BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

GARY SCHMIDT,

Claimant,

vs.

QUAKER OATS COMPANY,

Employer,

and

INDEMNITY INSURANCE CO. OF NORTH AMERICA,

Insurance Carrier,
Defendants.

File No. 5057561

ARBITRATION DECISION

Head Note Nos.: 1803, 4000.2

STATEMENT OF THE CASE

Gary Schmidt, claimant, filed a petition in arbitration seeking workers' compensation benefits against Quaker Oats Company, employer, and Indemnity Insurance Co. of North America for a disputed work injury.

This case was heard on December 12, 2017, in Cedar Rapids, Iowa. The case was considered fully submitted on January 22, 2018, upon the simultaneous filing of briefs.

The record consists of Joint Exhibits 1-8, Claimant's Exhibits 1-6, Defendants' Exhibits A-E.

ISSUES

Extent of claimant's industrial disability;

Whether claimant is entitled to penalty benefits for late-paid permanent partial disability benefits as well as interest on those alleged late-paid permanent partial disability benefits;

Whether claimant is entitled to an assessment of costs.

STIPULATIONS

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.

The parties agree claimant sustained an injury on or about July 19, 2012, which arose out of and in the course of his employment. This injury gave rise to temporary and permanent disability. Only the latter is in dispute.

The parties further agree that claimant's permanent disability is industrial in nature and that the commencement date for permanent partial disability benefits, if any are awarded, is October 14, 2013.

At the time of the stipulated injury, claimant's gross earnings were $1,389.98 per week. He was married and entitled to 3 exemptions. Based on those numbers, the weekly benefit rate is $882.04.

Defendants agreed to pay out-of-pocket transportation expenses pursuant to Iowa Code §85.27. Prior to the hearing, claimant was paid 40 weeks of compensation at the rate of $859.67 per week. Defendants are further entitled to a credit under Iowa Code 85.34(7) for payment of 25 percent industrial disability for a June 10, 2006, left shoulder injury.

FINDINGS OF FACT

Claimant was a 55-year-old person at the time of hearing. At all material times, claimant was married and entitled to 2 exemptions. He graduated from high school in 1981 and was an average student. He has had no formal education since high school. Claimant is primarily left-handed.

His past work history includes laborer at a feed mill owned and operated by his father, construction worker, stocker, groundskeeper and maintenance man for the Linn-Mar Community School District, athletic coordinator, and eventually day custodian. He also worked part-time as a bus driver for a different school district.

From 1990-1995, he worked as a mixer operator for Hubbard Milling Company blending ingredients to make animal food. This required heavy lifting and over-the-shoulder work. From 1995 to 2000, he was a plant superintendent for International Ingredient Corporation wherein he supervised around 15 employees, handled logistics and inventory, and occasionally helped with physical tasks.

He began working for defendant employer in 2000, beginning as Head Miller in the Oatmeal Department and then transitioning into a Systems Operator in 2008. His initial position did not require heavy lifting or over-the-shoulder work, but his later

positions required both. In March 2015, he began working on the Meta Line and no longer had to lift more than 10 to 15 pounds and occasionally used a long-handled broom to perform overhead cleanup work. In November 2016, he briefly took a position as a Packaging Operator in Bulk Products which involved filling bags and sacks with oats, flour, grits and oat bran. This job required lifting in excess of 50 pounds and some over-the-shoulder work.

In July 2017, claimant transitioned to Packaging Relief Operator in Bulk Products. His primary duties include cleaning the warehouse and occasionally filling in for a sick employee.

