BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

STEVEN WAYNE BRYANT, Claimant, vs. JOHN DEERE DUBUQUE WORKS OF DEERE & COMPANY, Employer, Self-Insured, Defendant.	: : : : : : : : : : : : :	File No. 5059678 A R B I T R A T I O N D E C I S I O N Head Notes: 1702, 1803

STATEMENT OF THE CASE

Steven Bryant initiated this case by filing a petition in arbitration seeking workers' compensation benefits from John Deere Dubuque Works of Deere & Company (John Deere). The undersigned presided over an arbitration hearing on June 11, 2019, in Des Moines, Iowa. Bryant and his attorney, Paul McAndrew, Jr., participated in the hearing by CourtCall, a live online video-streaming service. John Deere participated through its attorney, Dirk Hamel, who participated in person. The case was fully submitted on July 8, 2019.

The record consists of:

- Hearing Testimony by Bryant;
- Joint Exhibits 1 through 5;
- Claimant's Exhibits 1 through 12; and
- Defendant's Exhibits A through D.

Both parties submitted exhibits attached to their post-hearing briefs on the question of Bryant's entitlement to payment for mileage he traveled for care relating to his work injury. Neither party requested that the record be left open after the hearing for additional evidence. Under Rule 876 IAC 4.31, "No evidence shall be taken after the hearing." For these reasons, the exhibits the parties attached to their respective briefs are not accepted into evidence.

The parties completed a hearing report under Rule 876 IAC 4.19(3)(f), which defines the claims, defenses, and issues submitted to the presiding deputy

commissioner. In the hearing report, the parties entered into various stipulations. These stipulations are accepted. This decision does not discuss any factual or legal issues relating to the parties' stipulations. The parties are now bound by their stipulations.

ISSUES

The parties submitted the following disputed issues for determination:

1) What is the nature and extent of permanent partial disability sustained by Bryant because of the stipulated work injury he suffered on January 31, 2014?

2) Is John Deere entitled to a credit for a successive disability under Iowa Code section 85.34(7)?

3) Is Bryant entitled to taxation of costs, and if so, how much is the taxation?

FINDINGS OF FACT

Bryant was in a car crash years before the injury at issue in this case. (Hearing Transcript, page 20) Bryant continues to have memory issues that he attributes to the crash. (Hrg. Tr. p. 20) He remembers some things, but not others. (Hrg. Tr. p. 20) During the hearing, Bryant conceded that his memory issues are hard to explain and described the fogginess he has by stating that his memories exist, but they do not exist. (Hrg. Tr. p. 20)

Bryant was candid during his hearing testimony. When the lingering effects of the car crash on his memory caused him not to remember something, he said so. (Hrg. Tr. pp. 19, 20) Bryant did not attempt to testify to something he could not recall. His testimony was therefore generally credible despite memory issues due to the crash.

On August 13, 2004, Bryant worked for Lab Safety Supply. (Hrg. Tr. pp. 18–19) He injured his right knee in a crash while driving a forklift. (Hrg. Tr. pp. 18–19) Bryant sustained a bucket-handle tear in the posterior horn of the medial meniscus that required surgery. (Joint Exhibit 1, pp. 6–9) Daniel Sellman, M.D., opined that Bryant sustained "permanent partial disability estimated at 5% related to the meniscectomy." (Jt. Ex. 1, p. 13) Bryant was released to return to work without restrictions. (Jt. Ex. 1, p. 13) The evidence does not establish that Dr. Sellman used the Fifth Edition of the Guides to the Evaluation of Permanent Impairment, published by the American Medical Association (AMA) in making this permanent partial disability rating.

Bryant believes he had an attorney represent him in the case stemming from his 2004 right knee injury, but he could not remember who that attorney might have been. (Hrg. Tr. p. 63) Bryant's attempts to find the attorney were fruitless. (Hrg. Tr. p. 63) There is no evidence that Bryant received payment of any permanent partial disability benefits relating to the 2004 injury.

Bryant had no problems with his right knee following the 2004 injury. (Hrg. Tr. p. 21) He was under work restrictions for a period of time, but eventually was able to work without any. In fact, Bryant did not work within any work restrictions for about 10 years following the surgery. (Jt. Ex. 1, p. 12–13; Hrg. Tr. p. 21)

Bryant went to work for John Deere in 2011. (Hrg. Tr. p. 21) He was able to work shifts over eight hours in duration daily for a month straight, have a day or two off, and then work another month straight of mandatory overtime without experiencing any physical issues. (Hrg. Tr. p. 20) Bryant had no health condition that negatively affected his ability to do his job at John Deere, including working mandatory overtime, until January 31, 2014, the stipulated date of injury. (Hrg. Tr. p. 21)

The John Deere parking lot was covered in snow when Bryant arrived to work on January 31, 2014. (Hrg. Tr. p. 29) Bryant slipped and fell on snow-covered ice while walking from his parked vehicle into work. (Hrg. Tr. p. 29; Claimant's Ex. 1) Bryant's right knee tightened up while he finished the walk into the building, so he reported the injury and received medical care. (Hrg. Tr. pp. 29–30)

Bryant underwent a magnetic resonance imaging (MRI) of his right knee. (Jt. Ex. 4) Dr. Kimberly Deppe reviewed the MRI and opined:

> There appears to be in mild extrusion of medial and lateral menisci. Lateral meniscus demonstrates intrameniscal degenerative change anteriorly. Otherwise normal. The medial meniscus also demonstrates some intrameniscal degenerative change. At mid body on coronal sequence, the medial meniscus appears blunted/truncated consistent with a meniscal tear/maceration.

(Jt. Ex. 4, pp. 1–2) Dr. Deppe made the following assessment:

1. Multiloculated/septated Baker's cyst with surrounding fatty fascia streaky intensity changes suggesting either Baker's cyst leak/rupture or infected Baker's cyst. Correlate clinically.

