BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

JOSHUA J. DOUGLAS,

Claimant,

vs.

VERMEER MANUFACTURING,

Employer,

and

EMC RISK SERVICES,

Insurance Carrier,
Defendants.

File No. 5062611

A R B I T R A T I O N

D E C I S I O N

Head Note Nos.: 1402.30; 1402.40; 1802; 1803; 2209; 2501; 2907; 4000.2

STATEMENT OF THE CASE

Joshua Douglas, claimant, filed a petition in arbitration and seeks workers' compensation benefits from defendants, Vermeer Manufacturing, as the employer and EMC Risk Services, as the insurance carrier. Hearing occurred before the undersigned on December 20, 2017, in Des Moines.

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. 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 evidentiary record includes Joint Exhibits 1 through 6, Claimant's Exhibits 1 through 21, and Defendants' Exhibits A through D and F. All exhibits were received without objection. Defendants requested and the undersigned took administrative notice of those portions of the AMA Guides to the Evaluation of Permanent Impairment, Fifth Edition, that pertain to respiratory disease. (Transcript, page 142)

Claimant testified on his own behalf and on rebuttal after the close of defendants' case-in chief. Mr. Douglas also called Renee Douglas, his wife, to testify. Defendants called Eric Rosendaal and Patrick G. Hartley, M.B., B.Ch., B.A.O., to testify. The evidentiary record closed at the conclusion of the December 20, 2017 arbitration hearing.

However, counsel for the parties requested an opportunity to submit post-hearing briefs. Their request was granted. The parties filed post-hearing briefs on February 7, 2018, which represents the date when this case was considered fully submitted to the undersigned.

ISSUES

1. Whether claimant sustained an injury that arose out of and in the course of his employment with Vermeer Manufacturing on July 1, 2016.

2. Whether the alleged injury caused a temporary disability and, if so, the extent of claimant's entitlement to temporary disability benefits.

3. Whether the alleged injury caused permanent disability and, if so, the extent of claimant's entitlement to permanent disability benefits.

4. The proper commencement date for permanent disability benefits, if any.

5. Whether claimant is entitled to reimbursement, payment, other satisfaction of past medical expenses.

6. Whether claimant is entitled to reimbursement for his independent medical evaluation pursuant to Iowa Code section 85.39.

7. Whether defendants are entitled to a credit pursuant to Iowa Code section 85.38(2) for disability benefits paid to claimant.

8. Whether defendants should be ordered to pay penalty benefits for an alleged unreasonable delay or denial of weekly benefits and, if so, in what amount.

9. Whether costs should be assessed against either party.

RULING ON RESERVED EVIDENTIARY OBJECTION

During the course of this arbitration hearing, claimant asserted an objection to the introduction of certain evidence. Specifically, claimant objected to certain opinions being offered by Dr. Hartley pertaining to issues not contained in his written report prior to the time of trial. Claimant's initial objection in this respect is stated at page 127 of the Transcript. The undersigned took the objection under advisement pending receipt of the proposed testimony and review of the experts' reports. (Tr., p. 130)

Claimant asserted the same objection to Dr. Hartley's testimony at pages 133, 142, and 145 of the Transcript. Again, the undersigned took those objections under advisement at the time of trial. Defendants contended at the conclusion of the trial that claimant waived all objections by posing questioning during cross-examination. (Tr., p. 169)

The undersigned essentially invited cross-examination to determine any prejudice prior to ruling upon claimant's objections. I conclude that claimant did not waive his objections by proceeding with a cross-examination of Dr. Hartley.

However, having heard the testimony offered by Dr. Hartley and having reviewed the reports of Dr. Hartley and Dr. Bansal, I perceive no significant prejudice to claimant in permitting the line of questioning offered by defendants. Dr. Hartley's testimony commented directly on the research articles and conclusions offered by claimant's expert, Dr. Bansal. Dr. Hartley's testimony was predictable and foreseeable under these circumstances and did not vary significantly from his previously stated opinions, perhaps other than in his comments about the research study referenced by Dr. Bansal. In either event, claimant did have the chance to cross-examine Dr. Hartley at the time of trial. Claimant did not establish any specific prejudice that requires exclusion of Dr. Hartley's opinions as offered at the time of trial. Claimant's objections to the testimony of Dr. Hartley's trial testimony are overruled and Dr. Hartley's testimony is admitted in its entirety.

FINDINGS OF FACT

Having considered all of the evidence and testimony in the record, recognizing that there may be competing or contradictory facts within this evidentiary record, I find the following facts:

Joshua Douglas is a 37-year-old gentleman, who worked for Vermeer Manufacturing from 2004 through October 30, 2015. (Transcript, pages 11, 15-19, 30, 33; Claimant's Ex. 3, p. 23) Mr. Douglas asserts that he sustained a pulmonary injury as a result of his exposure to smoke, dust, and manufacturing particulates while working at Vermeer.

Mr. Douglas worked various positions for Vermeer, some occurring inside the production facility and some outside. Each of the positions held were discussed and described by claimant at Transcript pages 15 through 19 and summarized at Claimant's Exhibit 3, page 23.

From 2010 until 2012, claimant worked as a parts specialist, which was a position located outside the production floor. In fact, this job was basically in an office setting. (Tr., pp. 18, 59) Claimant was not exposed to any fumes, dust, or other manufacturing particulates while performing work as a parts specialist.

From 2012 until his last work on the production floor in October 2015, Mr. Douglas worked in Plant 2 at Vermeer as an assembly tech. His work station was located at the loading dock area but near other production areas such as painting, welding, assembly, and the machine shop. Claimant would enter other production areas to perform inspections periodically throughout his workday.