His past medical history is relevant for a June 10, 2006, work injury to his left shoulder. He underwent surgical repair in 2006, with Fred Pilcher, M.D., and in 2007, he was released back to work with no restrictions. Dr. Pilcher wrote, "for the most part can do everything at home and at work" and "[o]verall his arm is better but it is not great. He has some rotator cuff pathology." (JE 4:1) Dr. Pilcher assigned claimant an eight percent whole person impairment. In June 2008, claimant was examined by John Kuhnlein, D.O., who assessed a four percent whole person impairment. (CE 1:7) Dr. Kuhnlein recorded the following measurements as to range of motion:

SHOULDER Right/Left	Flexion	Extension	Abduction	Adduction	Internal Rotation	External Rotation
Value	150/150 degrees	50/50 degrees	170/140 degrees	60/40 degrees	80/80 degrees	90/80 degrees

(CE 1:5) As a result, the following restrictions were recommended:

> At this time, I would suggest that Mr. Schmidt would be capable of lifting 50 pounds on an occasional basis from floor to waist and waist to shoulder, but 30 pounds occasionally on an over-the-shoulder basis because of his left shoulder. There would be no restrictions at this time with respect to the right upper extremity, but I would advise caution to avoid overstressing the right shoulder, as he has a previous history of mild right rotator cuff tendinitis from 2001.

(CE 1:7)

Dr. Kuhnlein recommended no over-the-shoulder work on a ladder. From claimant's work history, it does not appear that he observed these work restrictions. In 2008, he took a position as Systems Operator that required him to lift more than 50 pounds and some overhead work. He continued in that position until March 2015 except for a brief stint on the Meta Line where he did not lift more than 15 pounds but did do overhead work.

On July 19, 2012, claimant was working as a Systems Operator when he attempted to remove a 50-pound box from a pallet. He felt a sharp pain in his left

shoulder. The following day, he presented to the emergency room with complaints of pain in the left shoulder. The medical records show the "[p]ain is reproducible with movement." (JE 1:2) He was discharged with a sling and work restrictions. (JE 1:3) The x-rays were unremarkable.

On July 24, 2012, claimant followed up with Jeffrey Westpheling, M.D. (JE 2:1) Claimant exhibited full range of motion with some hesitancy. (JE 2:1) He was instructed to attend physical therapy. New work restrictions were imposed of no reaching overhead, no lifting or carrying more than ten pounds and no forceful pushing or pulling. (JE 2:3)

On July 31, 2012, claimant returned with complaints that the pain was disrupting his sleep. An MRI was ordered to rule out "significant internal derangement." (JE 2:4)

The MRI results revealed post-surgical changes "without evidence of a recurrent tear." (JE 2:6)

During his August 9, 2012, meeting with Dr. Westpheling, the two discussed the "very reassuring" MRI results given "that there is no evidence of a labral or rotator cuff tear." (JE 2:7) If claimant's condition did not improve, Dr. Westpheling recommended cortisone injections. Id. Claimant was to continue on restrictions and physical therapy. Id.

Claimant underwent a cortisone injection on August 17, 2012. (JE 2:9) When that did not resolve his pain, he was referred to orthopaedics. Dr. Westpheling documented the following:

> SUBJECTIVE: Mr. Schmidt presents today for followup of left shoulder tendinitis. He continues to experience a bone-on-bone type sensation when he has his left shoulder in an abducted position and the elbow flexed to 90 degrees. With rotation of the forearm in this position, he notes a bone-on-bone type sensation, which he reports is difficult to describe, but remains present despite having undergone a subacromial cortisone injection at his last visit. He has been receiving physical therapy.

(JE 2:11)

He was discharged from physical therapy on August 28, 2012, with all goals met. (JE 3:5)

On September 18, 2012, claimant resumed treatment with Dr. Pilcher. (JE 4:3) Dr. Pilcher diagnosed claimant with left rotator cuff strain with possible significant partial tear. Id. Claimant was continued on light duty and Dr. Pilcher was hopeful the condition would resolve without any type of surgical intervention. (JE 4:4)

In the follow up appointment on October 19, 2012, Dr. Pilcher maintained optimism that claimant's condition would resolve.

