (Id.)

A) WORK HISTORY

Prior to working for the defendant employer claimant has worked: painting homes and barns. She has also worked at a chicken processing plant where she vaccinated and loaded chickens and cleaned cages. She previously worked on a hog farm, cleaning out manure and spreading hay, and she has worked with cattle and sheep cleaning the facilities and watering the animals. (Tr. pp. 38-39) Claimant described her work on the hog farm as being "very heavy." (Tr. p. 39) She testified that she did not believe that she could do any of these prior jobs because "I can't crawl down and go under the cages like I used to. I can't get on a ladder to paint anymore. I can't, I can't lift that much right now." (Id.)

Claimant began working for the defendant employer in 2003. She was hired as a "laundress." (Tr. p. 40) Her job involved doing "all the laundry for the district, for all the schools of the district," including uniforms for the sports teams and towels and rags for the teams, the custodial staff, the kitchen, etc. (Id.) She walked throughout the high school and picked up laundry from the office, the locker rooms, the nurse's office, the kitchen, etc. (Tr. pp. 15-16, 41-42) She estimated that she walked throughout the high school, 10 to 12 times per day. (Tr. p. 42) Claimant described the building as large and estimated that there were about 1,450 students presently in the high school. (Id.) Claimant was the only laundress in the district. (Tr. p. 41)

In addition to her laundry responsibilities, claimant would assist with custodial tasks as well. She was then approached by the Superintendent at some point and asked to formally help with custodial duties in exchange for an increase in pay of $1.35 per hour. (Tr. p. 43) Claimant's custodial duties included helping with: snow removal; cleaning entryways; changing ceiling tiles; cleaning the football stadium; dusting baseboards; and cleaning carpets, tables and chairs, among other things. Claimant would use ladders to perform some of her job tasks. (Tr. pp. 21-22) At some point,

Connie's job title was changed from laundress to add custodial duties as well. (Tr. pp. 43-44)

B) PRIOR MEDICAL CONDITION

Prior to the work injury and without any specific incident, claimant had increasing right knee pain. (Tr. p. 70) Her pain increased and she underwent a total right knee replacement on December 18, 2012. (Ex. JE1-1)

Following the knee replacement surgery, claimant had a problem with stiffness in the knee and she had two manipulation procedures done under anesthesia, the first on February 5, 2013 and the second on April 25, 2013. (Ex. JE1-3, JE2-4) Claimant had ongoing pain with her knee and underwent injections and was offered a spinal implant. (Ex. JE3-13) She also had therapy to work on extension of her knee because she was unable to straighten her leg completely and had a limp. (Tr. p. 71) On June 14, 2013, six months after her knee replacement and about one year before the work injury, claimant was noted to be walking "bent-legged." (Ex. JE3-13) She was concerned at that time that she would not be able to return to her "physical job at PV High School." (Id.) She nevertheless did return to work on "light duty," without any specifically identified restrictions on August 8, 2013. (Ex. JE24-131) Claimant testified that she later returned to regular full-duty work sometime after the August 8, 2013 light duty note was written. (Tr. p. 104) Prior to the work injury, claimant had scheduled a knee revision consultation with Dr. Magnus in Dubuque. (Tr. pp. 70-71)

Claimant testified that she was not working under any restrictions for any part of her body at the time of the work injury herein on June 23, 2014. (Tr. p. 48) However, Ray LaFrentz, the Director of Operations at Pleasant Valley School District, believed that claimant was on light duty work at the time of her work injury, but he was equivocal on the matter. (Tr. pp. 11-13) At one point he described his understanding of the restrictions to be "self-directed," saying that claimant "was to, you know, take it easy, do what you need to do, that type of thing." (Tr. p. 12) He also stated concerning the nature of the restrictions, "I don't recall exactly right now. It was a lighter duty. I don't recall." (Id.) However, claimant's supervisor, Daniel Simmons, testified in his deposition that in addition to her laundry responsibilities, prior to the work injury claimant was involved in "[s]etups, snow removal, cleaning out entryways . . . she'd get up on ladders . . . change ceiling tiles." (Ex. JE25-20) She was also involved in cleaning locker rooms, dusting baseboards and unloading trucks. (Ex. JE25-21, 22) She stacked chairs, folded tables, did spot cleaning on the carpets and gum removal, which would require her to be on her hands and knees for a period of time. (Ex. JE25-23, 24) Therefore, it does not appear that claimant was working under any restrictions that prevented her from doing any aspect of her job.