2. Moderately large knee joint effusion.

3. Mild hypertrophic arthrosis of the knee joints without cystic degeneration.

4. Mild chondromalacia patella/femoral condyles without subchondral bone defect.

5. Mid body medial meniscus tear/maceration.

(Jt. Ex. 4, p. 2)

David Field, M.D., provided authorized medical care for Bryant's injured knee. (See Jt. Ex. 3; see also Defendant's Ex. D) Dr. Field reviewed an MRI of Bryant's right knee and opined on February 24, 2014, that he agreed generally with the report. (Jt. Ex. 3, p. 1) He noted that he did not "see any major disruption of the medial meniscus, although there certainly are some changes seen that could be interpreted as a new injury versus old surgery to that area." (Jt. Ex. 3, p. 1) Dr. Field opted to perform a diagnostic arthroscopy "due to his ongoing, persistent symptoms suggesting a mechanical condition within the knee itself." (Jt. Ex. 3, p. 1)

On March 12, 2014, Dr. Field performed an arthroscopy on Bryant's right knee. (Jt. Ex. 3, p. 2; Jt. Ex. 5, p. 1) Dr. Field noted in the operative report:

> On initial inspection of the knee on the medial side, it appeared that the patient damaged his medial meniscus, had loosened its attachment to the tibial side and the meniscus was elevated and fragmented in its central 3rd. We contoured the meniscus back to a firm, stable rim and a feeling that the remaining rim that was checked posteriorly was stable. The middle of the meniscus is anteriorly stable. There was some [indecipherable] of the medial femoral condyle, which we debrided, was very light. The anterior cruciate and posterior cruciate ligaments were intact. On the lateral side, we probed the entire lateral meniscus, it was normal. The articular surface was normal. Patellofemoral groove had a lot of inflamed synovium like a medial plical shelf that would be debrided back. There was some surface wear of the central portion of patellofemoral groove, which was debrided. The undersurface of patella, however, was intact. We made sure that final medial meniscal rim was stable.

(Jt. Ex. 5, p. 1)

Bryant saw Dr. Field for a follow-up exam on March 20, 2014. (Jt. Ex. 3, p. 2) Dr. Field set up a brief trial of physical therapy to help expedite Bryant's recovery. (Jt. Ex. 3, p. 2) He noted that they were pleased with Bryant's recovery at that time. (Jt. Ex. 3, p. 2)

Dr. Field next saw Bryant on April 10, 2014. (Jt. Ex. 3, p. 2) Dr. Field observed that Bryant's right-knee swelling had gone down, but he was still experiencing pain. (Jt. Ex. 3, p. 2) With respect to Bryant's right-knee pain, Dr. Field noted:

> At this point, Mobic is not helping him and this can be discontinued. He can try perhaps a different anti-inflammatory to see if this will help his soreness. He did have a moderate amount of synovitis in the knee at the time of surgery, possibly making his knee more achy.

(Jt. Ex. 3, p. 2)

Bryant returned to Dr. Field on May 5, 2014. (Jt. Ex. 3, p. 3) Dr. Field noted that Bryant "still has some sensitivity with kneeling but that is not unexpected due to the portals." (Jt. Ex. 3, p. 3)

> Today the knee looks well. He has no knee effusion. He finds that Zorvolex was very helpful for him and gave him some relief of the soreness. We renewed that prescription for another month and then he should taper off.

(Jt. Ex. 3, p. 3) Dr. Field anticipated lifting Bryant's work restrictions in one week. (Jt. Ex. 3, p. 3)

On July 14, 2014, Bryant saw Dr. Field "in follow-up relative to his right knee soreness." (Jt. Ex. 3, p. 3) Dr. Field noted that Zorvolex had helped alleviate Bryant's pain symptoms, but this had been discontinued. (Jt. Ex. 3, p. 3) He further observed that the Prednisone Paks Bryant had been on for two weeks seemed to help with the pain and soreness he was experiencing in his right knee. (Jt. Ex. 3, p. 3)

Dr. Field reviewed radiographs and opined:

> There is joint space narrowing and loss of normal contour of the medial compartment. No loose bodies are seen. The patellofemoral joint is generally satisfactorily aligned.
>
> IMPRESSION: Early, advancing arthritis occurring in the medial compartment of the right knee.

(Jt. Ex. 3, p. 3) Further, Dr. Field identified Synvisc as an option for his knee pain. (Jt. Ex. 3, p. 3)

On August 18, 2014, Dr. Field noted that Kenalog was very helpful with Bryant's symptoms. (Jt. Ex. 3, p. 4) He observed that Bryant "has an occasional ache with no pain medially." (Jt. Ex. 3, p. 4) Dr. Field found Bryant's knee stable "with no obvious swelling, erythema, or evidence of any particular tenderness medially." (Jt. Ex. 3, p. 4) He suggested Bryant try more Zorvolex as a sample for soreness. (Jt. Ex. 3, p. 4)

Dr. Field again saw Bryant on September 15, 2014. (Jt. Ex. 3, p. 4) He noted that Bryant was still experiencing some pain when riding his motorcycle or when resting his foot. (Jt. Ex. 3, p. 4) Further, Bryant complained of "some pain posterolaterally and also some medially." (Jt. Ex. 3, p. 4) Dr. Field observed that Brant "did have evidence of internal derangement of the medial meniscus and articular wear of the medial femoral condyle, Grade II-III." (Jt. Ex. 3, p. 4) Dr. Field felt that Bryant was "a reasonable candidate for Synvisc, given the articular wear in the knee. Beyond that, I don't think there is anything else we have to offer at this time." (Jt. Ex. 3, p. 4) Dr. Field released Bryant to return to work with a recommendation for a Synvisc injection in his right knee. (Jt. Ex. 3, p. 5) Bryant received a Synvisc injection on October 6, 2014. (Def. Ex. D)

Dr. Field considered Bryant's permanent disability in a report dated October 23, 2014, and addressed to John Deere. (Def. Ex. D) Dr. Field opined:

> In terms of an impairment rating relative to the injuries found at surgery, the majority of his major injuries certainly was the torn medial meniscus. Using the "Guides to the Evaluation of Permanent Impairment", 5th Edition, as published by the American Medical Association, Table 17-33, he does merit approximately a 2% impairment of his lower extremity or a 1% whole person impairment based on that evaluation and nature of surgery required for his meniscus.