> 3 months since his injury to left shoulder and arm. I think he is better based on the physical exam today. 140° easily afford flexion and about 120° of abduction. Still has some discomfort with rotation when his arm is abducted beyond 90°. Starting to increase his strength tolerance. The major difficulty his shoulder level and above.
>
> I reviewed the previous notes and he is better.
>
> Based on the findings and his complaints, we are adapting his work restrictions with only limitations of shoulder level and above work.

(JE 4:6)

In November, claimant continued complaints of tenderness and weakness. (JE 4:8) Dr. Pilcher maintained the same restrictions and ordered claimant to return in two months. Id.

A second injection was performed in March but because claimant continued to show signs of impairment including pain on movement, positive impingement test and reduced range of motion, Dr. Pilcher recommended arthroscopic surgery which took place on May 20, 2013. (JE 4:18) The surgery revealed no rotator cuff tears. The labrum was intact. There was mild fraying. Dr. Pilcher performed a minor acromionectomy and a removal of the thickening and obstruction in the subacromial space. (JE 4:19)

Claimant began another round of physical therapy. (JE 3:6) He continued in therapy until July 22, 2013, after 13 visits. (JE 3:9) Claimant's pain and weakness was continuing. By August 2, 2013, claimant had undergone 18 therapy visits. (JE 3:10) He had weakness in abduction along with full range of motion with catching or clicking. Id.

On August 6, 2013, claimant was seen by Dr. Pilcher for the persistent pain, clicking and popping sensation in the left shoulder. (JE 4:28) Dr. Pilcher did not have further medical care to offer claimant and did not believe that more medical treatment to the left shoulder was necessary. Dr. Pilcher released claimant to return back to work with restrictions of no lifting, pulling or pushing more than 20 pounds above shoulder level on the left. (JE 4:28)

Claimant was allowed to return to his regular job as a Systems Operator but he was not allowed overtime. Company policy restricted overtime work to an employee under work restrictions.

On October 8, 2013, Dr. Pilcher noted the following:

> On July 7, 2013 I sent him back to work with a 20 pound restriction left upper extremity, pulling, pushing and lifting especially shoulder level and above.
>
> For some reason he was not allowed to return with those restrictions.
>
> Uncertain as to the confusion, I told the patient that I have no information in this regard.
>
> Hopefuly [*sic*] this can be resolved.
>
> In the meantime, I want him to continue with his home exercise program, and we are placing him back to regular duty October 14, 2013.
>
> He will eventually need impairment rating for this left shoulder. I do not think he will be any different from the original rating. Will require letter of request from Quaker Oats.

(JE 4:30) Claimant then contacted Dr. Pilcher's office to request that the restrictions be lifted. (JE 5:1) Claimant was then returned to work without restrictions as of October 14, 2013. Id.

On April 22, 2014, Dr. Pilcher issued an impairment rating, assigning eight percent impairment of the whole person.

> Today we discussed impairment rating and maximum medical improvement.
>
> His last left shoulder surgery was May 20, 2013.
>
> He is doing a different job. Still remains qualified for his old job with no restrictions. He did mention possibility of a 50 pound restriction but I am unable to find that after reviewing his chart, including the biceps tendon return to work.
>
> His wife is present. He has pain at extremes, especially with abduction. No numbness or tingling.
>
> Active range of motion: Abduction 90°, Two thirds adduction, 50° external rotation, 50° internal rotation, Forward flexion 110°. One half extension.
>
> No complications. Grade 5 minus strength.
>
> I will review his previous evaluation—impairment rating.

> There'll be no restrictions at the present time. However, the 50 pound restriction record is not retrievable if it exists.