I accept claimant's testimony that she was not working under any restrictions at the time of her June 23, 2014 work injury. This is supported by the nature of the full range of her work that she was performing, including using ladders in her custodial work, along with the lack of any specificity of the alleged restrictions described by

Mr. LaFrentz. Presumably, there would have been some document of some kind that would have spelled out the work that had been restricted or modified, but none was provided. I acknowledge that over nine months prior to the work injury, Dr. Mendel had returned claimant to work with a general "light duty" restriction, but from the testimony presented, I find that even if such a restriction technically remained in place, it is clear that claimant was doing her ordinary job without any restriction or limitation. I find the actual work claimant was performing as described by claimant and her supervisor, Daniel Simmons to be the best evidence of claimant's physical abilities just prior to her work injury.

C) THE INJURY

On June 23, 2014, claimant, while working on a summer crew, was on a ladder cleaning the glass backboard in the gym. While descending the ladder, she "missed a step" and she fell and landed on her hip. (Tr. p. 49) She was assisted by co-workers from the floor and transported by ambulance to the hospital. (Tr. p. 50)

D) POST-INJURY MEDICAL TREATMENT

Claimant was transported to Trinity Medical Center where she reported "immediate onset of discomfort and pain on her right side." (Ex. JE2-5) She was found to have sustained a "[d]isplaced femoral neck fracture." (Ex. JE2-6) The recommendation was a hip replacement to treat the fracture. (Id.)

Given claimant's "activity level and relatively young age," Ryan Dunlay, M.D. agreed that a total hip replacement was the most appropriate course of treatment. (Ex. JE2-9) Dr. Dunlay performed the hip replacement surgery on June 24, 2014. (Ex. JE3-15)

Claimant had follow-up care with Dr. Dunlay who noted on July 18, 2014, that claimant was using a walker and was only 50 percent weight bearing on the hip. He also noted an "apparent leg length discrepancy." (Ex. JE3-21)

On July 22, 2014, claimant was found to have "[e]arly loosening of an uncemented total hip replacement." (Ex. JE3-24) A recommendation was made by Joseph Martin, M.D. for revision hip replacement. (Id.) Dr. Martin conducted the revision hip replacement surgery on August 6, 2014. (Ex. JE3-26)

On August 15, 2014, claimant reported going to the emergency room due to significant pain. She was told to bear weight as tolerated with her right hip, beginning on August 19, 2014. (Ex. JE3-28)

Claimant was returned to work on light duty on September 24, 2014. (Ex. JE3-30)

On October 10, 2014, claimant had a follow-up appointment with Dr. Martin. She was noted to be making progress and was utilizing a cane for comfort and stamina,

although she could walk without it. (Ex. JE3-31) She had some difficulty with her return to sit down work. Dr. Martin stated, "I frankly doubt that Ms. Schlabach plans to return to her previous occupation due to her physical limitations, which are likely to be permanent." (Id.) He recommended that she not lift over 20 pounds and avoid significant ambulation. He stated that she cannot squat, crawl or climb and he did not recommend repetitive sedentary work. (Id.)