(Def. Ex. D, p. 1) In a letter to John Deere dated January 30, 2015, Dr. Field stated that if Bryant "has a flare-up of his knee, which was probably due to his arthritis, then he should be on anti-inflammatory medications but this is not related to his torn meniscus." (Cl. Ex. 12, p. 2)

David Tearse, M.D., performed an independent medical examination (IME) of Bryant on April 6, 2015. (Cl. Ex. 3, p. 1) Dr. Tearse reviewed the following medical records:

- Summary of records from Bryant's attorney;
- John Deere infirmary;
- Dr. Field at Westside Orthopedics;
- Grant Regional Community Clinic; and
- Finely Hospital. (Cl. Ex. 3, p. 1)

Additionally, Dr. Tearse obtained and interpreted x-rays of Bryant's right knee. (Cl. Ex. 1, p. 1) He also performed a physical examination of Bryant. (Cl. Ex. 1, p. 1)

Bryant completed a patient pain drawing for Dr. Tearse that "[i]ndicates a combination of aching and stabbing pain in the anterior aspect of both knees, worse on the right than the left. There also is a pins and needles numbness in the posterior aspect of the right knee." (Cl. Ex. 3, p. 2) Dr. Tearse noted during his physical examination of Bryant:

> There is trace quadriceps atrophy on the right side. Range of motion on the right is from full extension to approximately 135˚ of flexion and on the left zero to 138˚. On the right knee there is mild pain on patellar compression and tenderness over the medial patellar facet. There is 1+

> crepitus with active extension. Mild tenderness along the anteromedial joint line.

(Jt. Ex. 3, p. 3) He noted no significant tenderness to palpation on the left knee and a trace patellofemoral crepitus with active knee extension. (Jt. Ex. 3, p. 3)

Dr. Tearse found Bryant to suffer from persistent right-knee pain, status post arthroscopy, partial medial meniscectomy, and debridement, with early medial compartment arthrosis. (Cl. Ex. 3, p. 3) He opined Bryant's "right knee condition was substantially aggravated by his work related injury of January 31, 2014." (Cl. Ex. 3, p. 3)

During his interactions with Bryant, Dr. Tearse informed him that his impairment rating of Bryant's right leg would be based on arthritis. (Hrg. Tr. pp. 33–34) On the question of whether Bryant had reached maximum medical improvement (MMI), Dr. Tearse concluded that he had as of October 6, 2014. (Cl. Ex. 3, p. 4) Dr. Tearse gave Bryant the following permanent partial disability rating:

> As a result of his work related injury I do believe that he has sustained ratable impairment. Using the American Medical Association Guides to Impairment, V Edition, I would assign him an 8% upper extremity, (3% whole person), impairment.

(Cl. Ex. 3, p. 4)

Dr. Tearse recommended the following permanent work restrictions for Bryant:

- Avoid activities that require repetitive squatting, or repetitive stair or ladder climbing; and
- Limit standing and walking as tolerated. (Cl. Ex. 3, p. 4)

He recommended a functional capacity evaluation if more detailed work restrictions are required. (Jt. Ex. 3, p. 4)

In John Deere's post-hearing brief, the employer argues that Dr. Tearse's impairment rating is faulty because it was unclear whether he used the Fifth Edition of the AMA Guides, which is the edition adopted by the Commissioner under Rule 876 IAC 2.4. While Dr. Tearse may have used the Roman numeral for five as opposed to the Arabic numeral and such is not the common way in which the Fifth Edition of the AMA Guides is cited, it is nonetheless plain from the citation that Dr. Tearse used the Fifth Edition of the AMA Guides when assigning a permanent partial disability rating to Bryant's right knee.

With respect to future care, Dr. Tearse concluded that Bryant "may require use of non-steroidal anti-inflammatory medication, corticosteroid injection or viscosupplementation, or possibly a short course of physical therapy." (Cl. Ex. 3, p. 3)

Dr. Tearse opined that he does not believe Bryant will require further surgical care. (Cl. Ex. 3, p. 3)

Bryant's attorney wrote a follow-up letter to Dr. Tearse dated December 13, 2017. (Cl. Ex. 4, p. 1) Bryant believed that his knee condition had worsened with time and he might need additional care. (Cl. Ex. 4, p. 1) His attorney sent records from John Deere Occupational Health to Dr. Tearse and asked him to review records to determine if Bryant's condition had changed and what type of care he might need. (Cl. Ex. 4, p. 1)

Dr. Tearse saw Bryant a second time on February 14, 2018. (Cl. Ex. 5, p. 1) He reviewed the records from John Deere Occupational Health, an incident report, and radiographs of Bryant's right knee obtained at RCI the same day. (Cl. Ex. 5, p. 1) Dr. Tearse also performed a second physical examination of Bryant. (Cl. Ex. 5, p. 1)

Dr. Tearse concluded that Bryant "had no additional injury to his right knee." (Cl. Ex. 5, p. 2) Dr. Tearse made the following notes regarding what Bryant shared with him during the examination:

> He notes that over the last several months he's had increased aching pain in his right knee, particularly with lateral movements. He notes swelling by the end of the day in his knee. He states this knee feels weak. He has tried wearing a brace for support, which he feels did give him some relief. He takes ibuprofen 500 mg twice a day, primarily for his knee.
>
> He was off work for several months last summer, after he sustained a fracture to his left ankle. He notes that his knee pain was somewhat better during that time, but the pain returned as he returned to work.
>
> He has some popping in the knee, but denies any locking. Other than feeling weak, he's had no true instability in the knee. He denies numbness or tingling. He does have mild discomfort in his left knee, and some discomfort in the posterior aspect of his right hip, extending up into the SI area.