(JE 4:33) Dr. Pilcher noted that this was the exact impairment rating he had issued for the 2006 shoulder injury. (JE 4:34)

On November 12, 2015, claimant was examined by Dr. Kuhnlein for another IME. (CE 1:15) Claimant exhibited some reduction in range of motion on the left in flexion, abduction, and adduction along with reduced strength. (CE 1:19-20)

SHOULDER Right/Left	Flexion	Extension	Abduction	Adduction	Internal Rotation	External Rotation
Value	170/150 degrees	60/60 degrees	160/120 degrees	35/40 degrees	90/90 degrees	80/85 degrees

(CE 1:19)

Dr. Kuhnlein diagnosed claimant as suffering from impingement syndrome of the left shoulder and that condition arose from an aggravation of a pre-existing condition. (CE 1:20) Dr. Kuhnlein recommended claimant continue range of motion and strengthening exercises as well as permanent work restrictions.

> to the present time. Permanent work restrictions are in order not only because of the effects of the prior injuries, but also for protective purposes in the future.
>
> Mr. Schmidt can lift 30 pounds occasionally from floor to waist, 40 pounds occasionally from waist to shoulder as long as weights are kept close to the axial plane of his body, and 20% occasionally over shoulder height because of his left shoulder condition.
>
> With respect to nonmaterial handing, there would be no sitting, standing or walking restrictions. He can stoop/squat, bend, crawl or kneel without restrictions. He can work occasionally on ladders or at height. He would be capable of maintaining a 3-point safety stance. He can go up and down stairs without restrictions. He could work occasionally at or above shoulder height, including with manual, vibratory or power tools. He can grip and grasp without restriction below shoulder height, and occasionally above shoulder height. There are no lower extremity restrictions.

(CE 1:21) Dr. Kuhnlein assessed an eight percent impairment of the whole person which was an increase from his 2005 assessment of four percent. (CE 1:21)

At the request of the defendants, claimant saw Thomas Gorsche, M.D., an orthopaedic surgeon, for another IME. Dr. Gorsche assigned claimant a seven percent whole body impairment based on the loss of motion. (Ex. A:5)

Dr. Gorsche's examination revealed some limited range of motion on the left compared to the right.

> upper extremities. Comparing the left to the right, there is no swelling, no lymphedema. He has full active range of motion of the right shoulder. Normal strength. He has forward flexion of 155 degrees on the left. He will abduct 160 degrees. He has full extension, full external rotation, and only 20 degrees of internal rotation. His strength is good. His reflexes are equal bilaterally.

(Ex A:4) Dr. Gorsche did not believe claimant needed any restrictions based on the lack of "structural defects." (Ex. A:5)

Claimant testified that his examination and meeting with Dr. Kuhnlein lasted approximately one and a half hours whereas the meeting with Dr. Gorsche did not extend beyond fifteen minutes. Claimant also maintained that he spoke primarily about weight loss with Dr. Gorsche and that Dr. Gorsche only asked him to rotate his shoulder once.

Currently, claimant experiences occasional pain along with cracking and popping on rotation. He feels occasional numbness in the index, middle, ring and thumb fingers, most often at night or after long bouts of driving. He finds he has difficulty relaxing at night. He complains of a loss of strength and dexterity. For example, he cannot scratch behind his back with his left hand. He has difficulty pulling shirts over his head. He can no longer swing a baseball bat or play golf.

Outdoor lawn activities such as hoeing or using a chain saw to trim trees is difficult. While he still bow hunts, he claims that the pressure from drawing the bow back is painful. Claimant's social media activities show him hunting, fishing and carrying 50 plus pounds of sugar. (Ex D)

For his past work activities, he does not believe he could return to previous jobs that require overhead work or lifting.