He was officially terminated by Vermeer on July 1, 2016 because he was not able to perform the essential functions of his job. (Claimant's Exhibit 6, p. 29)

Prior to commencing his employment at Vermeer, Mr. Douglas submitted to a pre-employment physical screening, which demonstrated no limitations and indicated that claimant had successfully passed the pre-work screening. (Joint Exhibit 1) Unfortunately, Mr. Douglas did experience some significant health problems during his employment with Vermeer. In 2009, claimant underwent a kidney transplant. (Tr., p. 37) Although he required no permanent physical restrictions following the kidney transplant, he was permanently placed on immunosuppressant medication to hopefully prevent his body from rejecting the foreign kidney. (Tr., p. 54)

Mr. Douglas had a good recovery from his kidney transplant. However, he has experienced health issues since then. In February 2010, Mr. Douglas sought treatment at the emergency room as a result of a fever, coughing and sore throat symptoms. He was diagnosed with bronchitis initially, but later diagnosed with pneumonia and was hospitalized. (Joint Ex. 2, pp. 6, 10)

In July 2011, claimant presented for medical care with complaints of chest congestion, a cough, fever and fatigue. (Joint Ex. 2, p. 21) Claimant was again diagnosed with pneumonia. (Joint Ex. 2, p. 24; Tr., p. 24)

In February 2012, claimant again experienced similar symptoms and required medication therapy. In March 2012, claimant evaluated with a pulmonologist, who diagnosed claimant with pneumonitis. (Joint Ex. 5, pp. 209, 2012) Each of these bouts of pneumonia or pneumonitis occurred before Mr. Douglas took his position as an assembly tech in Plant 2 at Vermeer. Certainly, none of the four pulmonary incidents occurring before Mr. Douglas began working as an assembly tech can be attributed to his exposure to dust, smoke, welding fumes, or other manufacturing particulates at Vermeer.

However, after Mr. Douglas took his position as an assembly tech, the frequency of his pulmonary difficulties began to increase and arise more frequently. In October 2012, Mr. Douglas exhibited symptoms of an upper respiratory infection that required treatment. (Joint Ex. 2, p. 32) In January 2013, claimant sought treatment at the emergency room and was admitted to the hospital with a diagnoses of pneumonia. He required medications and supplemental oxygen during his in-patient care. (Joint 2, pp. 43-44)

In October 2013, claimant again developed pneumonia and was hospitalized. (Joint Ex. 2, p. 54) In September 2014, claimant again had to seek treatment at the emergency room and was later diagnosed with pneumonia. (Joint Ex. 2, pp. 67, 68, 71) In March 2015, claimant presented to the emergency room with shortness of breath, a cough, a fever, nausea and vomiting. (Joint Ex. 2, pp. 76-77) He was again diagnosed with pneumonia and required supplemental oxygen and hospitalization. (Joint Ex. 2, p.

78) At this juncture, claimant began treatment with Bruce Buchsbaum, M.D., an infectious disease specialist. (Joint Ex. 2, pp. 85, 87; Joint Ex. 3, p. 168)

On September 11, 2015, claimant sought medical attention at the emergency room and was diagnosed with pneumonia. (Joint Ex. 2, p. 93) Again on September 28, 2015, claimant required emergency care. He was again admitted to the hospital and diagnosed with pneumonia. (Joint Ex. 2, p. 96) As a result of this episode, Mr. Douglas was diagnosed with sepsis and required treatment in the intensive care unit due to his symptoms. He required supplemental oxygen and nebulizer treatments after this event. (Joint Ex. 2, pp. 96, 101)

On October 23, 2015, claimant was evaluated by a specialist, Ravi K. Vemuri, M.D. Dr. Vemuri noted, "there is some concern about the possibility of occupational exposure to excessive dust and fumes on the factory floor where he works all day." (Joint Ex. 5, p. 227) Dr. Vemuri noted that he had written a letter noting "that we feel the factory floor atmosphere may be playing a detrimental role in his overall health." (Joint Ex. 5, p. 227)

In his letter, Dr. Vemuri noted,

> It is our understanding that his current job requires spending his entire shift on the shop floor where he is exposed to particulate matter in the work atmosphere. It is our opinion that this type of exposure is potentially detrimental to his health. We feel he would benefit from reassignment to another post off of the shop floor where his exposures would be limited.

(Joint Ex. 5, p. 229)

Claimant provided Dr. Vemuri's opinions to the employer and the employer removed claimant from his post as an assembly tech to avoid further potential exposures on the shop floor. Instead, claimant was placed on medical leave.

Mr. Douglas was later offered a position that was suitable with his medical restrictions in December 2015. He declined that offer of employment because he did not get along with the supervisor in that area. (Claimant's Ex. 5) No other work offers were extended and claimant made no further inquiries. As noted, claimant was later terminated in July 2016. (Claimant's Ex. 6)

Claimant relies upon the medical opinions offered by Dr. Vemuri, as detailed above, as well as medical opinions offered by Anne K. Hellbusch, D.O. On October 30, 2015, Dr. Hellbusch released claimant to return to work, but noted a suspicion that work exposures may be causing claimant's pulmonary difficulties. Dr. Hellbusch offered to "work with his employer to help find a job that does not cause irritation to the lungs." (Joint Ex. 2, p. 117)

In addition, claimant sought an independent medical evaluation performed by Sunil Bansal, M.D., on August 14, 2017. Dr. Bansal is an occupational medicine physician. Dr. Bansal opines:

> Mr. Douglas' work at Vermeer, starting in 2010, exposed him to multiple airway irritants. The mechanism of being exposed to multiple airway irritants, especially welding fumes, is consistent with his several-year history of recurrent pneumonia. Moreover, he was not provided respiratory protection during his exposure to the welding fume, markedly amplifying his risk.
>
> The risk of pneumonia secondary to welding fume exposure is well established in the medical literature.

(Claimant's Ex. 1, pp. 17-18)

Defendants attack the credibility of Dr. Bansal's opinions urging that claimant's exposures were not as significant as believed or asserted by Dr. Bansal. Defendants also challenge Dr. Bansal's opinions, asserting that claimant's pneumonias were viral or bacterial and the result of communicable diseases. Defendants challenge Dr. Bansal's understanding of the distances of the various work stations in Plant 2 from claimant's primary work station and argue that Dr. Bansal assumes much closer contact to the various work stations than were actually present in Plant 2. Finally, defendants note an error in Dr. Bansal's opinion in which he calculates claimant's permanent impairment using an incorrect age.