(Cl. Ex. 5, p. 2)

After reviewing the x-rays of Bryant's right knee, Dr. Tearse found "mild degenerative changes in both the medial and patellofemoral compartments of the right knee, and to a lesser extent the left knee. There is a small effusion noted. There are small osteophytes along the margin of the medial compartment, as well as along the patella borders." (Cl. Ex. 5, p. 3)

Based on Dr. Tearse's review of the records, interpretation of the x-rays, and physical examination of Bryant, he concluded:

> It is my impression that Mr. Bryant shows evidence for a slight progression of his right knee medial and patellofemoral compartment osteoarthritis,

> which was previously noted at the time of his surgery, as well as my previous evaluation. . . . I do not find any evidence for additional or new injury to his right knee. It is my opinion that his current symptoms are substantially a result of his previous work related injury. Although he may have had evidence of some underlying arthrosis at the time of his injury, it is my opinion that his work related injury of January 2014 caused a substantial and permanent aggravation of his right knee condition, and continues to be the primary cause for his ongoing symptoms.

(Cl. Ex. 5, p. 3)

On the question of what future care Bryant might need for his right knee, Dr. Tearse opined that "he is likely to require use of over the counter or prescription non-steroidal anti-inflammatory medication, ice, supportive knee sleeve or brace, and use of corticosteroid injection and/or viscosupplementation injection treatment now and in the future." (Cl. Ex. 5, p. 3) Consistent with his previous assessment. Dr. Tearse found that surgical intervention was not indicated at that time. (Cl. Ex. 5, p. 3)

John Deere requires its employees to work overtime. (Hrg. Tr. p. 16) Some positions work more mandatory overtime than others. Bryant's knee makes it difficult for him to work overtime. Doing so causes him increased pain. Consequently, Bryant tries to avoid working overtime as much as possible. (Hrg. Tr. pp. 16–17) He regularly gives hours away. (Hrg. Tr. p. 17) Bryant's limitations with his right knee have prompted him to change jobs in order to avoid working mandatory overtime as much as possible. (Hrg. Tr. pp. 16-17)

Claimant's Exhibit 9 contains an itemization of the mileage costs he seeks taxed in this case. On cross-examination, Bryant testified that he thought the mileage detailed in Exhibit 9 was incorrect. (Hrg. Tr. pp. 64–72) Bryant withdrew some of the requested mileage in Exhibit 9. (Hrg. Tr. pp. 68–73) The evidence establishes that Bryant is entitled to reimbursement for the following:

- Bryant made eight trips to Dr. Field's office at 4005 Westmark Drive, Dubuque, Iowa, which occurred as follows:
    - Two were on or before June 30, 2014, from his home in Bloomington, Wisconsin, with a roundtrip totaling 92 miles.
    - Six were from John Deere, located at 18600 South John Deere Road, Dubuque, Iowa, with a roundtrip totaling 12.4 miles. Of the six trips, two were on or before June 30, 2014. Four were on or after July 1, 2014.
- On March 12, 2014, Bryant made one trip from John Deere to Finley Hospital on, which totaled 13.4 miles roundtrip.

- On April 6, 2015, Bryant made a trip to Dr. Tearse at 112 14th Street Southeast, Cedar Rapids, Iowa, which was a 224-mile roundtrip.

- Bryant made 44 trips from John Deere to physical therapy at 1665 Embassy West Drive, Dubuque, Iowa, each of which was 12 miles' roundtrip. Thirty-four of the trips were on or before June 30, 2014. Ten were on or after July 1, 2014.

Put otherwise, Bryant traveled 129.8 miles total on or before June 30, 2014, and 248.4 on or after July 1, 2014.

CONCLUSIONS OF LAW

A. Nature and Extent of Permanent Partial Disability.

The parties stipulated that Bryant sustained an injury to his right knee arising out of and in the course of his employment with John Deere on January 31, 2014. The disputed issue presented for determination by the parties is: What is the nature and extent of the permanent disability to Bryant's right leg?

"Iowa Code section 85.34 governs the award of compensation for permanent disabilities." Westling v. Hormel Foods Corp., 810 N.W.2d 247, 252 (Iowa 2012).

> Permanent partial disabilities are divided into scheduled and unscheduled losses under chapter 85. *See* Iowa Code § 85.34. If an injury is one of the specific losses listed in section 85.34(2)(a)–(t), it is a scheduled injury and is compensated on the basis of the number of weeks provided for that particular injury by statute. The compensation allowed for a scheduled injury "is definitely fixed according to the loss of use of the particular member."

Second Injury Fund of Iowa v. Bergeson, 526 N.W.2d 543, 547 (Iowa 1995) (quoting Graves v. Eagle Iron Works, 331 N.W.2d 116, 118 (Iowa 1983)).

Thus, the permanent partial disability of an injury to a scheduled member such as Bryant's right leg is measured for workers' compensation purposes by functional loss only. See id. (quoting Second Injury Fund of Iowa v. Shank, 516 N.W.2d 808, 813 (Iowa 1994) (citing Mortimer v. Fruehauf Corp., 502 N.W.2d 12, 15 (Iowa 1993)). The factors used to determine the loss of earning capacity in industrial disability cases — age, education, qualifications, experience, and inability due to the injury to engage in employment for which the claimant is fitted — are not considered in scheduled member cases. See Westling, 810 N.W.2d at 252–53. "The result of this scheme is that an individual suffering an unscheduled injury often receives more benefits than an individual who suffers a scheduled injury, even if they are similarly affected in their ability to work." Bergeson, 526 N.W.2d at 547 (citing Gilleland v. Armstrong Rubber Co., 524 N.W.2d 404, 407 (Iowa 1994)).

