BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

FILED
FEB 27 2018
WORKERS COMPENSATION

ADRIANNA MCDOWELL,		
Claimant,		File No. 5057469
vs.		ARBITRATION
UNITYPOINT HEALTH—DES MOINES,		DECISION
Employer, Self-Insured, Defendant.		Head Note Nos.: 1402.40, 1402.60, 1802, 1803, 2501

Claimant Adrianna McDowell filed a petition in arbitration on October 13, 2016, alleging she sustained an injury to her back while working for the defendant, UnityPoint Health-Des Moines ("UnityPoint"), on March 22, 2016. UnityPoint filed an answer on November 2, 2016, noting it had paid voluntary medical payments for an alleged injury occurring on March 21, 2016. McDowell filed an amended petition on November 23, 2016, alleging she sustained an injury to her back while working for UnityPoint on March 21, 2016.

An arbitration hearing was held on October 5, 2017, at the Division of Workers' Compensation, in Des Moines, Iowa. The hearing could not be completed on October 5, 2017, and it was continued to December 6, 2017. Attorney John Hemminger appeared on behalf of McDowell. McDowell appeared and testified. Terry McDowell also testified on McDowell's behalf. Attorney Jennifer Clendenin appeared on behalf of UnityPoint. Joint Exhibits ("JE") 1 through 15, Exhibits 1 through 15, and Exhibits A through S were admitted into the record. The record was held open through January 16, 2018, for the receipt of the deposition transcript of Staci Little, ARNP, and for post-hearing briefs. The deposition was received and marked as Exhibit 16, the briefs were also received, and the record was closed.

Before the hearing the parties prepared a hearing report, listing stipulations and issues to be decided. UnityPoint raised the affirmative defense of refusal of suitable work under Iowa Code section 85.33(3), and waived all other affirmative defenses.

STIPULATIONS

1. An employer-employee relationship existed between UnityPoint and McDowell at the time of the alleged injury.

2. McDowell sustained an injury on March 21, 2016, which arose out of and in the course of her employment with UnityPoint.

3. Although entitlement to temporary benefits cannot be stipulated to, the parties agree McDowell was off work from April 13, 2016 through March 8, 2017.

4. If the injury is found to be the cause of permanent disability, the disability is an industrial disability.

5. At the time of the alleged injury McDowell's gross earnings were $424.41, she was married and entitled to three exemptions, and the parties believe the weekly rate is $302.59.

ISSUES

1. Is the alleged injury a cause of temporary disability during a period of recovery?

2. If the alleged injury is a cause of temporary disability, is McDowell entitled to temporary disability benefits from April 13, 2016 through March 8, 2017?

3. If McDowell sustained a temporary disability, is she barred from recovering temporary disability benefits due to a refusal of suitable work?

4. Is the alleged injury a cause of permanent disability?

5. If the injury is found to be the cause of permanent disability what is the extent of disability?

6. If the injury is found to be the cause of permanent disability, what is the commencement date for permanent partial disability benefits?

7. Is McDowell entitled to payment of medical expenses set forth in Exhibits 11 and 12?

8. Should costs be assessed against either party?

FINDINGS OF FACT

McDowell moved to the United States from Romania in July 2008. (Exhibits 13, page 68; I, p. 34; S, p. 13; Transcript, p. 35) McDowell learned English after she moved to the United States. (Tr., pp. 37-38) McDowell lives with her husband, who is retired, and daughter in Des Moines. (Exs. 13, p. 60; I, p. 34; Tr., pp. 34, 240-41) McDowell graduated from high school in Romania in 1981, with an emphasis in nursing and chemistry. (Exs. 13, pp. 60-62; I, p. 34; S, p. 17; Tr., p. 93) At the time of the hearing she was fifty-four. (Tr., p. 34)

While living in Romania McDowell worked in water quality control, for a power company, and as a nurse working with children with disabilities in a hospital. (Ex. S, p. 18; Tr., pp. 36-37) After moving to the United States McDowell worked part-time for a

cleaning company, as a companion caregiver for an elderly woman, and as a newspaper delivery person. (Tr., pp. 40, 96, 212-14)

In April 2010, McDowell secured employment as a housekeeper for Marriott. (Tr., pp. 40-41, 97) McDowell injured her left shoulder while working for Marriott. (Ex. S, pp. 20-21Tr., p. 41) McDowell received treatment from her family practitioner, Einar Arason, D.O., in April 2011 for left shoulder pain, and in September 2011, for bilateral shoulder pain and left side low back pain. (JE 7, pp. 70-72)

McDowell was referred to Scott Meyer, M.D., an orthopedic surgeon for her left shoulder pain and underwent a left shoulder arthroscopic rotator cuff repair of a small bursal side tear, and a left shoulder manipulation. (JE 12, pp. 254-57; Tr., pp. 41-42) Following a functional capacity evaluation, Dr. Meyer imposed permanent restrictions to avoid repetitive overhead and shoulder level activities, rarely lift up to thirty-five pounds, and occasionally lift up to twenty pounds. (JE 12, pp. 257-58; Ex. 7, p. 35; Tr., p. 102)

Marriott terminated McDowell's employment in August 2013. (Tr., p. 42; Ex. 13, p. 68) The Workers' Compensation Commissioner later approved a compromise settlement between McDowell, Marriott, and Marriott's insurer. (Ex. M, pp. 63-65; Tr., pp. 46-47)

After her termination from the Marriott McDowell secured part-time employment with Marshalls as a sales associate. (Ex. S, p. 26; Tr., p. 43) McDowell worked for Marshalls part-time four months until she secured full-time employment. (Ex. S, p. 26, Tr., p. 43)

In February 2014, Randstad hired McDowell and placed her at HP where she worked as a line worker in a warehouse filling boxes with cosmetics. (Ex. S, p. 21; Tr., pp. 43-44) McDowell testified she was able to perform the position within her restrictions, but she reinjured her left shoulder after working for Randstad for three months. (Ex. S, p. 21; Tr., p. 44) McDowell reported the work injury on May 15, 2014, and she received treatment from Stephen Ash, M.D., an orthopedic surgeon. (JE 12, pp. 259-61) Dr. Ash imposed temporary restrictions, which Randstad accommodated. (JE 12, p. 261; Tr., p. 47) Dr. Ash ordered a functional capacity evaluation, but he did not impose any additional permanent restrictions and he found McDowell had not sustained an additional permanent impairment. (Tr., p. 46; JE 12, pp. 263-64) The Workers' Compensation Commissioner approved a compromise settlement between McDowell, Randstad, and Randstad's insurer in June 2015. (Ex. M, pp. 69-72; Tr., pp. 45-48)