On November 14, 2014, Dr. Martin modified claimant's restrictions to include 2 hours per day of laundry, and allowed her to work in the security office and oversee study hall. (Ex. JE3-34)

On February 20, 2015, claimant reported doing work activities of "phone work, study hall, and some laundry. She has been tolerating that fine." (Ex. JE3-35) Dr. Martin placed her at maximum medical improvement (MMI) and returned her to work with restrictions of light duty to include no lifting beyond 20 pounds, no use of ladders and no squatting or crawling. He specifically authorized doing "laundry, study hall and any sedentary work." (Ex. JE3-36)

On September 8, 2015, Dr. Martin appears to have indicated that in addition to the prior restrictions, it was ok for claimant to perform additional duties in the kitchen for 2 hours per day wrapping granola bars, serving on the line for 10 minutes at a time and cleaning the lunch line. (Ex. JE7-57)

On May 27, 2016, Tom Yoss, issued an investigation report concerning claimant's work duties. (Ex. JE9-59) He concluded that the employer provided work that was within the restrictions assigned by Dr. Martin and that claimant appeared to be aware of the need to avoid lifting excessive amounts of weight. (Ex. JE9-63) Mr. Yoss estimated that claimant walked about 2 to 3 miles per day as part of her regular work. (Id.) Claimant disagreed with the assessment of the distance that she walks on a daily basis. She testified that she believed she walked about 4 to 5 miles per work day. (Tr. p. 61) This was based on her use of a step counter app on her phone. (Id.)

Claimant experienced some bilateral foot pain and had modified restrictions for a time. (Ex. JE3, pp. 37-45) Claimant testified that she received an injection and the pain went away and no longer troubles her. (Tr. pp. 59-60)

On June 3, 2016, claimant was noted to have some pain and throbbing radiating into her thigh. She was noted to have hip abductor weakness. (Ex. JE3-46) Dr. Martin placed claimant on an additional restriction of "sit down work and no prolonged standing." (Id.) He confirmed that continued laundry work was ok. (Ex. JE3-48)

E) PERMANENT IMPAIRMENT OPINIONS

On May 5, 2015, Dr. Martin confirmed that claimant was at MMI and stated that "[s]he will need periodic followup to monitor the hip replacement in the future but is functioning at a good level." (Ex. JE6-56) He then assigned a 15 percent whole

person impairment "based on the Guides to the Evaluation of Permanent Impairment" (AMA Guides) due to the hip replacement with a good result. (Id.) There is no indication that the fifth edition of AMA Guides was utilized or any reference to any particular page or table in the guides that was relied upon to reach the conclusion of a 15 percent whole person, although, I note that Table 17-33, page 546 of the AMA Guides, Fifth Edition, provides for 15 percent impairment to the whole person based on a good result from a total hip replacement.

On September 9, 2016, Dr. Martin wrote a letter to claimant's counsel clarifying her permanent restrictions as follows: no ladder climbing, squatting or crawling; no lifting over 20 pounds; she may work in laundry, study hall, and any sedentary work, but she should not work in the kitchen and she should limit her walking to 1 mile per day; she should use an elevator whenever possible and, she should not stand more than 30 minutes at any given time.

On September 13, 2016, claimant was seen by Robin Sassman, M.D. for the purpose of an independent medical examination (IME) at the request of claimant's counsel. (Ex. JE14-78) Claimant reported to Dr. Sassman that at that time, walking caused pain in her right hip and sitting caused stiffness in the hip. She also reported that switching positions while sleeping could cause her to wake up. (Ex. JE14-82) Dr. Sassman reviewed: claimant's job tasks and physical requirements; her medical history; her current symptoms; her past medical history, and her social history. Dr. Sassman conducted a physical examination and recorded her findings concerning strength and range of motion. (Ex. JE14-84) Dr. Sassman noted that claimant had "normal sensation in the bilateral lower extremities." (Id.) Dr. Sassman agreed with the MMI date of February 20, 2015 as chosen by Dr. Martin. (Ex. JE14-85) She then assigned an impairment rating of 20 percent of the whole person and stated that "utilizing Table 17-34 on page 548, she is assigned 75 points. Turning to Table 17-33 on page 546, this places her in the 'Fair Results' category and she is assigned 20% whole person impairment." (Id.) Dr. Sassman assigned permanent work restrictions of: limit push/pull, lift and carry to 20 pounds rarely at waist level and 10 pounds occasionally from waist to above shoulder height; no ladders; no walking on uneven surfaces; limit standing and walking to occasional and she will need frequent change of positions, no standing more than 30 minutes at a time; and, no squatting, crawling or kneeling.