Defendants also obtained an independent medical evaluation performed by Dr. Hartley. Dr. Hartley evaluated claimant on September 29, 2017. As part of his evaluation, Dr. Hartley was provided with claimant's prior medical records. He also toured the Vermeer plant and observed the claimant's work station and its proximity to other work areas, including the welding, machining, painting, and assembly areas. (Defendants' Ex. C)

Dr. Hartley is well-qualified to offer opinions in this case. He is an occupational medicine physician and also has specialized training in pulmonology. (Defendants' Ex. F) Dr. Hartley opines:

> I find no evidence in the medical record that he has been diagnosed with a non-infectious pneumonitis. Based on my review of the medical records, and speaking with colleagues in the infectious diseases and transplant services at the University of Iowa Hospitals and Clinics, I can find no published relationship between occupational exposures in an industrial setting, and increased risk of bacterial or viral infections in an immunocompromised person or even in a person with normal immune system. . . .

> While I acknowledge that there may be a temporal relationship between Mr. Douglas' employment at Vermeer, and his recurrent episodes of pneumonitis, there may be other possible non-occupational explanations for this, including his suboptimal diabetes control during this timeframe, contributing to a greater degree of immunocompromise. The temporal relationship alone, in my opinion is insufficient evidence of an occupational association between his employment at Vermeer and his recurrent pneumonitis.

(Defendants' Ex. C, p. 15)

One critique of Dr. Hartley is that he was not provided a copy of the medical opinion and letter from Dr. Vemuri noting the possibility of a causal connection between claimants' work at Vermeer and his pulmonary difficulties. (Tr., pp. 156-157) Certainly, it is possible that the opinion of a treating specialist that observed claimant over the course of time and observed him directly while demonstrating symptoms may have swayed Dr. Hartley's analysis or opinions. However, there is no evidence that the opinions of Dr. Vemuri would have definitively changed Dr. Hartley's opinion.

Obviously, the parties present competing medical opinions and theories as to the cause of claimant's pulmonary difficulties. Claimant's theory has a very strong temporal relationship. While Mr. Douglas had some pre-existing health issues, including the use of immunosuppressant medications and some pulmonary issues before he started working on the plant floor at Vermeer, he experienced somewhat more frequent and certainly more severe pulmonary reactions after he began working in Plant 2 as an assembly tech.

Vermeer presented data it collects pertaining to employee's exposures to various particulates in its plant. (Defendants' Ex. D) Vermeer appears to have a well-regulated and fairly protective safety protocol pertaining to air-borne particulates. They test their welders and others to ensure that their exposure to air-borne particulates remain well below governmental standards. Indeed, it appears that Vermeer's efforts likely protect the vast majority of their employees from any type of harm and the company should be commended for those efforts.

Yet, Mr. Douglas requires the use of immunosuppressant medications as a result of his unrelated kidney transplant. His immunosuppressed physical state makes Mr. Douglas more susceptible to communicable diseases and exposure to pulmonary irritants such as manufacturing particulates.

Moreover, as soon as Mr. Douglas was removed from the manufacturing floor at Vermeer, his pulmonary difficulties resolved. He testified that he has not had a bout of pneumonia since he last worked at Vermeer's plant. (Tr., p. 39) Dr. Vemuri's opinion and the opinion of Dr. Hellbusch recommending that claimant seek employment somewhere other than on the manufacturing floor appear to have been borne out by the reality of claimant leaving his position in Plant 2 at Vermeer. While this may be a mere

coincidence, the temporal relationship between claimant last working at Plant 2 and the resolution of his repeated pneumonia diagnoses is very strong.

Dr. Bansal's causation opinions are well explained and reasonable. Dr. Bansal's causation opinions certainly make sense within the temporal relationship. I find Dr. Bansal's opinions to be credible, particularly as they are supported by the opinions of Dr. Vemuri, Dr. Hellbusch, and the temporal relationship between claimant's work in Plant 2 and his repeated diagnoses and treatment for pneumonia during his work in Plant 2.

On the other hand, I similarly acknowledge that Dr. Hartley's causation opinions make sense. Claimant has five children. He is exposed to communicable diseases outside of work. It is very difficult, and certainly impossible in the record before me, to trace any communicable organisms that may cause pneumonia directly and exclusively to claimant's work environment at Vermeer. If the repeated pneumonia episodes are caused by exposure to communicable disease, Dr. Hartley is correct that claimant cannot prove by a preponderance of the evidence that his pulmonary difficulties are causally related, or arose out of his employment with Vermeer.

On the other hand, Mr. Douglas remained exposed to potential communicable diseases from his children and outside of the Vermeer plant after his last day of work in Plant 2 in 2015. He has not experienced any additional bouts of pneumonia since that date in spite of ongoing exposures unrelated to his work environment. One explanation defendants provided for this is that claimant's immunosuppression medications were reduced, which would obviously improve his ability to avoid infections. Certainly, the timing of claimant's reduction in use of immunosuppressive medications could be suggestive that it was a possible cause or contributing factor to claimant's pulmonary difficulties in and prior to October 2015.

Both parties put forth legitimate and strong evidence in this case. Ultimately, however, I find the opinions of Dr. Bansal, Dr. Vemuri, and Dr. Hellbusch most convincing in this instance. Mr. Douglas was an immunosuppressed individual. While completely unrelated to his work, his immunosuppression made it easier for him to develop infections, including pneumonia. While this would make him more susceptible to contracting communicable diseases outside of work, it also made him more susceptible to infection as a result of exposure to manufacturing particulates at work.

While Vermeer clearly tries to limit its employees' exposure to particulates in Plant 2, it must monitor and seek reduction to those particulates because those particulates exist in the manufacturing setting and because they can be harmful to workers. Although Vermeer appears to do a good job of protecting its employees, the fact that Mr. Douglas was immunosuppressed made him more susceptible when exposed to these dangerous particulates.