McDowell accepted a position as a full-time housekeeper for Towneplace Suites. (Ex. 13, pp. 68-69; Tr., p. 53) McDowell testified she quit working for Towneplace Suites in December 2015 because her hours varied and her husband had a difficult time driving her to and from work at night. (Ex. 13, pp. 68-69; Tr., pp. 55-56, 152-53)

McDowell applied for a laundry attendant position with Prairie Meadows in October 2015. (JE 14, p. 283; Tr., pp. 56-58) McDowell prepared a pre-employment

medical history form denying she had joint or bone problems, back or neck problems, or neck or back pain lasting longer than a week. (JE 14, p. 283) McDowell testified she did not report she had back problems to Prairie Meadows because it "[w]asn't a problem for me. I said no," which she believes is truthful. (Tr., pp. 124-25) McDowell's representations to Prairie Meadows were untruthful. McDowell underwent a functional screening, and the evaluator found she could lift floor to waist fifty pounds ten times, and push or pull 150 pounds 100 feet. (JE 14, p. 285) McDowell testified Prairie Meadows placed her application on hold and UnityPoint ultimately hired her. (Tr., p. 58)

On January 13, 2016, UnityPoint hired McDowell as a housekeeper. (Ex. 13, p. 69) During the hiring process McDowell completed a medical questionnaire form. On the form she denied having previous shoulder, neck, and back problems. (JE 2, p. 2) She also denied that she had ever been hurt on the job, or that she had seen a doctor for an injury, illness, or exposure related to a job. (JE 2, p. 3) McDowell's statements were untruthful. McDowell passed a pre-employment examination finding she was medically qualified to perform the essential functions of a housekeeping position. (JE 2, p. 5; Tr., pp. 59, 195-96)

On March 21, 2016, McDowell testified she injured her lower back while carrying a mattress and placing it on a bed. (JE 1, p. 1; Ex. 9, p. 39) McDowell reported she had moved an air mattress out of the room to replace it with a normal mattress. (Tr., p. 67) McDowell testified,

> when I was trying to pull from down and – to lift and to pull in the same time to push on bed, I had feel like something was broke in – in the back, was it a sharp pain like a knife. I had the feeling I had – I heard something broke in there, but I knew wasn't, but that was my feeling at that point. So I let the mattress, and I sit down a little to catch the breath. Was still pain, but I said, okay. Will be better. Maybe it's a muscle or something.
>
> So I had almost finished to clean the room. So I was in pain, but I – I had cleaned the room. I had another room to clean on other side of the hospital. And I had walking by there, and I said maybe will be better later, it's just a pain or a muscle or maybe I had twist something. But the pain didn't go way. So I had started to clean that room. I said – I remember was an easy room to clean, wasn't very dirty. And I said I'm happy I can finish this room. And after – what I don't remember, if I called my supervisor when I goes down after, to let her know I have a big back pain and what was happen, and I just want to go at home to sit a little down and to take a pill, something. She said no, no, no, you must report that because was happen at work, so which I did.

(Tr., pp. 68-69) McDowell finished making the bed after putting the mattress in place, which required her to bend over, and then she went to clean another room. (Tr., pp. 224-25) McDowell called her husband and he took her home from work. (Tr., p. 69)

McDowell received treatment for low back pain prior to her employment with UnityPoint. As noted above, McDowell complained of left side low back pain to Dr. Arason in September 2011. (JE 7, p. 72)

On September 8, 2014, McDowell went to the emergency room, complaining of right side low back pain radiating down her right thigh for one week, "which started when she was making a bed and reached to grab a pillow." (JE 6, p. 57) McDowell was diagnosed with a low back strain and received prescriptions for Flexeril and Naprosyn. (JE 6, pp. 58-59) During an appointment a few days later with Dr. Aaron, McDowell complained of sharp, stabbing, low back pain radiating to her right thigh, affecting her ability to ambulate and sit. (JE 8, p. 79) Dr. Arason ordered imaging and prescribed a prednisone burst. (JE 8, p. 81) A few weeks later McDowell reported she was fifty to sixty percent better. (JE 8, p. 83)

During a follow-up appointment on February 20, 2015, Dr. Arason documented McDowell was complaining of chronic low back pain "in the mid to low back. Worse on the right. Radiates somewhat down the back of her leg, but not past her knee. Pain is worse with bending forward at the waist, but worst with straightening back out, or return to neutral." (JE 8, p. 87)

On April 20, 2015, McDowell returned to Dr. Arason, complaining of low back pain for one year radiating to her left posterior leg and foot. (JE 8, p. 90) Dr. Arason ordered lumbar spine magnetic resonance imaging, and the reviewing radiologist noted there was no significant abnormality in the lumbar spine. (JE 6, pp. 61-62; JE 8, p. 94)

During an appointment on May 8, 2015, Dr. Arason documented McDowell's "reported symptoms frequently appear out of proportion to exam and diagnostic findings." (JE 8, p. 98) Dr. Arason documented the imaging revealed some annular tearing, but did not reveal any disc herniations or discrete lesions other than mild to moderate degenerative changes. (JE 8, p. 98) Dr. Arason prescribed physical therapy and recommended smoking cessation. (JE 8, p. 98)

According to a physical therapy note from May 11, 2015, McDowell was

> reporting left > right low back pain with radiating symptoms down the left leg to the foot at times. Aggravating activities include standing, sitting, walking, reaching (making bed), bending and transfers. Easing activities include mild relief with laying down. She has tried medication without relief. She has had physical therapy for her shoulder but never for her back.