On August 6, 2017, Delos Carrier, M.D. issued a report after completing an IME at the request of defense counsel. (Ex. JE17-95) Claimant reported pain in her right hip with walking, stiffness with sitting, and pain in her right thigh. (Ex. JE17-96) Dr. Carrier reviewed: claimant's medical history; the mechanism of injury; claimant's present symptoms; and, he conducted a physical examination, noting his findings of range of motion. Dr. Carrier noted that claimant's sensation was normal. (Ex. JE17 pp. 96-101) He then agreed with the MMI date assigned by Dr. Martin of February 20, 2015, and opined concerning permanent impairment as follows:

> Based upon the AMA Guides to the Evaluation of Permanent Impairment, Fifth Edition, page 548, Table 17-34 her "Rating Hip Replacement Results" score is 53 (significantly lower than the score obtained by Dr. Sassman on October 10, 2016) but still in the "Fair Results" category when referring to page 546, Table 17-33 of the AMA Guides. She is assigned a 20% whole person impairment.

(Ex. JE17-102) Concerning permanent restrictions, Dr. Carrier agreed with and endorsed the restrictions assigned by Dr. Sassman, stating:

> I recommend that Ms. Schlabach limit lifting, pushing, pulling and carrying to 20 pounds rarely to her waist height and 10 pounds occasionally at waist height and above shoulder height. I agree with Dr. Martin and Dr. Sassman that Ms. Martin [sic] should not work on ladders. In addition, she should not walk on uneven terrain. She may have difficulty standing for more than 30 minutes at a time. I agree that she should avoid squatting, crawling or kneeling. She may sit for short periods of time, but would need the ability to get up and walk or stand periodically for confront [sic] [comfort].

(Id.)

Considering the expert opinions presented, I rely upon the opinion of Dr. Carrier, as his opinion is the closest in time to the hearing date and more reflective of claimant's condition at the time of the hearing. I note that the opinions of Dr. Carrier and Dr. Sassman are in agreement as to the impairment ratings, and all three physicians are very closely aligned concerning permanent restrictions. Nevertheless, I find the opinions of Dr. Carrier, the defendants' IME physician, most persuasive concerning both impairment rating and permanent restrictions.

F) CURRENT EMPLOYMENT

Claimant continues to work for the defendant employer and has no plans to retire. (Tr. p. 62) Claimant stated that she has a disabled husband and she cannot afford to retire. (Tr. p. 63) At the time of the hearing, claimant continued in her job as a laundress. (Tr. p. 66) Her actual job title continues to involve both custodial and laundress. (Ex. JE23-123) In addition to her duties involving laundry, claimant stated that she turns on the lights in the school when she arrives, she supervises students getting off the bus, she unlocks the exterior doors for students. She also cleans the tops of lockers, cleans and disinfects water fountains and doors, and whatever else she can do. (Tr. pp. 66-67) Claimant earned more per hour at the time of the hearing than she did at the time of her injury. (Tr. p. 79)

G) CURRENT CONDITION

Claimant described a dull aching in her hip that can become a throbbing pain. (Tr. p. 63) She stated that she occasionally has a sense that her hip is going to come out of joint, although she knows it will not. (Id.) Claimant testified that she takes over-the-counter ibuprofen daily for her hip pain. (Tr. p. 69) She stated that she previously enjoyed bowling, walking in the park and walking her dogs. She continued to try to do those things after her knee surgery, but has not done them after her two hip surgeries associated with this work injury. (Tr. p. 63)

H) ADDITIONAL FINDINGS

Although claimant had been paid 100 weeks of permanent partial disability benefits prior to the hearing, the parties agree that claimant was paid at the incorrect rate of $418.04, and that the correct rate is $427.30. (Hearing Report, pp. 1-2)

I find that claimant is motivated to maintain her employment. She continues to be employed in an actual position with the defendant employer, which is not a "make work" position, and she continues to provide a valuable service to her employer.