I find that the temporal relationship between claimant's exposure to these manufacturing particulates and his increase in frequency and severity of pulmonary

symptoms is convincing. I find that claimant's temporal resolution of pulmonary symptoms and need for treatment after leaving Plant 2 is also very convincing. Therefore, I also find the causation opinion of Dr. Bansal, as supported by the opinions of Dr. Vemuri and Dr. Hellbusch, to be most convincing in this record. Ultimately, I find that Mr. Douglas has proven a causal connection between his exposure to manufacturing, air-borne particulates at Vermeer and his pulmonary injuries. At a minimum, claimant has proven that he had a pre-existing pulmonary condition that was worsened, lit up, or materially aggravated and accelerated by his exposure to air-born manufacturing particulates at Vermeer.

Mr. Douglas seeks an award of temporary disability, or healing period benefits, for various times he was off work. (Claimant's Ex. 15) Claimant did not introduce specific medical evidence to establish that any specific timeframes within these claims were causally related to his exposure to particulates at Vermeer.

Mr. Douglas did not become a Quality Tech in Plant 2 until April 2012 (Tr., p. 19) However, Mr. Douglas seeks lost time from work as far back as February 2010, when he would have been working in an office environment. Mr. Douglas has not proven any exposure to particulates or any causal connection for any lost time prior to April 2012.

Mr. Douglas provided a summary of his temporary disability claims at Claimant's Exhibit 15. No corresponding wage records were placed into evidence. Defendants did produce some disability payment records at Defendants' Exhibit B. However, the dates of the disability payments do not correspond directly with claimant's asserted temporary disability claims. I am not able to piece together, understand, or find that claimant has proven by a preponderance of the evidence that he lost hours and wages as a direct result of his alleged work injury during the times asserted in Exhibit 15 through October 22, 2015.

Mr. Douglas was clearly taken off work and placed on restrictions that continue to this date as of October 23, 2015. (Joint Ex. 5, pp. 226-229) Mr. Douglas was off work from October 23, 2015 until he returned to light duty work for a couple of weeks in December 2015. (Tr., p. 30) I find that claimant has proven he was on restrictions and off work from October 23, 2015 through November 30, 2015. However, there is no definitive return to work date in this record and I cannot confirm any healing period entitlement in December 2015 based upon the record presented.

On December 18, 2015, the employer offered claimant an alternate position that would accommodate and be consistent with his work restrictions. Mr. Douglas declined that offer of work and never returned to Vermeer. (Claimant's Ex. 5, p. 27) I find that the work offered by Vermeer was suitable work consistent with claimant restrictions.

Mr. Douglas asserts that he has sustained permanent disability as a result of his pulmonary injuries at Vermeer. Mr. Douglas presented at hearing as an intelligent individual. He returned to college before this injury. He intends to complete his education and believes he will find work in human resources after college. It is

reasonable and realistic to believe Mr. Douglas is capable of this as a career goal. He intended to do this prior to his injury date and it demonstrates his future earning capacity in spite of this injury.

There is dispute between the parties as to the applicable permanent impairment rating, if any. Dr. Hartley opines that there is no permanent impairment related to work activities or exposure. He also critiques Dr. Bansal, who opines that claimant sustained permanent impairment as a result of this injury. However, both physicians incorrectly cite claimant's age in their reports. Dr. Bansal's impairment rating suggests that he used the age of 27 to calculate this impairment. I do not find either physician's opinion terribly credible on the issue of permanent impairment and I find that claimant has failed to prove whether he sustained permanent impairment as a result of this injury.

Nevertheless, claimant now carries a permanent work restriction as a result of his injury. Dr. Vemuri recommended that claimant not work on the manufacturing floor where he is exposed to particulate matter in the work environment. (Claimant's Ex. 7, p. 30) Dr. Hellbusch similarly recommended a different job that does not cause irritation to claimant's lungs. (Joint Ex. 2, p.117) Dr. Bansal recommended that claimant "[a]void exposure to work environments with high dust particulate and welding fumes." (Claimant's Ex. 1, p. 19)

Dr. Bansal's restrictions are probably worded most specifically. They appear reasonable, relatively consistent with the other physician's restrictions, and consistent with the fact that claimant has not developed pneumonia since being away from this type of work environment. Dr. Bansal's work restrictions are accepted as accurate.

Claimant has no other work restrictions beyond avoidance of work environments with high dust particulate and welding fumes. Claimant retains the opportunity to work in numerous positions in the general economy and this restriction is not terribly limiting on his future earning capacity. Nevertheless, it does exclude him from returning to his prior Vermeer position and similar manufacturing type positions. It establishes that claimant has a minor loss of future earning capacity.

Considering claimant's age, educational background and abilities, his employment history, the nature of his injury, the minor work restrictions, and all other relevant factors of industrial disability, as outlined by the Iowa Supreme Court, I find that Mr. Douglas has proven he sustained a 10 percent loss of future earning capacity as a result of his pulmonary injury at Vermeer.

Mr. Douglas also submitted and requests award of past medical expenses. In their post-hearing brief, defendants identified only the medical expenses dated July 21, 2014 from the Pella Regional Health Center as being disputed. (Defendants' Post-Hearing Brief, p. 19) Defendants contend that the medical record in evidence for July 21, 2014 only demonstrates an x-ray and does not document any hospital services or treatment to justify the medical expenses submitted. (Defendants' Post-Hearing Brief, p. 19)

The disputed charges are identified on claimant's Medical Expense Summary at Claimant's Exhibit 17, page 50. The corresponding billing statement for these charges is located at Claimant's Exhibit 17, page 100. The billing statement demonstrates charges on that date for a chest x-ray, administration of insulin, intravenous hydration, a urinalysis test, blood draws and corresponding lab charges, as well as charges for an emergency room evaluation. (Claimant's Ex. 17, p. 100)

Defendants contend that the only medical record in evidence for this date is an x-ray report. Indeed, located at Joint Exhibit 2, page 66 there is a chest x-ray report for July 21, 2014. This certainly justifies the charges for the chest x-ray. That x-ray report notes that claimant had an elevated white blood count, which clearly demonstrates the legitimacy of the blood draws and urinalysis having been performed.