In 2017, the General Assembly amended Iowa Code section 85.34 to require that the determination of permanent impairment to a scheduled member be determined solely by using the edition of the AMA Guides adopted by the Iowa Workers' Compensation Commissioner. 2017 Iowa Acts ch. 23, § 7 (now codified at Iowa Code § 85.34(2)(x) (2019)). Because the amended statute applies in cases stemming from injuries that occur on or after July 1, 2017, and Bryant's injury occurred on January 31, 2014, it does not apply in the current case. Id. at § 24. The analytical framework that governed Iowa workers' compensation cases before the 2017 amendments applies.

The pre-2017 amendments "law requires the commissioner to consider all evidence, both medical and nonmedical, in arriving at a disability determination." Terwilliger v. Snap-On Tools Corp., 529 N.W.2d 267, 273 (Iowa 1995) (citing Miller v. Lauridsen Foods, Inc., 525 N.W.2d 417, 420 (Iowa 1994)). It is a basic tenant of the law that it is the province of the presiding officer in a workers' compensation case to weigh the facts presented by the parties and reject any evidence that the presiding officer finds less reliable than other contradictory testimony. *Id*. at 273 (citing Rockwell Graphic Sys., Inc. v. Prince, 366 N.W.2d 187, 192 (Iowa 1985)). The starting point in this analysis is expert medical opinion using the fifth edition of the AMA Guides.

Under the administrative rules governing contested case proceedings before the Iowa Workers' Compensation Commissioner, the AMA Guides "are adopted as a guide for determining permanent partial disabilities." 876 IAC 2.4. Nothing in Rule 876 IAC 2.4 "shall be construed to prevent the presentation of other medical opinions or guides or other material evidence for purpose of establishing that the degree of permanent disability to which the claimant would be entitled would be more or less than the entitlement indicated in the Fifth Edition of the AMA [G]uides." Id.

"The Guides are not conclusive evidence on the extent of permanent impairment." Westling, 810 N.W.2d at 252 (citing Lauhoff Grain Co. v. McIntosh, 395 N.W.2d 834, 839 (Iowa 1986)). Other competent medical evidence may be considered when determining the percentage of partial permanent disability resulting from a scheduled injury. Id. (citing 876 IAC 2.4). In addition, "lay testimony is relevant and material on the issue of cause and extent of an injury." Terwilliger, 529 N.W.2d at 273 (citing Miller, 525 N.W.2d at 420).

"A treating physician's opinions are not to be given more weight than a physician who examines the claimant in anticipation of litigation as a matter of law." Bajgai v. Marzetti Frozen Pasta, Inc., File Nos. 5051657, 5056031 (App. August 20, 2018) (citing Gilleland v. Armstrong Rubber Co., 524 N.W.2d 404, 408 (Iowa 1994); Rockwell Graphic Systems, Inc. v. Prince, 366 N.W.2d 187, 192 (Iowa 1985)). Therefore, under the law, Dr. Field's opinion is not given more weight than Dr. Tearse's simply because Dr. Field treated Bryant's right-knee injury. The two opinions must be considered along with other competent medical evidence and lay testimony in order to determine the nature and extent of Bryant's permanent partial disability.

Dr. Field is Bryant's treating surgeon, chosen by John Deere. Dr. Field's care included performing arthroscopic surgery on Bryant's injured knee and follow-up care. Dr. Field provided an impairment rating using the Fifth Edition of the AMA Guides on October 23, 2014.

Dr. Field opined that "the majority of [Bryant's] major injuries certainly was the torn medial meniscus." (Def. Ex. D, p. 1) Dr. Field does not identify Bryant's "major issues" in addition to the torn medial meniscus. (Def. Ex. D, p. 1) Nor does he elaborate on what share of "the majority of his major injuries . . . was the torn medial meniscus." (Def. Ex. D, p. 1) Dr. Field's two-percent impairment rating of Bryant's right leg is "based on" Table 17-33 of the AMA Guides and the "nature of surgery required for his meniscus." (Def. Ex. D, p. 1) His impairment rating of two percent for the lower extremity and one percent for the whole body is the percentage impairment provided for a partial medial meniscectomy in Table 17-33. (Def. Ex. D, p. 1) In a letter to John Deere dated January 30, 2015, Dr. Field stated that if Bryant "has a flare-up of his knee, which was probably due to his arthritis, then he should be on anti-inflammatory medications but this is not related to his torn meniscus." (Cl. Ex. 12, p. 2) The letter does not contain additional explanation for this conclusion. (See Cl. Ex. 12, p. 2)

Bryant hired Dr. Tearse to perform an IME of his right leg because he felt Dr. Field's rating was too low. Whereas Dr. Field treated Bryant and therefore saw him multiple times over several months, Dr. Tearse saw Bryant twice. He also reviewed medical records relating to Bryant's work injury. Dr. Tearse obtained and interpreted x-rays during each physical examination he performed of Bryant.

Dr. Tearse has addressed the question of whether Bryant's work injury had an impact on the arthritis in his right knee. When interpreting Bryant's x-rays, Dr. Tearse noted the following:

- In his April 24, 2015, report: "There are . . . minimal degenerative changes in the patellofemoral compartment in the right knee." (Cl. Ex. 3, p. 3)

- In his February 16, 2018, report: There are "mild degenerative changes in both the medial and patellofemoral compartments of the right knee, and to a lesser extent the left knee." (Cl. Ex. 5, p. 3)

Thus, Dr. Tearse made findings showing a difference between Bryant's left knee, which he did not injure on January 31, 2014, and his right knee, which is the scheduled member the parties stipulated that he injured. And Dr. Tearse's findings regarding Bryant's right knee form the foundation of his expert medical opinion on causation and permanent partial disability.