Mr. LaFrentz testified that claimant was a good worker. (Tr. p. 85) She has not suffered a reduction in her rate of pay. (Tr. p. 95) In fact, her hourly wage has increased from the time of her injury. At the time of the hearing, she was earning the highest hourly wage she had ever earned as an employee of the defendant. (Tr. p. 79) However, before the work injury, claimant would work overtime when she was asked to do so, and she has not worked overtime since the work injury. (Tr. p. 80)

Considering claimant's age, her limited education and limited work experience consisting of labor intensive positions, the severity of the injury, the length of the healing period which included two separate surgeries, her limited potential for rehabilitation, her earnings before and after the work injury, claimant's motivation to remain employed, along with her significant permanent impairment and permanent restrictions, I find that claimant has sustained industrial disability of 50 percent.

CONCLUSIONS OF LAW

1) Extent of Industrial Disability.

Defendants point out that claimant had a total knee replacement prior to the work injury and she had difficulty with the knee after the replacement. Defendants argue that claimant had been off work "from December 13, 2012 through at least June 2013, and possibly until August 8, 2013 when she was released to light duty." (Def. Brief, p. 7) Although claimant's work injury did not occur until over 10 months later, on June 23, 2014, defendants note that claimant had scheduled an appointment to see Dr. Magnus to discuss a revision surgery for her knee, just weeks before the work injury occurred.

Defendants argue that claimant's right knee was a source of disability before and after the work injury.

Apportionment of disability between a preexisting condition and an injury is proper only when some ascertainable portion of the ultimate industrial disability existed independently before an employment-related aggravation of disability occurred. Bearce v. FMC Corp., 465 N.W.2d 531 (Iowa 1991); Varied Enterprises, Inc. v. Sumner, 353 N.W.2d 407 (Iowa 1984). Hence, where employment is maintained and earnings are not reduced on account of a preexisting condition, that condition may not have produced any apportionable loss of earning capacity. Bearce, 465 N.W.2d at 531. Likewise, to be apportionable, the preexisting disability must not be the result of another injury with the same employer for which compensation was not paid. Tussing v. George A. Hormel & Co., 461 N.W.2d 450 (Iowa 1990).

The burden of showing that disability is attributable to a preexisting condition is placed upon the defendant. Where evidence to establish a proper apportionment is absent, the defendant is responsible for the entire disability that exists. Bearce, 465 N.W.2d at 536-537; Sumner, 353 N.W.2d at 410-411.

Pursuant to Iowa Code section 85.34(2)(u), Iowa has adopted the so-called "fresh start rule." Industrial loss now is no longer a measure of claimant's disability from all causes and an apportionment out non-work causes, leaving only the work related causes. The percentage of industrial loss is the loss of earnings capacity from what existed immediately prior to the work injury. This means that an already severely disabled person before a work injury can have a high industrial loss because the loss is calculated in all cases from whatever the employee's earning capacity was just before the injury and what it was after the injury, not the loss as compared to a healthy non-disabled person. In other words, all workers start with a 100 percent earning capacity regardless of any prior health or disability conditions. The rationale for this approach is that an employer's liability for workers' compensation benefits is dependent upon that person's wages or salary. Consequently, the impact, if any, of any prior mental or physical disability upon earning capacity is automatically factored into a person's wages or salary by operation of the competitive labor market and there is no need to further apportion out that impact from any workers' compensation award. Roberts Dairy v. Billick, 861 N.W.2d 814 (Iowa 2015); Steffan v. Hawkeye Truck & Trailer, File No. 5022821 (App. September 9, 2009).

Based upon the above, I reject defendants' argument for apportionment. Further, I have found above that the best evidence supports a conclusion that claimant, just prior to the work injury, was working her regular job at full duty.