(JE 5, p. 33) The therapist documented McDowell reported "she has had back pain for about a year – no incident or injury. . . She had left shoulder surgery 3 years ago with re-injury last year." (JE 5, p. 36)

On March 24, 2016, three days after her work injury at UnityPoint, McDowell attended an appointment with Richard McCaughey, D.O., an occupational medicine

physician. (JE 3, p. 17) McDowell reported she injured herself while lifting a mattress at work and felt sudden pain in her low back that sometimes radiates to her right leg. (JE 3, p. 17) McDowell admitted she had a prior back strain, but reported it resolved with conservative management. (JE 3, p. 17) Dr. McCaughey assessed McDowell with an acute low back strain with intermittent sciatica to the right leg, prescribed Cataflam, ordered physical therapy, and imposed restrictions of bending and twisting occasionally, occasional sitting up to one hour, moving at a comfortable pace, and limiting lifting, pushing, and pulling to ten pounds. (JE 3, pp. 17-18)

McDowell went to the emergency room on April 1, 2016, complaining of bilateral low back pain for two weeks following a work injury. (JE 6, pp. 63-69) Hospital staff assessed McDowell with bilateral low back pain with left-sided sciatica and prescribed Robaxin. (JE 6, p. 69)

On April 4, 2016, McDowell returned to Dr. McCaughey reporting she sought emergency medical treatment on April 1, 2016, for low back pain, including radicular pain to her left knee. (JE 3, p. 20) Dr. McCaughey noted McDowell's subjective complaints were out of proportion to objective findings, he declined McDowell's request for "pain pills," informed her she could take the Robaxin prescribed by the emergency room, ordered magnetic resonance imaging, and continued her work restrictions. (JE 3, p. 20-21, 24) McDowell underwent magnetic resonance imaging, and the reviewing radiologist listed an impression of "[s]table mild degenerative findings. No spinal canal stenosis or neural foraminal stenosis." (JE 3, p. 23)

On April 12, 2016, UnityPoint terminated McDowell's employment for falsifying records and misconduct because she failed to identify previous injuries, physical ailments, and workers' compensation claims before her employment with UnityPoint. (Ex. G, pp. 23-24)

McDowell attended a follow-up appointment with Dr. McCaughey on April 14, 2016, complaining of low back pain that sometimes radiates into her left thigh. (JE 3, p. 25) Dr. McCaughey documented McDowell reported she had taken her husband's hydrocodone for pain, and noted she reported she had been fired for falsifying her pre-employment history. (JE 3, p. 25) Dr. McCaughey compared McDowell's magnetic resonance imaging from April 11, 2016 with imaging from April 30, 2015, and noted the radiologist had concluded McDowell had stable, degenerative changes, with no neural impingement. (JE 3, p. 25) Dr. McCaughey documented,

> [t]he patient reports that her low back had been okay prior to her 03/22/2016 incident at work; however, I note that personal doctor's last visit indicated that her pain was chronic and ongoing. Frankly, I cannot explain with certainty the circumstances with respect to her ongoing back complaints. I explained to Ms. McDowell that there was nothing on her 04/11/2016 MRI or today's physical exam that would indicate reason to expect serious or long-term problems with her back consequent to a 03/22/2016 incident she purports at work.

(JE 3, p. 25) Dr. McCaughey imposed no restrictions, discharged McDowell from care, and recommended she follow up with her personal physician. (JE 3, pp. 25, 27; Tr., p. 154) Dr. McCaughey spoke with Austin Smith with UnityPoint Human Resources and reported he could not state with a reasonable degree of medical certainty whether McDowell's low back pain was work-related. (JE 3, pp. 26, 27)

After the April 14, 2016 appointment, Dr. McCaughey received medical records from outside care McDowell received. (JE 3, p. 27) Dr. McCaughey reviewed the records, and noted:

> [t]he aforementioned notes indicate a history of back pain dating back to 2011. Her personal doctor has diagnosed her with chronic back pain. The 04/11/2016 MRI study is essentially unchanged from that of 04/30/2015. The personal doctor's 05/08/2015 office note indicates that reported symptoms frequently appear out of proportion to exam and diagnostic findings. This is consistent with my note of 04/04/2016.
>
> The above history recently brought to my attention certainly calls into question to what extent (if any) a purported 03/22/2016 incident at work contributes to her low back pain. I will review this with Ms. McDowell at her upcoming followup visit.

(JE 3, pp. 27-28)

On April 18, 2016, McDowell attended an appointment with Dr. Arason complaining of new low back pain within the last month. (JE 8, p. 124) Dr. Arason assessed McDowell with midline low back pain without sciatica, muscle spasm, lumbar facet arthropathy, and high risk medication use. (JE 8, p. 129A) Dr. Arason documented McDowell's "back pain is significantly less than it was before. Still fairly bothersome. She denies any new or concerning symptoms." (JE 8, p. 128) Dr. Arason noted "[s]moking cessation is an absolute must for ongoing back health," and recommended McDowell use ice and heat as needed, and engage in gentle stretching and range of motion exercises. (JE 8, p. 130)

McDowell attended a follow-up appointment with Dr. Arason on May 9, 2016, complaining of low back pain. (JE 8, p. 133) McDowell requested Dr. Arason discontinue her physical therapy because she believed it was making her worse, and she requested more effective pain management. (JE 8, p. 133) Dr. Arason documented she was "very reluctant to prescribe any controlled medications," and prescribed a prednisone burst. (JE 8, p. 136)

On June 3, 2016, McDowell returned to Dr. Arason complaining of low back pain. (JE 8, p. 138) Dr. Arason documented McDowell had "largely failed conservative treatment measures including relative rest, physical therapy, muscle relaxants, anti-inflammatories, and optimization of her ergonomics," and noted prednisone helped at first, but her pain returned. (JE 8, p. 138) Dr. Arason assessed McDowell with

left-sided low back pain without sciatica and sacroilitis, and recommended a pain management consultation. (JE 8, pp. 142-43)

On July 19, 2016, McDowell attended an appointment with Mathew Biggerstaff, D.O., an anesthesiologist specializing in pain management at Broadlawns Medical Center ("Broadlawns"). (JE 10, p. 183) Dr. Biggerstaff reviewed McDowell's magnetic resonance imaging, diagnosed McDowell with lumbar radiculopathy, lumbar spinal stenosis, and lumbar degenerative disease, and recommended a lumbar epidural steroid injection at L5-S1 which was performed on August 17, 2016, and prescribed tramadol. (JE 10, pp. 185-91)

During a follow-up appointment on September 27, 2016, Dr. Biggerstaff recommended bilateral lumbar medial branch blocks at L3, L4, and L5, which were performed on October 18, 2016. (JE 10, pp. 194-200) McDowell returned to Dr. Biggerstaff on October 28, 2016, and reported the blocks provided little relief to her low back pain. (JE 10, p. 201) Dr. Biggerstaff recommended a trial of Relafen. (JE 10, p. 204)

McDowell's care was transferred to Stacy Little, ARNP, a pain specialist with Broadlawns, in November 2016. (JE 10, p. 206; Ex. 16, p. 3) On December 7, 2016, McDowell attended an appointment with Little reporting her numbness and tingling was worse, and noting problems with sitting, standing, walking, and sleeping. (JE 10, p. 214) Little diagnosed McDowell with myofascial pain, lumbosacral spondylosis without myelopathy, lumbar degenerative disc disease, and chronic pain, discontinued her Relafen, and prescribed gabapentin. (JE 10, pp. 217-19)