Based on two sets of x-rays, review of Bryant's medical records, and two physical examinations of the claimant, Dr. Tearse opined that "Bryant shows evidence for a slight progression of his right knee medial and patellofemoral compartment osteoarthritis, which was previously noted at the time of his surgery, as well as my

previous evaluation." (Cl. Ex. 5, p. 3) "Although he may have had evidence of some underlying arthrosis at the time of his injury, it is my opinion that his work related injury of January 2014 caused a substantial and permanent aggravation of his right knee condition, and continues to be the primary cause for his ongoing symptoms." (Cl. Ex. 5, p. 3)

The lay testimony at hearing bolsters Dr. Tearse's opinion on causation and permanent partial disability. First, there is the comparison between Bryant's physical ability and symptoms before the injury while working for John Deere and after December 31, 2014. Bryant testified credibly that he worked at John Deere for multiple years without any health issues relating to his right knee. He was able to consistently work overtime without any problems. This stands in contrast to his experience after the injury of January 31, 2014. Following the injury, Bryant experienced pain in his right knee. He experienced worsened pain due to working overtime. Consequently, Bryant avoided overtime whenever he could. He even changed jobs at John Deere multiple times so he would not have to work as much overtime.

The evidence establishes that Dr. Tearse's impairment rating of Bryant's right leg is more persuasive than Dr. Field's rating. Dr. Tearse's impairment rating is based on observations of a degenerative change in Bryant's knee; Dr. Field's assessment of whether Bryant's work injury caused an aggravation of his arthritis is a conclusory assertion. Bryant has established by a preponderance of the evidence that the January 31, 2014, work injury aggravated or lighted up his right-knee arthritis. The January 31, 2014, injury to his right leg and its aggravation or lighting up of his arthritis caused Bryant to sustain an eight percent permanent partial disability to his right leg due to the work injury on January 31, 2014.

B. Successive Disabilities.

The parties identified as a disputed issue in this case the question of whether the successive disability provisions of Iowa Code section 85.34(7) limit Bryant's recovery. John Deere advocates an award of what is effectively a credit for Bryant's prior right-leg injury under Iowa Code section 85.37(a) is appropriate in this case. John Deere argues that the statute does not state that the claimant must have been paid workers' compensation benefits for permanent disability caused by a prior work injury for another employee, but rather states that the employer is not liable for compensation of an employee's preexisting disability that arose out of and in the course of employment with a different employer.

Bryant disagrees. Citing Hesby v. Polaris Industries, he contends that the defendants must prove that the claimant received payment of permanent benefits for the preexisting disability caused by a work injury sustained during employment with a previous employer. Bryant also advocates use of the fresh-start rule in interpreting Iowa Code section 85.34(7) under Roberts Dairy v. Billick, 861 N.W.2d 823 (Iowa 2015).

The legislature enacted amendments to Iowa Code chapter 85 in 2017. See 2017 Iowa Acts ch. 23. The amendments included changing the language of Iowa Code section 85.34. See id. at § 13. This amendment applies to injuries that occur on or after July 1, 2017, so it does not apply to the current case. See id. at § 24. The version of Iowa Code section 85.34(7) in effect between the effective dates of the 2004 and 2017 amendments applies here.

Iowa Code section 85.34(7), as it was then in effect, states:

> a. An employer is fully liable for compensating all of an employee's disability that arises out of and in the course of the employee's employment with the employer. An employer is not liable for compensating an employee's preexisting disability that arose out of and in the course of employment with a different employer or from causes unrelated to employment.
>
> b. If an injured employee has a preexisting disability that was caused by a prior injury arising out of and in the course of employment with the same employer, and the preexisting disability was compensable under the same paragraph of section 85.34, subsection 2, as the employee's present injury, the employer is liable for the combined disability that is caused by the injuries, measured in relation to the employee's condition immediately prior to the first injury. In this instance, the employer's liability for the combined disability shall be considered to be already partially satisfied to the extent of the percentage of disability for which the employee was previously compensated by the employer.
>
> If, however, an employer is liable to an employee for a combined disability that is payable under section 85.34, subsection 2, paragraph “u”, and the employee has a preexisting disability that causes the employee's earnings to be less at the time of the present injury than if the prior injury had not occurred, the employer's liability for the combined disability shall be considered to be already partially satisfied to the extent of the percentage of disability for which the employee was previously compensated by the employer minus the percentage that the employee's earnings are less at the time of the present injury than if the prior injury had not occurred.
>
> c. A successor employer shall be considered to be the same employer if the employee became part of the successor employer's workforce through a merger, purchase, or other transaction that assumes the employee into the successor employer's workforce without substantially changing the nature of the employee's employment.

The legislature added Section 85.34(7) during a 2004 special session. Before 2004, the Iowa Supreme Court issued a series of opinions on how the fresh-start and

full-responsibility rules apply to determinations of permanent disability under Iowa Code section 85.34 when the claimant has a preexisting permanent disability.

> Under the fresh-start rule, if the employee sustains a new work-related injury after commencing work for a new employer, any resulting loss of earning capacity is measured as a diminution of the new, complete earning capacity that existed at the time the employment with the new employer commenced.

Roberts Dairy, 861 N.W.2d at 818.

> The full-responsibility rule is a functional corollary of the fresh-start rule. Floyd v. Quaker Oats, 646 N.W.2d 105, 110 (Iowa 2002) (noting our decision in Celotex Corp. v. Auten, 541 N.W.2d 252 (Iowa 1995), "was a recognition ... that application of the full-responsibility rule in body-as-a-whole disability situations is *based on the premise of a fresh start* with respect to industrial disability" (emphasis added)). "When there are two successive *work-related* [unscheduled] injuries, the employer liable for the second injury 'is generally held liable for the entire disability resulting from the combination of the prior disability and the present injury.' " Second Injury Fund v. Nelson, 544 N.W.2d 258, 265 (Iowa 1995) (quoting Celotex Corp., 541 N.W.2d at 254).

Id. at 818–19 (emphasis in original).