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, 593; 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. However, consideration must also be given to the injured worker's medical condition before the injury, immediately after the injury and presently; the situs of the injury, its severity, and the length of healing period; the work experience of the injured worker prior to the injury, after the injury, and potential for rehabilitation; the injured workers' qualifications intellectually, emotionally and physically; the worker's earning before and after the injury; the willingness of the employer to re-employ the injured worker after the injury; the worker's age, education, and motivation; and, finally the inability because of the injury to engage in employment for which the worker is best fitted. Thilges v. Snap-On Tools Corp., 528 N.W.2d 614, 616 (Iowa 1995); 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).

There are no weighting guidelines that indicate how each of the factors is to be considered. Neither does a rating of functional impairment directly correlate to a degree of industrial disability to the body as a whole. In other words, there are no formulae which can be applied and then added up to determine the degree of industrial disability. It therefore becomes necessary for the deputy or commissioner to draw upon prior experience as well as general and specialized knowledge to make the finding with regard to degree of industrial disability. See Christensen v. Hagen, Inc., Vol. 1 No. 3 Industrial Commissioner Decisions, 529 (App. March 26, 1985); Peterson v. Truck Haven Cafe, Inc., Vol. 1 No. 3 Industrial Commissioner Decisions, 654 (App. February 28, 1985).

Assessments of industrial disability involve a viewing of loss of earning capacity in terms of the injured workers' present ability to earn in the competitive labor market without regard to any accommodation furnished by one's present employer. Quaker Oats Co. v. Ciha, 552 N.W.2d 143, 158 (Iowa 1996); Thilges v. Snap-On Tools Corp., 528 N.W.2d 614 (Iowa 1995).

Claimant was 66 years old at the time of the hearing. She sustained a serious injury resulting in right hip replacement surgery and a second revision surgery, which required a substantial period of recovery. Her education is limited to a high school diploma. Claimant's work history involves jobs that rely on significant manual labor, including working on a hog farm, at a chicken processing plant and painting barns and homes. She has significant permanent impairment of 20 percent of the whole person and permanent restrictions, which include limiting pushing, pulling, lifting and carrying to 10 pounds occasionally from waist to over shoulder height and she is to avoid ladders, uneven terrain, squatting, crawling and kneeling. These restrictions will more likely than not prevent claimant from returning to any of her previous jobs. These factors all suggest that claimant has sustained significant industrial disability.

Claimant is highly motivated to maintain her employment, she remains employed with the defendant employer, and she presently earns more per hour now than she ever

has before with this employer. These factors support a finding of less industrial disability.

Considering the above and all other appropriate factors for the consideration of industrial disability, I have found that claimant has sustained a 50 percent industrial disability.

2) Costs.

The final issue is costs. Assessment of costs is a discretionary function of this agency. Iowa Code section 86.40. Costs are to be assessed at the discretion of the deputy commissioner or workers' compensation commissioner hearing the case. 876 IAC 4.33. I conclude that claimant was successful in this claim and therefore exercise my discretion and assess costs against the defendants in this matter. Claimant has asserted total costs of $1,505.29 representing the filing fee, service fee, the cost of deposition transcripts of Ray LaFrentz and Dan Simmons, and the medical opinion of Dr. Joseph Martin. These costs are set forth in Joint Exhibit 22, and were offered and received at hearing without objection. Defendants shall be required to reimburse claimant the costs set forth in Joint Exhibit 22.

ORDER

IT IS THEREFORE ORDERED:

Defendants shall pay claimant industrial disability benefits of two hundred fifty (250) weeks, beginning on the stipulated commencement date of November 17, 2014, until all benefits are paid in full.

Defendants shall be entitled to credit for all weekly benefits paid to date. The parties have stipulated that defendants are entitled to a credit of one hundred (100) weeks, although said payment was made at a rate that the parties now agree was underpaid, as stated above.

All weekly benefits shall be paid at the stipulated rate of four hundred twenty-seven and 30/100 dollars ($427.30) per week.

All accrued benefits shall be paid in a lump sum.

Defendants shall pay interest on any accrued weekly benefits pursuant to Iowa Code section 85.30.

Defendants shall reimburse claimant for costs of one thousand five hundred five and 29/100 dollars ($1,505.29).

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 18th day of January, 2018.

TOBY J. GORDON
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

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TJG/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.