After the July 19, 2012, work injury defendants paid claimant temporary partial disability benefits. These checks, per Claimant's Exhibit 4, were issued late. Some checks were issued two to three weeks later and some were issued only a few days late. (CE 4:1) Claimant was also paid eight weeks of permanent partial disability benefits for the period of October 8 to December 2, 2013. Six of the eight weeks were paid late. Again, some were paid one or two weeks late and a few were issued days late. (CE 4:4)

On October 8, 2013, Dr. Pilcher released claimant to work without restrictions and on October 14, 2013, defendants requested an impairment rating from Dr. Pilcher. That impairment rating was not issued until April 23, 2014. New permanent partial disability benefits did not resume until May 22, 2014. (CE 4:4)

Claimant points to a past history of defendants delaying payments to injured workers. (CE 4:8-10)

CONCLUSIONS OF LAW

The party who would suffer loss if an issue were not established ordinarily has the burden of proving that issue by a preponderance of the evidence. Iowa Rule of Appellate Procedure 6.14(6)(e).

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).

Defendants maintain claimant is in no different physical condition post the 2012 injury as he was post the 2006 injury. Claimant was seen by Dr. Pilcher and Dr. Kuhnlein for both injuries and therefore, Dr. Pilcher and Dr. Kuhnlein's opinions are given greater weight. Dr. Pilcher's examination and impairment rating supports defendants' argument. In April 2015, Dr. Pilcher assessed claimant as suffering an eight percent whole person impairment with no work restrictions, the same rating he assigned in the 2006 injury.

Dr. Kuhnlein's post 2012 impairment rating increased, but only to the level that Dr. Pilcher's was at pre 2012 injury.

Dr. Kuhnlein recorded the following range of motion in 2008 and then again in 2015.

SHOULDER Right/Left	Flexion	Extension	Abduction	Adduction	Internal Rotation	External Rotation
Value	150/150 degrees	50/50 degrees	170/140 degrees	60/40 degrees	80/80 degrees	90/80 degrees

SHOULDER Right/Left	Flexion	Extension	Abduction	Adduction	Internal Rotation	External Rotation
Value	170/150 degrees	60/60 degrees	160/120 degrees	35/40 degrees	90/90 degrees	80/85 degrees

(CE 1:5, 1:19)

The biggest change is that in July 18, 2008, Dr. Kuhnlein recommended 50 pounds of lifting from floor to waist and waist to shoulder on an occasional basis. After the November 2015, examination, Dr. Kuhnlein revised the work restrictions to be 40 pounds from waist to shoulder on an occasional basis.

Thus, based on Dr. Kuhnlein's restrictions and measurements, there is a small aggravation of a pre-existing condition.

Defendants argue that claimant's return to full duty work along with the current lack of treatment or medication or current physical therapy negate any additional finding of permanent partial disability due to the 2012 injury. They argue that his current symptoms of pain, clicking and popping on movement, numbness and discomfort during sleep are mild and do not impinge on his ability to work.

Dr. Pilcher's recommendations of no lifting more than 20 pounds were at the claimant's request. Claimant returned to his pre-injury position until March 2015 when he began working on the Meta Line in a position that was well within the work restrictions of both Dr. Kuhnlein and Dr. Pilcher. He then moved to Packaging Operator where he was required to lift 50-pound bags of oats and flour along with some over-the-shoulder work. Finally, in July 2017, he transitioned to a Packaging Relief Operator in Bulk Products, a position that does not require much lifting or overhead work. About half of the positions that claimant performed for the defendant employer were outside the 2012 restrictions of Dr. Kuhnlein and about half were within the restrictions. Claimant has experienced no reduction in pay.

However, when claimant saw Dr. Pilcher in April 2014, Dr. Pilcher did not recommend any new restrictions. He wrote that he was "unable to find any permanent restrictions placed on his shoulder regarding the 2 surgical procedures that we are dealing with at the present time" but gave an impairment based on loss of range of motion, weakness and discomfort. (JE 4:34)

Therefore, based on the April 23, 2014, findings of Dr. Pilcher, along with the opinions and careful measurements of Dr. Kuhnlein, it is determined claimant has sustained an additional 5 percent impairment as a result of the aggravation of his pre-existing condition or a 30 percent impairment in total[1].

Turning to the issue of penalty, once the claimant proves that there are late payments, the burden shifts to the defendant to show compliance. Iowa Code section 85.13(4)(b).