On January 25, 2017, McDowell returned to Little, and reported two weeks prior to the appointment she was playing with her dog and unable to wiggle her toes on her left foot like she could on her right foot. (JE 10, p. 222) Little diagnosed McDowell with lumbar radiculitis, lumbosacral spondylosis without myelopathy, lumbar degenerative disc disease, and chronic pain. (JE 10, pp. 225-26) Little prescribed one tablet of hydrocodone 5/325 milligrams, twice per day, continued her gabapentin, and recommended magnetic resonance imaging. (JE 10, p. 226)

McDowell received lumbar spine magnetic resonance imaging on January 31, 2017. (JE 10, p. 228) The reviewing radiologist listed an impression of multilevel degenerative disc disease and facet arthritis within the lumbar spine, and noted no significant central canal stenosis or neural foraminal narrowing, and that McDowell's lumbar and S1 nerve roots were exiting normally. (JE 10, p. 228)

On February 8, 2017, McDowell's primary care was transferred to Jay Johnson, D.O. (JE 9, p. 166) Dr. Johnson diagnosed McDowell with chronic midline low back pain with bilateral sciatica, dizziness, insomnia, chronic migraines, insomnia, and mild episode of recurrent major depressive disorder, and recommended smoking cessation and a referral to a neurosurgeon. (JE 9, pp. 168-69)

Dr. Johnson referred McDowell to David Boarini, M.D., a neurosurgeon. (JE 11, p. 248) On March 8, 2017, Dr. Boarini examined McDowell and reviewed her magnetic resonance imaging, noting her exam and imaging did not show anything to suggest a compressive or surgical lesion. (JE 11, p. 250)

On April 4, 2017, McDowell attended a follow-up appointment with Little, complaining of chronic low back pain with occasional lumbar radicular symptoms, worse on the left than the right. (JE 10, p. 231) McDowell reported she was receiving relief from her pain and symptoms with hydrocodone, but her activity level remained low. (JE 10, pp. 231, 235)

Counsel for UnityPoint sent a letter to Dr. Boarini on May 17, 2017, asking him to respond yes or no to questions posed by counsel. (Ex. A) Dr. Boarini responded on May 19, 2017, without providing any written comments. (Ex. A) Dr. Boarini did not issue an opinion on causation, and agreed during his examination he observed McDowell move "without difficulty, her strength was intact, her gait was normal, she had normal range of motion of the back, her straight leg testing as [*sic*] negative, her reflexes were negative and her MRI scan did not show any acute findings." (Ex. A, pp. 1-2) Dr. Boarini further agreed he did not believe McDowell has sustained a permanent impairment to her back or spine regardless of the cause, and he did not recommend any work restrictions or additional treatment. (Ex. A, pp. 2-3)

On May 23, 2017, counsel for UnityPoint sent a letter to Dr. Biggerstaff, asking him to respond yes or no to questions posed by counsel. (Ex. B) Dr. Biggerstaff responded on May 25, 2017, without providing any written comments. (Ex. B) Dr. Biggerstaff did not issue an opinion on causation, and noted he did not observe any acute findings on McDowell's magnetic resonance imaging, McDowell did not inform him her back problems were related to a work injury, he did not believe McDowell had sustained any permanent impairment to her back or spine, and he did not recommend any work restrictions or additional treatment. (Ex. B, pp. 4-5)

Counsel for McDowell sent Little a letter on June 28, 2017, asking her to check yes or no concerning her opinions. (Ex. 3, p. 18) Little agreed McDowell suffers from lumbar spine spondylosis that was materially aggravated and accelerated as a result of the March 2016 work injury, and that her medical records show an absence of back complaints or treatment from June 2015 until after the March 2016 work injury. (Ex. 3, pp. 18-19) Little further agreed as a result of the work injury McDowell now has chronic pain syndrome. (Ex. 3, p. 19)

During her appointment with Little on June 30, 2017, McDowell reported no new symptoms, but requested an increase in her hydrocodone. (JE 10, pp. 240-46)

McDowell applied for Social Security Disability Benefits. (JE 15) The Social Security Administration determined she was not disabled. (JE 15, p. 307; Exs. 10; O pp. 126-27; Tr., pp. 177-78)

On September 1, 2017, Sunil Bansal, M.D., an occupational medicine physician, performed an independent medical examination for McDowell. (Ex. 1) Dr. Bansal examined McDowell and reviewed her medical records. (Ex. 1) Dr. Bansal diagnosed McDowell with "[a]ggravation of lumbar spondylosis, specifically lower lumbar facet arthropathy." (Ex. 1, p. 12) Dr. Bansal opined McDowell's condition is causally related to her work injury, noting the "mechanism of lifting a mattress and twisting, coupled with her immediate low back pain, is characteristic of an aggravation of her spondylosis and facet arthropathy." (Ex. 1, p. 13) Dr. Bansal placed McDowell at maximum medical improvement on March 8, 2017, at the time of her consultation with Dr. Boarini. (Ex. 1, p. 14) Using Table 15-3 of the Guides to the Evaluation of Permanent Impairment (AMA Press, 5th Ed. 2001) ("AMA Guides"), Dr. Bansal opined McDowell meets the criteria for a DRE Category II impairment, noting she has radicular complaints, loss of range of motion, and spasms, and assigned a five percent whole person impairment. (Ex. 1, pp. 14-15) Dr. Bansal imposed restrictions of no lifting over twenty pounds occasionally, no lifting over ten pounds frequently, and no frequent bending or twisting. (Ex. 1, p. 15)

Counsel for UnityPoint sent Dr. Johnson a letter on September 11, 2017, asking him to respond yes or no to questions posed by counsel. (Ex. C) Dr. Johnson agreed "at most the March 2016 incident was a temporary aggravation/exacerbation of her underlying condition," and he did not believe she had sustained a permanent impairment to her back or spine as a result of the March 2016 work injury. (Ex. C, pp. 10-11) Dr. Johnson also agreed he could not opine to any degree of medical certainty McDowell's current back complaints are due to her March 2016 injury, or that she needed any treatment beyond the treatment she received in March and April 2016. (Ex. C, p. 11) Dr. Johnson agreed he had not and would not issue any restrictions related for McDowell's back or lumbar spine related to the March 2016 injury. (Ex. C, p. 11)