Obviously, claimant did not obtain an IV, blood work, lab testing, and a chest x-ray unless he was seen by a physician, presumably at a hospital. All of this testing corroborates the need for the emergency room visit. I find that the medical expenses from July 21, 2014 are causally related, reasonable and necessary.

With respect to claimant's penalty benefit claim, I find that claimant has proven that defendants' denied this claim and delayed any payment of either healing period or permanent disability benefits. I find that the employer failed to produce any evidence of having conducted a reasonable investigation of this claim after having received the opinions of Dr. Hellbusch and Dr. Vemuri in October 2015.

The employer was clearly aware of these two physician's opinions because the employer removed claimant from his work duties in Plant 2 after receiving these physician's opinions. Both physicians suggested there may be a causal relationship between claimant's pulmonary condition and his work environment. Yet, the employer offered no evidence to demonstrate that it investigated this possibility. The employer offered no evidence that it contemporaneously conveyed the bases for its denial of the claim after receiving the opinions of Dr. Hellbusch and Dr. Vemuri.

Realistically, the causation issue in this case was a close call. The defendants likely had a reasonable basis for a denial of the claim, given that neither Dr. Hellbusch nor Dr. Vemuri definitively causally related claimant's condition to his work exposure. Nevertheless, there is a strong temporal relationship. Defendants bore the burden to contemporaneously convey the basis for their denial and failed to do so even after they discharged claimant in July 2016 because he could not perform the necessary essential functions of his job. (Claimant's Ex. 6)

CONCLUSIONS OF LAW

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).

A personal injury contemplated by the workers' compensation law means an injury, the impairment of health or a disease resulting from an injury which comes about, not through the natural building up and tearing down of the human body, but because of trauma. The injury must be something that acts extraneously to the natural processes of nature and thereby impairs the health, interrupts or otherwise destroys or damages a part or all of the body. Although many injuries have a traumatic onset, there is no requirement for a special incident or an unusual occurrence. Injuries which result from cumulative trauma are compensable. Increased disability from a prior injury, even if brought about by further work, does not constitute a new injury, however. St. Luke's Hosp. v. Gray, 604 N.W.2d 646 (Iowa 2000); Ellingson v. Fleetguard, Inc., 599 N.W.2d 440 (Iowa 1999); Dunlavey v. Economy Fire and Cas. Co., 526 N.W.2d 845 (Iowa 1995); McKeever Custom Cabinets v. Smith, 379 N.W.2d 368 (Iowa 1985). An occupational disease covered by chapter 85A is specifically excluded from the definition

of personal injury. Iowa Code section 85.61(4) (b); Iowa Code section 85A.8; Iowa Code section 85A.14.

When the injury develops gradually over time, the cumulative injury rule applies. The date of injury for cumulative injury purposes is the date on which the disability manifests. Manifestation is best characterized as that date on which both the fact of injury and the causal relationship of the injury to the claimant's employment would be plainly apparent to a reasonable person. The date of manifestation inherently is a fact based determination. The fact-finder is entitled to substantial latitude in making this determination and may consider a variety of factors, none of which is necessarily dispositive in establishing a manifestation date. Among others, the factors may include missing work when the condition prevents performing the job, or receiving significant medical care for the condition. For time limitation purposes, the discovery rule then becomes pertinent so the statute of limitations does not begin to run until the employee, as a reasonable person, knows or should know, that the cumulative injury condition is serious enough to have a permanent, adverse impact on his or her employment. Herrera v. IBP, Inc., 633 N.W.2d 284 (Iowa 2001); Oscar Mayer Foods Corp. v. Tasler, 483 N.W.2d 824 (Iowa 1992); McKeever Custom Cabinets v. Smith, 379 N.W.2d 368 (Iowa 1985).

While a claimant is not entitled to compensation for the results of a preexisting injury or disease, its mere existence at the time of a subsequent injury is not a defense. Rose v. John Deere Ottumwa Works, 247 Iowa 900, 76 N.W.2d 756 (1956). If the claimant had a preexisting condition or disability that is materially aggravated, accelerated, worsened or lighted up so that it results in disability, claimant is entitled to recover. Nicks v. Davenport Produce Co., 254 Iowa 130, 115 N.W.2d 812 (1962); Yeager v. Firestone Tire & Rubber Co., 253 Iowa 369, 112 N.W.2d 299 (1961).

In this case, I found the medical opinions of Dr. Bansal, as at least partially supported by claimant's treating physicians, Dr. Vemuri and Dr. Hellbusch, to be the most convincing. Therefore, I also found that claimant proved by a preponderance of the evidence that he sustained a pulmonary injury, or at least an aggravation of his pulmonary condition, as a result of his exposures to particulates at work. Having reached these findings of fact, I conclude that claimant has proven that he sustained an injury that arose out of and in the course of his employment at Vermeer Manufacturing on July 1, 2016.

Mr. Douglas asserts a claim for temporary total disability, or healing period, benefits during various alleged absences from work. Many of the dates of absence precede the date of injury. (Claimant's Ex. 15) Such absences can be compensated as part of a cumulative injury process. Larson Mfg. Co., Inc. v. Thorson, 763 N.W.2d 842, 858-861 (Iowa 2009).

Section 85.34(1) provides that healing period benefits are payable to an injured worker who has suffered permanent partial disability until (1) the worker has returned to work; (2) the worker is medically capable of returning to substantially similar

employment; or (3) the worker has achieved maximum medical recovery. The healing period can be considered the period during which there is a reasonable expectation of improvement of the disabling condition. See Armstrong Tire & Rubber Co. v. Kubli, 312N.W.2d 60 (Iowa App. 1981). Healing period benefits can be interrupted or intermittent. Teel v. McCord, 394 N.W.2d 405 (Iowa 1986).