In Floyd v. Quaker Oats, the Iowa Supreme Court considered whether the full-responsibility rule applied to the determination of functional impairment in the compensation of scheduled injuries. 646 N.W.2d 105 (Iowa 2002). The claimant sustained a leg injury on September 3, 1993, and continued to work for the employer. Id. at 106. Ultimately, a treating physician opined that the claimant sustained a 15 percent permanent partial disability to the leg, 11.25 percent of which attributable to the September 3, 1993, injury and 3.75 percent attributable to a cumulative injury after September 3, 1993. Id. at 107.

The claimant filed two petitions: one for the September 3, 1993, injury and another alleging a cumulative injury after September 3, 1993. Id. The claimant "dismissed the petition involving the September 3, 1993 injury without prejudice in the face of a statute-of-limitations defense." Id. at 107.

The deputy workers' compensation commissioner found the claimant sustained a cumulative injury resulting in a 3.75 percent permanent partial disability from the day-to-day work after September 3, 1993. Id. However, the deputy also concluded the full-responsibility rule recognized in Second Injury Fund v. Nelson, 544 N.W.2d 258, 265 (Iowa 1995), and Celotex Corp. v. Auten, 541 N.W.2d 252, 254 (Iowa 1995), should be applied to produce a compensable impairment of fifteen percent of the use of claimant's leg. Id. In essence, the deputy used the full-responsibility rule to resurrect the petition

regarding the alleged injury of September 3, 1993, which the claimant dismissed without prejudice in the face of a statute of limitations defense.

The agency "appeal decision concluded that the full-responsibility rule is only applicable in body-as-a-whole disability cases and does not apply to functional impairment that is determinative of compensation for scheduled," under Iowa Code 85.34 before the 2004 amendments. Id. at 107. "On claimant's petition for judicial review, the district court disagreed with the agency's refusal to apply the full-responsibility rule and ruled that the disability established in the opinion of the deputy industrial commissioner was correct." Id.

The Iowa Supreme Court began its analysis by citing to its opinion in Celotex, which relied on the articulation of the principles underlying the fresh-start and full-responsibility rules in body-as-a-whole disability cases, to contrast body-as-a-whole and scheduled-member disabilities:

> In upholding the full-responsibility rule in body-as-a-whole liability cases, this court, in Celotex, 541 N.W.2d at 254, relied extensively on the following passage from a leading workers' compensation treatise:
>
> > The capacities of a human being cannot be arbitrarily and finally divided and written off by percentages. The fact that a man has once received compensation as for 50 percent of total disability does not mean that ever after he is in the eyes of compensation law but half a man, so that he can never again receive a compensation award going beyond the other 50 percent of total. After having received his prior payments, he may, in future years, be able to resume gainful employment.... [H]e may have resumed employment as a "working unit." If so, there is no reason why a disability which would bring anyone else total permanent disability benefits should yield him only half as much.
>
> 2 Arthur Larson, The Law of Workers' Compensation § 59.42(g)(3), at 10–599 (1981).
>
> With respect to scheduled injuries, the treatise suggests "[a] similar principle may be applied to an individual member that has been restored in whole or in part." *Id.* The Celotex decision was a recognition on our part that application of the full-responsibility rule in body-as-a-whole disability situations is based on the premise of a fresh start with respect to industrial disability. It permits a new determination of loss of earning capacity based on earnings from resumed employment following a prior disabling injury. As the Larson treatise suggests, however, this principle is only applicable with respect to scheduled injuries to the extent that it is shown that the individual member "has been restored in whole or in part."

Id. at 109–10.

The court concluded that there was no evidence in the record to suggest that if the claimant sustained a discrete and determinable functional disability relating to the September 3, 1993 injury, the condition improved so as to restore any portion of that functional loss. Id. at 110. It found that the evidentiary record established just the opposite. Id. The condition of the claimant's leg had worsened. Id.

The court then considered whether the claimant might have aggravated a preexisting condition. Id. In doing so, it stressed "the distinction between preexisting conditions and preexisting disability" when applying the fresh-start and full-responsibility rules to apportion permanent disability in holding:

> Full compensation is allowed for the result of workplace activities aggravating a preexisting condition. Rose, 247 Iowa at 908, 76 N.W.2d at 760–61. Thus, for the apportionment rule to be applied in situations in which apportionment would otherwise be proper, the preexisting injury must have independently produced a discreet and ascertainable degree of disability. Celotex, 541 N.W.2d at 255 (citing 2 Larson § 59.22(a), at 10–492.361; § 59.22(b), at 10–492.389). In other words, it must be shown that a particular percentage of permanent disability would have resulted from the prior event acting alone.

Id. at 110.

The court concluded that the agency could have concluded that the claimant sustained an injury to his leg on September 3, 1993, resulting in a permanent partial disability that was discrete and did not improve or restore and sustained a second injury that was cumulative in nature after September 3, 1993, and resulted in a discrete permanent disability. It therefore upheld the agency appeal decision that found the full-responsibility rule could not be used to shoehorn into the cumulative injury the permanent disability that resulted after September 3, 1993.

Is the Iowa Supreme Court's 2002 opinion in Floyd good law after the 2004 amendments?

In 2004, the legislature took up the fresh-start and full-responsibility rules for permanent disabilities under Iowa workers' compensation law. See 2004 Iowa Acts 1st Extraordinary Sess. ch. 1001. In doing so, the legislature took action with the stated intent to "prevent all double recoveries and all double reductions in workers' compensation benefits for permanent partial disability" by "modify[ing] the fresh[-]start and full[-]responsibility rules of law announced by the Iowa supreme court in a series of judicial precedents." Id. at § 20.