On September 22, 2017, McDowell's attorney sent Dr. Biggerstaff and copy of Dr. Bansal's independent medical examination. (Ex. 4, p. 20) Dr. Biggerstaff signed the letter without making any written comments, agreeing he concurred with Dr. Bansal's opinions concerning impairment and restrictions. (Ex. 4, pp. 20-21)

Counsel for UnityPoint sent a letter to Charles DePena, M.D., a radiologist, on September 29, 2017, asking him to respond yes or no to questions concerning McDowell's magnetic resonance imaging. (Ex. D) Dr. DePena responded on September 29, 2017, without providing any written comments. (Ex. D) Dr. DePena agreed he had reviewed McDowell's April 30, 2015 and April 11, 2016 magnetic resonance imaging scans. (Ex. D, p. 13) Dr. DePena agreed he did not find any acute findings on the 2016 scan which could be related to the March 2016 work injury, both scans "were very similar and neither had any acute findings" related to the work injury, and agreed he believed "the mild bilateral facet osteoarthropathy noted on the April 11, 2106 [*sic*] MRI is unrelated to any acute March 22, 2016 injury." (Ex. D, p. 14)

Counsel for McDowell provided Dr. Bansal with Dr. DePena's letter. (Ex. 2, p. 16) Dr. Bansal submitted a supplemental report on October 3, 2017, noting Dr. DePena had noticed the appearance of facet arthropathy before the March 2016 work injury that

was not documented during his original read. (Ex. 2, p. 16) Dr. Bansal noted McDowell was not diagnosed or treated for facet mediated pain prior to the March 2016 work injury, "indicating that at least a clinical aggravation occurred, regardless of a change in structural integrity. After the March 22, 16 [*sic*] she received multiple facet injections." (Ex. 2, pp. 16-17)

Counsel for UnityPoint sent a letter to Dr. Biggerstaff on October 2, 2017, asking him to respond yes or no to questions concerning McDowell. (Ex. B, pp. 7-8) Dr. Biggerstaff responded on October 3, 2017, stating he had not and did not wish to review all of McDowell's medical records before the March 2016 incident, he agreed with Dr. Johnson's referral to Dr. Boarini, he had no reason to disagree with Dr. Boarini's opinions concerning any impairment or restrictions, and he did not and would not assign temporary or permanent work restrictions to McDowell. (Ex. B, p. 8)

On October 4, 2017, Little responded to a letter from counsel for UnityPoint, asking her to respond yes or no to questions concerning McDowell. (Ex. F) Little agreed she did not have a complete copy of McDowell's medical records prior to signing the June 2017 letter from McDowell's counsel, and since that time she had a complete copy of the records. (Ex. F, p. 18) Little agreed she was not previously aware of all of McDowell's longstanding back complaints, physical symptoms, shoulder complaints, treatment and evaluation, and restrictions and limitations she received before March 2016. (Ex. F, p. 19) Little wrote she believed the March 2016 work injury aggravated or exacerbated McDowell's underlying condition, but also agreed she could not opine to any degree of medical certainty that McDowell sustained a permanent impairment due to the March 2016 incident, and agreed she had not and would not issue any permanent work restrictions. (Ex. F, pp. 21-22)

McDowell testified she enjoys walking her dogs, and used to walk her dogs for one or two hours nearly daily before the March 2016 work injury. (Tr., pp. 74-75, 189, 244-45) McDowell also enjoyed playing tennis. (Tr., p. 77) McDowell reported before the March 2016 work injury her back pain did not interfere with her ability to walk her dogs or play tennis. (Tr., p. 77) McDowell testified since the March 2016 work injury she can walk ten to twenty minutes before she needs to sit down. (Tr., pp. 83-84) McDowell has always cleaned her home, and she continues to clean her home, but it takes her twice as long because she has to sit and rest after fifteen or twenty minutes. (Tr., pp. 84-85, 257) McDowell testified she can sit for two hours without having to get up and walk or move around. (Tr., pp. 217-18)

McDowell testified that during the summer of 2015, after she finished physical therapy she was not having any problems with her back. (Tr., p. 187) McDowell reported she painted the entire inside of her home that summer and she did not have any back problems. (Tr., pp. 187-88)

CONCLUSIONS OF LAW

I. Permanency

To receive workers' compensation benefits, an injured employee must prove, by a preponderance of the evidence, the employee's injuries arose out of and in the course of the employee's employment with the employer. 2800 Corp. v. Fernandez, 528 N.W.2d 124, 128 (Iowa 1995). An injury arises out of employment when a causal relationship exists between the employment and the injury. Quaker Oats v. Ciha, 552

N.W.2d 143, 151 (Iowa 1996). The injury must be a rational consequence of a hazard connected with the employment, and not merely incidental to the employment. Koehler Elec. v. Willis, 608 N.W.2d 1, 3 (Iowa 2000). The Iowa Supreme Court has held, an injury occurs "in the course of employment" when:

> it is within the period of employment at a place where the employee reasonably may be in performing his duties, and while he is fulfilling those duties or engaged in doing something incidental thereto. An injury in the course of employment embraces all injuries received while employed in furthering the employer's business and injuries received on the employer's premises, provided that the employee's presence must ordinarily be required at the place of the injury, or, if not so required, employee's departure from the usual place of employment must not amount to an abandonment of employment or be an act wholly foreign to his usual work. *An employee does not cease to be in the course of his employment merely because he is not actually engaged in doing some specifically prescribed task, if, in the course of his employment, he does some act which he deems necessary for the benefit or interest of the employer.*

Farmers Elevator Co. v. Manning, 286 N.W.2d 174, 177 (Iowa 1979) (emphasis in original).

The claimant bears the burden of proving the claimant's work-related injury is a proximate cause of the claimant's disability and need for medical care. Ayers v. D & N Fence Co., Inc., 731 N.W.2d 11, 17 (Iowa 2007); George A. Hormel & Co. v. Jordan, 569 N.W.2d 148, 153 (Iowa 1997). "In order for a cause to be proximate, it must be a 'substantial factor.'" Ayers, 731 N.W.2d at 17. A probability of causation must exist, a mere possibility of causation is insufficient. Frye v. Smith-Doyle Contractors, 569 N.W.2d 154, 156 (Iowa Ct. App. 1997). The cause does not need to be the only cause, [i]t only needs to be one cause." Armstrong Tire & Rubber Co. v. Kubli, 312 N.W.2d 60, 64 (Iowa 1981).