In this case, I was not able to identify evidence to delineate the dates claimant actually missed work, if any, through October 22, 2015. Claimant did establish that he was off work from October 23, 205 through November 30, 2015. Claimant is entitled to healing period benefits for this period of time. Iowa Code section 85.34(1).

Defendants offered claimant suitable work consistent with claimant's medical limitations in December 2015. Claimant declined that suitable work. Therefore, claimant is not entitled to any healing period benefits in or after December 2015. Iowa Code section 85.34(3); Schutjer v. Algona Manor Care Center, 780 N.W.2d 549 (Iowa 2010). Claimant will be awarded healing period benefits from October 23, 2015 through November 30, 2015.

Although the parties disputed the extent of claimant's permanent disability, the parties stipulated that any permanent disability should be compensated with industrial disability benefits. (Hearing Report) Having found that claimant sustained permanent disability, I must address the extent of claimant's permanent disability.

Since claimant has an impairment to the body as a whole, an industrial disability has been sustained. Industrial disability was defined in Diederich v. Tri-City R. Co., 219 Iowa 587, 258 N.W. 899 (1935) as follows: "It is therefore plain that the legislature intended the term 'disability' to mean 'industrial disability' or loss of earning capacity and not a mere 'functional disability' to be computed in the terms of percentages of the total physical and mental ability of a normal man."

Functional impairment is an element to be considered in determining industrial disability which is the reduction of earning capacity, but consideration must also be given to the injured employee's age, education, qualifications, experience, motivation, loss of earnings, severity and situs of the injury, work restrictions, inability to engage in employment for which the employee is fitted and the employer's offer of work or failure to so offer. McSpadden v. Big Ben Coal Co., 288 N.W.2d 181 (Iowa 1980); Olson v. Goodyear Service Stores, 255 Iowa 1112, 125 N.W.2d 251 (1963); Barton v. Nevada Poultry Co., 253 Iowa 285, 110 N.W.2d 660 (1961).

Compensation for permanent partial disability shall begin at the termination of the healing period. Compensation shall be paid in relation to 500 weeks as the disability bears to the body as a whole. Section 85.34.

Having considered the relevant industrial disability factors, as outlined by the Iowa Supreme Court, I found that Mr. Douglas proved he sustained a 10 percent loss of future earning capacity. A 10 percent loss of future earning capacity entitles claimant to

a 10 percent industrial disability award, or 50 weeks of permanent partial disability benefits. Iowa Code section 85.34(2)(u).

The parties also dispute the proper date for commencement of permanent disability benefits. Claimant failed to prove any entitlement to temporary disability, or healing period, benefits after the July 1, 2016 injury date. Therefore, I conclude that permanent disability benefits should commence on July 2, 2016. Iowa Code section 85.34(1).

Mr. Douglas submitted numerous medical expenses as part of his claim.

The employer shall furnish reasonable surgical, medical, dental, osteopathic, chiropractic, podiatric, physical rehabilitation, nursing, ambulance, and hospital services and supplies for all conditions compensable under the workers' compensation law. The employer shall also allow reasonable and necessary transportation expenses incurred for those services. The employer has the right to choose the provider of care, except where the employer has denied liability for the injury. Section 85.27. Holbert v. Townsend Engineering Co., Thirty-second Biennial Report of the Industrial Commissioner 78 (Review-Reopening October 1975).

The subject of past medical expenses was discussed with counsel at the commencement of the hearing. Defense counsel indicated that the employer generally agreed that the medical expenses sought were related if a work injury was found in this decision. (Tr., p. 5) However, defendants indicated that they disputed causal relationship of some medical expenses and asserted an intention to identify any such expenses in their post-hearing brief. (Tr., p. 5)

In their post-hearing brief, defendants only challenged medical expenses for treatment on July 21, 2014 from the Pella Regional Health Center. Having found that the treatment rendered and related expenses for July 21, 2014 from Pella Regional Health Center are reasonable, necessary, and causally related to claimant's work injury, I conclude those are compensable and owed by defendants. Since defendants do not challenge any other medical expenses, I conclude that all medical expenses are causally related and owed by defendants. Iowa Code section 85.27.

Mr. Douglas also seeks reimbursement of his independent medical evaluation with Dr. Bansal. Section 85.39 permits an employee to be reimbursed for subsequent examination by a physician of the employee's choice where an employer-retained physician has previously evaluated "permanent disability" and the employee believes that the initial evaluation is too low. The section also permits reimbursement for reasonably necessary transportation expenses incurred and for any wage loss occasioned by the employee attending the subsequent examination.

Defendants are responsible only for reasonable fees associated with claimant's independent medical examination. Claimant has the burden of proving the reasonableness of the expenses incurred for the examination. See Schintgen v.

Economy Fire & Casualty Co., File No. 855298 (App. April 26, 1991). Claimant need not ultimately prove the injury arose out of and in the course of employment to qualify for reimbursement under section 85.39. See Dodd v. Fleetguard, Inc., 759 N.W.2d 133, 140 (Iowa App. 2008).

An employer is not obligated to reimburse a claimant's independent medical evaluation fee unless the claimant has complied with the necessary statutory process for obtaining that reimbursement. Des Moines Area Reg'l Transit Auth. v. Young, 867 N.W.2d 839, 844 (Iowa 2015).

Iowa Code section 85.39 is interpreted literally. Des Moines Area Reg'l Transit Auth. v. Young, 867 N.W.2d 839, 847 (Iowa 2015); Soliz v. Farmland Foods, Inc., File No. 5047856 (Appeal March 2018); Dillavou v. John Deere Waterloo Works, File Nos. 5051562, 5051931, 5051932, 5051933 (Appeal March 2018). Claimant cannot establish entitlement to reimbursement of an independent medical evaluation fee pursuant to Iowa Code section 85.39 unless the defendants have obtained a permanent impairment rating from a physician of their choosing. An adverse causation opinion rendered by a physician chosen by the defendants is not equivalent to or interpreted as an impairment rating and is not sufficient to qualify claimant for reimbursement of an evaluation pursuant to Iowa Code section 85.39. Soliz v. Farmland Foods, Inc., File No. 5047856 (Appeal March 2018); Dillavou v. John Deere Waterloo Works, File Nos. 5051562, 5051931, 5051932, 5051933 (Appeal March 2018).