Claimant's Exhibit 4 shows a pattern of late payments.[2] While the delay was short, it happened repeatedly. Defendants argue that they made good faith efforts to pay the benefits timely. Defendants offered no testimony on this issue and there is no documentation in the records.

A reasonable or probable cause or excuse must satisfy the following requirements:

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[1] Claimant has been paid 32 percent impairment already. He received a 25 percent industrial disability benefit following the 2006 injury and an additional 8 percent following the opinion of Dr. Pilcher. The parties stipulated defendants are entitled to a credit of both.

[2] Claimant argues for penalty in the delay in obtaining an impairment rating but penalty is only allowed for late payment of benefits or unreasonable termination of benefits. Therefore the argument regarding the delay in obtaining impairment rating is not addressed insofar as claimant is arguing that it is a separate basis for penalty benefits.

> (1)The excuse was preceded by a reasonable investigation and evaluation by the employer or insurance carrier into whether benefits were owed to the employee;
>
> (2)The results of the reasonable investigation and evaluation were the actual basis upon which the employer or insurance carrier contemporaneously relied to deny, delay payment of, or terminate benefits;
>
> (3)The employer or insurance carrier contemporaneously conveyed the basis of the denial, delay in payment, or termination of benefits to the employee at the time of the denial, delay or termination of benefits.

(Iowa Code section 86.13(4)(c)). The argument made in the brief is merely argument and it is not based on factual evidence in the record. Therefore, it is found that defendants did not have a good faith excuse to delay temporary benefit payments.

However, given that the delays were short for the temporary benefits, the penalty will be ten percent of the temporary benefits paid late.

The permanent benefits were paid six months late. Dr. Pilcher did not provide an impairment rating until April 2014, despite releasing claimant to work without restrictions in October 2014. Dr. Pilcher did note that he believed his rating would not change from his original rating, but he still maintained a new rating was necessary. There was no explanation for the delay. Even after Dr. Pilcher issued his eight percent impairment rating, no new industrial benefit was paid until May, nearly two months following Dr. Pilcher's report.

Therefore, it is found defendants did not have a good faith excuse to delay permanent benefit payments. Given the nearly 8-month delay in payment, the penalty for the late paid permanent benefits for the aggravation of the pre-existing work injury shall be 25 percent.

ORDER

THEREFORE, IT IS ORDERED:

That defendants are to pay unto claimant twenty-five (25) weeks of permanent partial disability benefits at the rate of eight hundred eighty-two and 04/100 dollars ($882.04) per week from October 14, 2013, for the July 19, 2012, aggravation of a previous work injury.

That defendants are to be given credit for forty (40) weeks of compensation previously paid.[3]

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[3] Defendants previously paid 25 percent industrial disability for the June 10, 2016, left shoulder injury. (Ex B:9) However, that benefit rate was $760.75. Therefore, the previous settlement is not included in the above order.

That claimant is entitled to penalty benefits or interest on said penalty benefits as follows:

- For late payment of temporary benefits, claimant is entitled to ten (10) percent of late paid temporary benefits.

- For late payment of permanent benefits, claimant is entitled to twenty-five (25) percent of the twenty-five (25) weeks of permanent partial disability benefits owed.

That defendants shall file subsequent reports of injury as required by this agency pursuant to rule 876 IAC 3.1(2).

That defendants shall pay the costs of this matter pursuant to rule 876 IAC 4.33.

Signed and filed this 2nd day of March, 2018.

JENNIFER S. GERRISH-LAMPE
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

Copies to:

Robert R. Rush
Attorney at Law
PO Box 637
Cedar Rapids, IA 52406-0637
bob@rushnicholson.com

Kent M. Smith
Attorney at Law
1225 Jordan Creek Pkwy., Ste. 108
West Des Moines, IA 50266-0036
ksmith@scheldruplaw.com

JGL/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.