The question of medical causation is "essentially within the domain of expert testimony." Cedar Rapids Cmty. Sch. Dist. v. Pease, 807 N.W.2d 839, 844-45 (Iowa 2011). The deputy commissioner, as the trier of fact, must "weigh the evidence and measure the credibility of witnesses." Id. The trier of fact may accept or reject expert testimony, even if uncontroverted, in whole or in part. Frye, 569 N.W.2d at 156. When considering the weight of an expert opinion, the fact-finder may consider whether the examination occurred shortly after the claimant was injured, the compensation arrangement, the nature and extent of the examination, the expert's education, experience, training, and practice, and "all other factors which bear upon the weight and value" of the opinion. Rockwell Graphic Sys., Inc. v. Prince, 366 N.W.2d 187, 192 (Iowa 1985).

"When an expert's opinion is based upon an incomplete history, the opinion is not necessarily binding on the [trier of fact]." Dunlavey v. Economy Fire & Cas. Co., 526 N.W.2d 845, 853 (Iowa 1995) (citing Bodish v. Fisher, Inc., 257 Iowa 521, 521-22, 133

N.W.2d 867, 870 (1965)). The trier of fact determines the weight of the opinion, "that may be affected by the completeness of the premise given the expert and other surrounding circumstances." Id.

It is well-established in workers' compensation that "if a claimant has a preexisting condition or disability, aggravated, accelerated, worsened, or 'lighted up' by an injury which arose out of and in the course of employment resulting in a disability found to exist," the claimant is entitled to compensation. Iowa Dep't of Transp. v. Van Cannon, 459 N.W.2d 900, 904 (Iowa 1990). The Iowa Supreme Court has held,

> [a] disease which under any rational work is likely to progress so as to finally disable an employee does not become a "personal injury" under our Workmen's Compensation Act merely because it reaches a point of disablement while work for an employer is being pursued. It is only when there is a direct causal connection between exertion of the employment and the injury that a compensation award can be made. The question is whether the diseased condition was the cause, or whether the employment was a proximate contributing cause.

Musselman v. Cent. Tel. Co., 261 Iowa 352, 359-60, 154 N.W.2d 128, 132 (1967).

The parties stipulated McDowell sustained an injury arising out of and in the course of her employment with UnityPoint. UnityPoint avers McDowell has not sustained a permanent impairment.

McDowell received treatment from multiple providers, Dr. McCaughey, an occupational medicine physician, Dr. Arason, a family physician, Dr. Biggerstaff, an anesthesiologist specializing in pain management, Little, a nurse practitioner specializing in pain management, Dr. Johnson, a family physician, and Dr. Boarini, a neurosurgeon. Dr. McCaughey questioned whether McDowell's low back pain was work-related, but opined he could not state with a reasonable degree whether her low back pain was work-related. (JE 3, pp. 25-27) Drs. Arason, Biggerstaff, Boarini, and Johnson provided no opinion on whether the alleged work injury caused McDowell's low back pain. (Exs. A; B; C; JE 8; JE 9) Dr. Bansal opined McDowell's March 2016 work injury caused by lifting a mattress and twisting aggravated her spondylosis and facet arthropathy. (Ex. 1, p. 13)

Little's opinion on causation and permanency is equivocal and her training is inferior to that of the treating and examining physicians. (Exs. 3; F) Counsel for UnityPoint sent Dr. Johnson a letter on September 11, 2017, asking him to respond yes or no to questions posed by counsel. (Ex. C) Dr. Johnson agreed "at most the March 2016 incident was a temporary aggravation/exacerbation of her underlying condition," and he did not believe she had sustained a permanent impairment to her back or spine as a result of the March 2016 work injury. (Ex. C, pp. 10-11) Dr. Johnson also agreed he could not opine to any degree of medical certainty McDowell's current back complaints are due to her March 2016 injury, or that she needed any treatment beyond the treatment she received in March and April 2016. (Ex. C, p. 11) It is unclear what

records Dr. Johnson reviewed before checking yes or no, to questions posed by UnityPoint's counsel. I also find his opinion equivocal.

Dr. Biggerstaff, a treating pain specialist, initially opined McDowell had not sustained a permanent impairment, but later concurred with Dr. Bansal's opinion concerning McDowell's impairment and restrictions. (Exs. B; 4, pp. 20-21) Pursuant to an additional inquiry from counsel for UnityPoint, Dr. Biggerstaff responded he had not and did not wish to review all of McDowell's records before the March 2016 incident, and stated he had no reason to disagree with Dr. Boarini's opinions concerning any impairment or restrictions. (Ex. B, p. 8) Dr. Biggerstaff's opinion is equivocal, and he admitted he has not reviewed all of McDowell's medical records. I do not afford his opinion any weight.

Dr. Bansal opined McDowell sustained a permanent impairment caused by her work injury. (Ex. 1) Dr. Boarini opined McDowell has not sustained a permanent impairment. (Ex. A) Dr. Boarini's training as a neurosurgeon is superior to Dr. Bansal's training as an occupational medicine physician. Dr. Boarini was selected by McDowell's family practitioner, Dr. Johnson, to provide an opinion and possible treatment. Dr. Bansal was retained by McDowell for purposes of conducting an independent medical examination only.

The letter UnityPoint sent to Dr. Boarini does not indicate UnityPoint attached any medical records for Dr. Boarini to review. (Ex. A) Dr. Boarini examined McDowell on one occasion, March 8, 2017. (JE 11) Dr. Boarini's medical record from that date documents his examination of McDowell and provides, "I reviewed the patient's MRI scan of the lumbar spine. I do not see anything of clinical significance. This patient has longstanding back and leg pain, but her exam and scan do not show anything to suggest a compressive or surgical lesion." (JE 11, pp. 249-50) There is no evidence Dr. Boarini reviewed any additional medical records other than a single "scan." (JE 11) Dr. Bansal reviewed all of McDowell's medical records, noting she had previously been treated for back pain starting in 2011. (Ex. 1, pp. 1-10)

Dr. Bansal provided a written fifteen page opinion summarizing McDowell's treatment, and providing his opinions on causation and permanency. (Ex. 1) Dr. Boarini responded to a three page form letter from counsel for UnityPoint, asking him to check "yes" or "no" to statements, without providing any written comments. (Ex. A) I find Dr. Bansal's opinion most persuasive given he reviewed all of the medical records, and because his opinion is more thorough and complete. I find McDowell has proven she sustained a permanent impairment as a result of the March 2016 work injury.