Defendants selected Dr. Hartley to evaluate claimant. Dr. Hartley evaluated claimant on September 29, 2017. He authored his report on November 14, 2017. (Defendants' Ex. C)

Dr. Bansal performed an evaluation at claimant's request on August 14, 2017. (Claimant's Ex. 1) Dr. Bansal's evaluation occurred before defendants obtained an impairment rating from Dr. Hartley. As such, claimant is not able to establish the pre-requisites to qualify for reimbursement of an evaluation under Iowa Code section 85.39.

Mr. Douglas asserts that defendants unreasonably delayed and/or denied his weekly benefits in this case and that defendants should be ordered to pay penalty benefits pursuant to Iowa Code section 86.13. Claimant argues that the employer was on notice of the potential work-related nature of claimant's condition when it received the restrictions and letter from Dr. Hellbusch and Dr. Vemuri in October 2015.

Claimant argues that defendants demonstrated no investigation of the claim between October 2015 and the filing of claimant's petition. Claimant further argues that defendants failed to contemporaneously convey the basis for their denial. Claimant finally notes and argues that the employer accepted the restrictions imposed by Dr. Vemuri and Dr. Hellbusch and removed claimant from Plant 2 and exposure to any particulates therein but made no payment of benefits and offered no evidence of investigation or conveyance of a basis for denial of benefits thereafter. Claimant,

therefore, contends that defendants have failed to carry their burden of proof and that penalty benefits should be imposed.

Under Iowa's worker's compensation scheme, penalty benefits may be imposed against an employer pursuant to Iowa Code section 86.13(4) under certain circumstances. Iowa Code section 86.13(4) provides:

> a. If a denial, a delay in payment, or a termination of benefits occurs without reasonable or probable cause or excuse known to the employer or insurance carrier at the time of the denial, delay in payment, or termination of benefits, the workers' compensation commissioner shall award benefits in addition to those benefits payable under this chapter, or chapter 85, 85A, or 85B, up to fifty percent of the amount of benefits that were denied, delayed, or terminated without reasonable or probable cause or excuse.
>
> b. The workers' compensation commissioner shall award benefits under this subsection if the commissioner finds both of the following facts:
>
> (1) The employee has demonstrated a denial, delay in payment, or termination in benefits.
>
> (2) The employer has failed to prove a reasonable or probable cause or excuse for the denial, delay in payment, or termination of benefits.

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

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

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

The supreme court has stated:

> (1) If the employer has a reason for the delay and conveys that reason to the employee contemporaneously with the beginning of the delay, no penalty will be imposed if the reason is of such character that a reasonable fact-finder could conclude that it is a "reasonable or probable

cause or excuse" under Iowa Code section 86.13. In that case, we will defer to the decision of the commissioner. See Christensen, 554 N.W.2d at 260 (substantial evidence found to support commissioner's finding of legitimate reason for delay pending receipt of medical report); Robbennolt, 555 N.W.2d at 236.

(2) If no reason is given for the delay or if the "reason" is not one that a reasonable fact-finder could accept, we will hold that no such cause or excuse exists and remand to the commissioner for the sole purpose of assessing penalties under section 86.13. See Christensen, 554 N.W.2d at 261.

(3) Reasonable causes or excuses include (a) a delay for the employer to investigate the claim, Christensen, 554 N.W.2d at 260; Kiesecker v. Webster City Meats, Inc., 528 N.W.2d at 109, 111 (Iowa 1995); or (b) the employer had a reasonable basis to contest the claim—the "fairly debatable" basis for delay. See Christensen, 554 N.W.2d at 260 (holding two-month delay to obtain employer's own medical report reasonable under the circumstances).

(4) For the purpose of applying section 86.13, the benefits that are underpaid as well as late-paid benefits are subject to penalties, unless the employer establishes reasonable and probable cause or excuse. Robbennolt, 555 N.W.2d at 237 (underpayment resulting from application of wrong wage base; in absence of excuse, commissioner required to apply penalty).

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

Id.

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

(6) In determining the amount of penalty, the commissioner is to consider factors such as the length of the delay, the number of delays, the information available to the employer regarding the employee's injury and

wages, and the employer's past record of penalties. Robbennolt, 555 N.W.2d at 238.

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

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

Weekly compensation payments are due at the end of the compensation week. Robbennolt, 555 N.W.2d 229, 235.

Penalty is not imposed for delayed interest payments. Davidson v. Bruce, 593 N.W.2d 833, 840 (Iowa App. 1999). Schadendorf v. Snap-On Tools Corp., 757 N.W.2d 330, 338 (Iowa 2008).

When an employee's claim for benefits is fairly debatable based on a good faith dispute over the employee's factual or legal entitlement to benefits, an award of penalty benefits is not appropriate under the statute. Whether the issue was fairly debatable turns on whether there was a disputed factual dispute that, if resolved in favor of the employer, would have supported the employer's denial of compensability. Gilbert v. USF Holland, Inc., 637 N.W.2d 194 (Iowa 2001).

Defendants bore the burden to establish a reasonable basis, or excuse, and to prove the contemporaneous conveyance of those bases to the claimant. Iowa Code section 86.13(4)(b)(2). In this case, defendants offered no evidence of having conducted a reasonable investigation after receipt of Dr. Vemuri and Dr. Hellbusch's restrictions and opinions about the potential cause between claimant's work exposures and his pulmonary injuries. After obtaining Dr. Hartley's causation opinion, defendants certainly possessed and conveyed a reasonable excuse for the denial of the claim. Iowa Code section 86.13(4)(b)(2).