II. Extent of Disability

"Industrial disability is determined by an evaluation of the employee's earning capacity." Cedar Rapids Cmty. Sch. Dist. v. Pease, 807 N.W.2d 839, 852 (Iowa 2011). In considering the employee's earning capacity, the deputy commissioner evaluates several factors, including "consideration of not only the claimant's functional disability, but also [his] age, education, qualifications, experience, and ability to engage in similar

employment." Swiss Colony, Inc. v. Deutmeyer, 789 N.W.2d 129, 137-38 (Iowa 2010). The inquiry focuses on the injured employee's "ability to be gainfully employed." Id. at 138.

The determination of the extent of disability is a mixed issue of law and fact. Neal v. Annett Holdings, Inc., 814 N.W.2d 512, 525 (Iowa 2012). Compensation shall be paid in relation to 500 weeks as the disability bears to the body as a whole. Id. § 85.34(2)(u). When considering the extent of disability, the deputy commissioner considers all evidence, both medical and nonmedical. Evenson v. Winnebago Indus., Inc., 818 N.W.2d 360, 370 (Iowa 2016).

As discussed above, I find Dr. Bansal's opinion most persuasive in this case. Using the AMA Guides, Dr. Bansal assigned a five percent whole person impairment. (Ex. 1, pp. 14-15) Dr. Bansal imposed restrictions of no lifting over twenty pounds occasionally, no lifting over ten pounds frequently, and no frequent bending or twisting. (Ex. 1, p. 15)

McDowell moved from Romania to the United States in 2008 and learned to speak English. (Exs. 13, p. 68; I, p. 34; S, p. 13; Tr., pp. 35-37) At the time of the hearing McDowell was fifty-four. (Tr., p. 34) McDowell graduated from high school in Romania with an emphasis in nursing and chemistry. (Exs. 13, pp. 60-62; I, p. 34; S, p. 17; Tr., p. 93) McDowell worked in water quality control, for a power company, and as a nurse in a hospital while living in Romania. (Ex. S, p. 18; Tr., pp. 36-37) McDowell has experience working as a housekeeper, elderly companion, newspaper delivery person, line worker, and retail sales associate. (Ex. S, p. 26; Tr., pp. 40, 43-44, 96, 212-14) Since the March 2016 work injury McDowell has not applied for any jobs. (Tr., pp. 108-09, 175-76) I do not find she is motivated to work. There was no vocational evidence presented at hearing. Considering all of the factors of industrial disability, I conclude McDowell has sustained a fifteen percent industrial disability.

III. Temporary Benefits

McDowell seeks temporary disability benefits from April 13, 2016 through March 8, 2017. UnityPoint avers McDowell is not entitled to temporary disability benefits for this period because no physician restricted her from working during this period of time and even if she were entitled to any temporary benefits during this period of time, she is not entitled to temporary disability benefits due to her refusal of suitable work under Iowa Code section 85.33.

Iowa Code section 85.33 governs temporary disability benefits, and Iowa Code section 85.34 governs healing period and permanent disability benefits. Dunlap v. Action Warehouse, 824 N.W.2d 545, 556 (Iowa Ct. App. 2012). As a general rule, "temporary total disability compensation benefits and healing-period compensation benefits refer to the same condition." Clark v. Vicorp Rest., Inc., 696 N.W.2d 596, 604 (Iowa 2005). The purpose of temporary total disability benefits and healing period benefits is to "partially reimburse the employee for loss of earnings" during a period of recovery from the condition. Id. An award of healing period benefits or total temporary

disability benefits is not dependent on a finding of permanent impairment. Dunlap, 824 N.W.2d at 556. The appropriate type of benefit depends on whether or not the employee has a permanent disability. Id. As analyzed above, McDowell has sustained a permanent impairment, therefore, if she is entitled to temporary benefits, the benefits would be healing period benefits.

In Evenson v. Winnebago Indus., Inc., the Iowa Supreme Court held that the healing period lasts until the claimant has returned to work, has reached maximum medical improvement, or until the claimant is medically capable of returning to substantially similar employment, "whichever occurs first." 818 N.W.2d 360, 372-74 (Iowa 2016). McDowell returned to work following the March 21, 2016 work injury, and she continued to work until she was terminated on April 12, 2016 for falsifying records and misconduct. McDowell's termination resulted from her misconduct, not her work injury.

During her appointment with Dr. McCaughey on March 24, 2016, McDowell received work restrictions, but she was not restricted from working and returned to work, full-time. Dr. McCaughey released McDowell from care without restrictions on April 14, 2016. (JE 3, p. 25) After Dr. McCaughey released McDowell she did not receive any work restrictions from any of her treating medical providers. McDowell is not entitled to healing period benefits.

IV. Medical Bills

McDowell seeks to recover medical bills set forth in Exhibits 11 and 12. UnityPoint contends McDowell has failed to prove the bills are for treatment related to the work injury.

An employer is required to furnish reasonable surgical, medical, dental, osteopathic, chiropractic, podiatric, physical rehabilitation, nursing, ambulance, hospital services and supplies, and transportation expenses for all conditions compensable under the workers' compensation law. Iowa Code § 85.27(1). Rule 876 Iowa Administrative Code 8.1(2) also provides for recovery of medical mileage.

The employer has the right to choose the provider of care, except when the employer has denied liability for the injury. Id. "The treatment must be offered promptly and be reasonably suited to treat the injury without undue inconvenience to the employee." Id. § 85.27(4). If the employee is dissatisfied with the care, the employee should communicate the basis for the dissatisfaction to the employer. Id. If the employer and employee cannot agree on alternate care, the commissioner "may, upon application and reasonable proofs of necessity therefore, allow and order other care." Id. The statute requires the employer to furnish reasonable medical care. Id. § 85.27(4); Long v. Roberts Dairy Co., 528 N.W.2d 122, 124 (Iowa 1995) (noting "[t]he employer's obligation under the statute turns on the question of reasonable necessity, not desirability"). The Iowa Supreme Court has held the employer has the right to choose the provider of care, except when the employer has denied liability for the injury,

or has abandoned care. Iowa Code § 85.27(4); Bell Bros. Heating & Air Conditioning v. Gwinn, 779 N.W.2d 193, 204 (Iowa 2010).

The Iowa Supreme Court has held an employer may be responsible for unauthorized care "upon proof by a preponderance of the evidence that such care was reasonable and beneficial," meaning "it provides a more favorable medical outcome than would likely have been achieved by the care authorized by the employer." Gwinn, 779 N.W.2d at 206.

As analyzed above, McDowell has established she sustained a permanent impairment to her lumbar spine as a result of the work injury. McDowell seeks to recover the cost of treatment provided by Dr. Biggerstaff on July 19, 2016, August 17, 2016, September 27, 2016, October 18, 2016, and October 28, 2016, by Little on December 7, 2016, January 25, 2017, and April 4, 2017, and the cost of lumbar spine magnetic resonance imaging conducted on January 31, 2017. (Ex. 11, pp. 47-56) The medical bills are for treatment related to McDowell's work injury. UnityPoint is responsible for all causally related medical bills.

McDowell also seeks to recover the cost of medical bills for treatment she received from Dr. Arason on April 18, 2016, May 9, 2016, June 3, 2016, August 1, 2016, September 14, 2016, September 29, 2016, October 24, 2016, and November 16, 2016. McDowell is only entitled to recover the cost of medical bills related to the work injury. McDowell received treatment for a pruritic rash on August 1, 2016, for dermatitis and anxiety on September 29, 2016, and attended a follow-up appointment for tuberculosis on November 16, 2016. These appointments were for treatment unrelated to the work injury. (JE 8, pp. 144-47, 152-56, 160) The remaining bills are related to the work injury. UnityPoint is responsible for all causally related medical bills from April 18, 2016, May 9, 2016, June 3, 2016, September 14, 2016, and October 24, 2016.

V. Costs

McDowell seeks to recover the $2,977.00 cost of Dr. Bansal's independent medical examination and report, the $120.00 cost of a pre-deposition medical conference, the $199.63 cost of McDowell's deposition transcript, and the $100.00 cost of the filing fee. (Exs. 14; 15) In her post-hearing brief, McDowell also requested UnityPoint pay one-half of the $1,600.00 cost of Little's deposition time.

Iowa Code section 86.40, provides, "[a]ll costs incurred in the hearing before the commissioner shall be taxed in the discretion of the commissioner." Rule 876 IAC 4.33(6), provides

> [c]osts taxed by the workers' compensation commissioner or a deputy commissioner shall be (1) attendance of a certified shorthand reporter or presence of mechanical means at hearings and evidential depositions, (2) transcription costs when appropriate, (3) costs of service of the original notice and subpoenas, (4) witness fees and expenses as provided by Iowa Code sections 622.69 and 622.72, (5) the costs of doctors' and

> practitioners' deposition testimony, provided that said costs do not exceed the amounts provided by Iowa Code sections 622.69 and 622.72, (6) the reasonable costs of obtaining no more than two doctors' or practitioners' reports, (7) filing fees when appropriate, (8) costs of persons reviewing health service disputes.

A. Independent Medical Examination and Report

After receiving an injury, the employee, if requested by the employer is required to submit to examination at a reasonable time and place, as often as reasonably requested to a physician, without cost to the employee. Iowa Code § 85.39. If an evaluation of permanent disability has been made by a physician retained by the employer and the employee believes the evaluation is too low, the employee "shall, upon application to the employer and its insurance carrier, be reimbursed by the employer the reasonable fee for a subsequent examination by a physician of the employee's own choosing." Id.

UnityPoint elected not to send McDowell for an independent medical examination, and requested Dr. Boarini respond "yes" or "no" to statements prepared by counsel concerning permanency. (Ex. A) Dr. Bansal later performed an independent medical examination for McDowell. (Ex. 1) Dr. Boarini was selected by McDowell's personal physician, not by UnityPoint. McDowell is not entitled to recover the cost of Dr. Bansal's independent medical examination under Iowa Code section 85.39. See IBP, Inc. v. Harker, 633 N.W.2d 322, 326 (Iowa 2001) (holding although the employer acquiesced to the claimant's physician choice, the claimant was not entitled to recover the cost of an independent medical examination because she chose the physicians who provided the unfavorable impairment ratings, and they were not "retained by the employer").

The administrative rule allows for the recovery of the cost of two practitioners' reports. Rule 876 IAC 4.33(6). In the case of Des Moines Area Regional Transit Authority v. Young, the Iowa Supreme Court held:

> [w]e conclude section 85.39 is the sole method for reimbursement of an examination by a physician of the employee's choosing and that the expense of the examination is not included in the cost of a report. Further, even if the examination and report were considered to be a single, indivisible fee, the commissioner erred in taxing it as a cost under administrative rule 876-4.33 because the section 86.40 discretion to tax costs is expressly limited by Iowa Code section 85.39.

867 N.W.2d 839, 846-47 (Iowa 2015). Dr. Bansal's bill is not itemized. (Ex. 14, p. 72) Under Young, McDowell is not entitled to recover the cost of Dr. Bansal's report. Id.

B. Remaining Costs

The administrative rule expressly allows for the recovery of the $199.63 cost of McDowell's deposition and the $100.00 cost of the filing fee. Rule 876 IAC 4.33(6). The administrative rule does not allow for the recovery of the $120.00 cost of a pre-deposition medical conference.

The rule also affords recovery of the cost of a practitioner's testimony, provided the cost does not exceed the amounts provided by Iowa Code sections 622.69 and 622.72. Iowa Code section 622.69 allows for payment of $10.00 for each full day of attendance at a deposition, or $5.00 for a half day of attendance, plus mileage. Iowa Code section 622.72 allows for payment to an expert witness which "shall not exceed one hundred fifty dollars per day." The parties did not submit a bill from Little before the record was closed. Using my discretion I decline to award McDowell the cost of Little's deposition testimony. UnityPoint is assessed the $100.00 cost of the filing fee, and the $199.63 cost of McDowell's deposition.

ORDER

IT IS THEREFORE ORDERED, THAT:

Defendants shall pay the claimant seventy-five (75) weeks of permanent partial disability benefits, at the rate of three hundred two and 59/100 dollars ($302.59) per week, commencing on March 22, 2017.

Defendants shall pay accrued benefits in a lump sum with interest on all weekly benefits provided by law.

Defendants are responsible for all causally related medical bills set forth in this decision.

Defendants are assessed one hundred and 00/100 dollars ($100.00) for the filing fee, and one hundred ninety-nine and 63/100 dollars ($199.63) cost of McDowell's deposition transcript.

Defendants shall file subsequent reports of injury as required by this agency pursuant to rules 876 IAC 3.1(2) and 876 IAC 11.7.

Signed and filed this 27th day of February, 2018.

HEATHER L. PALMER
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

Copies to:

John T. Hemminger
Attorney at Law
2454 SW 9th St.
Des Moines, IA 50315-1904
johnhemminger@hemmingerlaw.com

Jennifer Clendenin
Attorney at Law
100 Court Ave., Ste. 600
Des Moines, IA 50309-2346
jclendenin@ahlerslaw.com

HLP/srs

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.