Arguably, the medical opinions offered by Dr. Vemuri and Dr. Hellbusch could have served as a reasonable basis for challenging the causal connection of claimant's pulmonary condition to his work exposures. Yet, even if they had a reasonable basis for denial, defendants did not contemporaneously convey their bases for delay or denial of benefits. Iowa Code section 86.13(4)(c)(3). In fact, defendants offer no evidence of the manner or timing of any investigation or conveyance of their denial to claimant, other than obtaining the evaluation and opinions from Dr. Hartley. I conclude that defendants failed to carry their burden of proof on the penalty issues, and a penalty award is appropriate in some amount. Iowa Code section 86.13.

The purpose of Iowa Code section 86.13 is both punishment for unreasonable conduct but also deterrence for future cases. Id. at 237. In this regard, the Commission

is given discretion to determine the amount of the penalty imposed with a maximum penalty of 50 percent of the amount of the delayed, or denied, benefits. Christensen v. Snap-On Tools Corp., 554 N.W.2d 254, 261 (Iowa 1996).

In exercising its discretion, the agency must consider factors such as the length of the delays, the number of delays, the information available to the employer regarding the employee's injury and wages, and the employer's past record of penalties. Meyers v. Holiday Express Corp., 557 N.W.2d 502, 505 (Iowa 1996). In this situation, causal connection of claimant's injuries was likely debatable given that the treating physicians indicated only that the pulmonary issues may be related to claimant's work exposures. The real failure by the defendants was their lack of communication to convey the bases for their denial of this claim, particularly after removing claimant from his employment activities in Plant 2 after receipt of Dr. Vemuri's letter and the work restrictions from Dr. Hellbusch.

Certainly, the ultimate causation determination in this case was not easy and was a close call. Defendants had a legitimate defense and a reasonable basis for denial of the claim. However, they failed to contemporaneously convey that basis, as required by Iowa Code section 86.13(4)(b)(2).

Having considered the relevant factors, the facts of this case, and the purposes of the penalty statute, I conclude that a section 86.13 penalty in the amount of $1,000.00 is appropriate in this case. Such an amount is appropriate to punish the employer for its failure to convey the bases of its denial and should serve as a deterrent against future conduct. However, the facts of this case are not of such an egregious nature that an additional penalty is warranted.

Defendants asserted a credit for short-term disability benefits made to date. Review of defendants' asserted credits and payments in Defendants' Exhibit B does not demonstrate any payments made to claimant between October 23, 2015 and November 30, 2015. I do not find evidence sufficient to award a credit to defendants pursuant to Iowa Code section 85.38(2).

Finally, claimant also seeks assessment of his costs. Assessment of costs is a discretionary function of the agency. Iowa Code section 86.40. Claimant has established he sustained a work-related injury and has recovered benefits in this contested case proceeding. Therefore, I conclude that it is appropriate to assess claimant's costs in some amount.

Mr. Douglas requests assessment of his filing fee ($100.00) and his service fee ($6.74). Both requests are reasonable and are assessed pursuant to 876 IAC 4.33(3), (7).

Claimant also seeks assessment of the cost of Dr. Bansal's independent medical evaluation report. Dr. Bansal's evaluation fees were not awarded pursuant to Iowa

Code section 85.39. Therefore, this request for assessment as a cost will be considered.

In Des Moines Area Reg'l Transit Auth. v. Young, 867 N.W.2d 839 (Iowa 2015), the Iowa Supreme Court held that the expense related to drafting a physician's written report may be taxable since it is akin to and prepared in lieu of the doctor's testimony. However, the Court concluded that "[t]he underlying medical expenses associated with the examination do not become costs of a report needed for a hearing." Id. at 846.

In this case, Dr. Bansal breaks down his fees between his examination ($546.00) and a combined expense of performing a record review and drafting his report ($2,319.00). Based upon the analysis of the Iowa Supreme Court noted above, I conclude that the expense of reviewing records to perform the independent medical evaluation are not taxable costs. Reviewing records is not done in lieu of testifying. It is done in preparation for testifying. Therefore, I conclude that the expense of reviewing records is not taxable pursuant to Iowa Code section 86.40 or 876 IAC 4.33. Claimant failed to obtain a breakdown of Dr. Bansal's charges sufficient to permit assessment of costs and I am not willing to speculate what portion of Dr. Bansal's charges are related to review of records and what portion is related to drafting of his report. Therefore, I decline to assess any costs related to Dr. Bansal's report.

ORDER

THEREFORE, IT IS ORDERED:

Defendants shall pay claimant healing period benefits from October 23, 2015 through November 30, 2015.

Defendants shall pay claimant fifty (50) weeks of permanent partial disability benefits commencing on July 2, 2016.

All weekly benefits shall be paid at the stipulated rate of five hundred seventy-seven and 14/100 dollars ($577.14) per week.

All accrued weekly benefits shall be paid in lump sum with interest pursuant to Iowa Code section 85.30.

Defendants shall pay claimant penalty benefits pursuant to Iowa Code section 86.13(4) in the amount of one thousand dollars ($1,000.00).

Defendants shall reimburse claimant for any out-of-pocket medical expenses she paid, satisfy any outstanding medical expenses directly with the medical providers, and hold claimant harmless for all medical expenses contained in Claimant's Exhibit 17.

Defendants shall reimburse claimant's costs totaling one hundred six and 74/100 dollars ($106.74).

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 13th day of April, 2018.

WILLIAM H. GRELL
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

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WHG/kjw

Right to Appeal: This decision shall become final unless you or another interested party appeals within 20 days from the date above, pursuant to rule 876-4.27 (17A, 86) of the Iowa Administrative Code. The notice of appeal must be in writing and received by the commissioner's office within 20 days from the date of the decision. The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday. The notice of appeal must be filed at the following address: Workers' Compensation Commissioner, Iowa Division of Workers' Compensation, 1000 E. Grand Avenue, Des Moines, Iowa 50319-0209.