The legislation rarely uses narrow terms such as "scheduled," "unscheduled," "industrial," or "body-as-a-whole." Only once does the legislature single out a lettered

paragraph in Iowa Code section 85.34(2). See id. at § 11 (codified at Iowa Code § 85.34(7)(b) until the 2017 amendments (referencing what was then Iowa Code § 85.34(2)(u) and is now found at Iowa Code § 85.35(2)(v)). Throughout the text, the legislature uses broad language applicable to scheduled and body-as-a-whole injuries alike:

- "permanent partial disability," id. at § 20 (first paragraph);
- "amount of compensation for disability," id. (second paragraph);
- "an injured employee's disability that is caused by work-related injuries," id. (third paragraph);
- "a formula that applies to disability payments," id. (third paragraph);
- "amount of compensation to be ultimately paid for the disability, id. (third paragraph);
- "all of an employee's disability," id. at § 11 (codified at Iowa Code § 85.34(7)(a));
- "preexisting disability that arose out of and in the course of employment with a different employer or from causes unrelated to employment," id. at § 11 (codified at Iowa Code § 85.34(7)(a));
- "a preexisting disability that was caused by a prior injury arising out of and in the course of employment with the same employer," id. at § 11 (codified at Iowa Code § 85.34(7)(b)); and
- "preexisting disability was compensable under the same paragraph of section 85.34, subsection 2, as the employee's present injury," id. at § 11 (codified at Iowa Code § 85.34(7)(b)).

In contrast, the legislature singles out distinct types of disabilities when appropriate. The bill's statement of legislative intent is the only instance in which the legislature singles out scheduled-member disabilities. This section of the legislation makes clear how the 2004 amendments apply to scheduled-member injuries:

> The general assembly does not intend this division of this Act to change the character of any disability from scheduled to unscheduled or vice versa or to combine disabilities that are not otherwise combined under law existing on the effective date of this section of this division of this Act. **Combination of successive scheduled disabilities in section 85.34, subsection 7, as enacted in this division of this Act, is limited to disabilities affecting the same member, such as successive disabilities to the right arm.** A disability to the left arm that is followed by a disability to the right arm is governed by section 85.64 and is not a successive disability under this division.

Id. at § 20 (emphasis added).

Thus, the 2004 amendments modified the approach to successive disabilities to scheduled members as articulated in Floyd. They created a uniform approach to successive disabilities for all permanent partial disabilities. Iowa Code section 85.34(7),

which the 2004 amendments added, applies to scheduled and unscheduled permanent disabilities alike.

In creating a uniform approach, the legislature took the underlying principle of the fresh-start rule from Larson, which informed the court's industrial-disability holdings, and applied it to all permanent partial disabilities:

> The general assembly recognizes that the amount of compensation a person receives for disability is directly related to the person's earnings at the time of injury. The competitive labor market determines the value of a person's earning capacity through a strong correlation with the level of earnings a person can achieve in the competitive labor market. The market reevaluates a person as a working unit each time the person competes in the competitive labor market, causing a fresh start with each change of employment. The market's determination effectively apportions any disability through a reduced level of earnings. The market does not reevaluate an employee's earning capacity while the employee remains employed by the same employer.
>
> The general assembly intends that an employer shall fully compensate all of an injured employee's disability that is caused by work-related injuries with the employer without compensating the same disability more than once. This division of this Act creates a formula that applies disability payments made toward satisfaction of the combined disability that the employer is liable for compensating, while taking into account the impact of the employee's earnings on the amount of compensation to be ultimately paid for the disability.

Id. at § 20.

The Iowa Supreme Court considered the effect of the 2004 amendments on the fresh-start and full-responsibility rules in industrial disability cases in Roberts Dairy. The court found the following:

- Its precedent applied the fresh-start rule in all industrial disability claims, regardless of whether the preexisting disability stemmed from an injury with the same or a different employer;
- The legislature provided a formula only apportioning previous permanent partial disability caused by an injury relating to work with the same employer; and
- The legislature expressly recognized that market forces reevaluate a person as a working unit each time the person competes in the competitive labor market, causing a fresh start with each change of employment. 861 N.W.2d at 822–23, as amended (June 11, 2015).

Consequently, the court concluded that the legislature unambiguously affirmed use of the fresh-start rule in cases in which the alleged preexisting industrial disability is caused by an injury arising out of and in the course of employment with a different employer. Id. at 822–23. However, the employer receives a credit for successive permanent disabilities caused by injuries sustained by an employee while working for the same employer under the formula in Iowa Code section 85.34(7)(b). Id. at 823. Later that same year, the court affirmed this interpretation of Iowa Code section 85.34(7) and the 2004 amendments. Warren Properties v. Stewart, 864 N.W.2d 307, 313–14 (Iowa 2015) (the claimant was concurrently employed by two employers, sustained an industry disability at one, left her job with the employer liable for that industrial disability, and then sustained a second industrial disability with her remaining employer and without reentering the labor market).

As discussed above, the legislature eliminated the different approach to the fresh-start and full-responsibility rules for scheduled and unscheduled disabilities with the 2004 amendments. This uniform approach to permanent partial disabilities means the Roberts Dairy and Warren Properties holdings on how, if at all, successive permanent partial disabilities are apportioned under Iowa Code section 85.35(7) are applicable to all permanent partial disabilities. The fresh-start rule applies in cases where the claimant sustained successive permanent partial disabilities affecting the same scheduled member while working for different employers. Successive permanent partial disabilities to the same scheduled member caused by injuries relating to work with the same employer are apportioned using the formula in Iowa Code section 85.34(7)(b).

In the current case, Bryant sustained a permanent partial disability to his right knee while working for a different employer. Then he injured his right knee on January 31, 2014, while employed by John Deere. Therefore, under the 2004 to 2017 version of Iowa Code section 85.34(7), Roberts Dairy, and Warren Properties, the fresh-start rule applies to Bryant's injury. John Deere does not receive a credit for the permanent partial disability rating Bryant received for the right-leg injury he sustained while working for a previous employer.

Further, even if we assume for the sake of argument that John Deere's interpretation of Iowa Code section 85.34(7), as it was in effect between the 2004 and 2017 amendments, is correct and neither Roberts Dairy nor Warren Properties applies, the evidence does not support a finding that John Deere is being held liable for a permanent partial disability Bryant sustained due to the previous injury, which is necessary to establish a potential double recovery that necessitates a credit for the previous disability.

As an initial matter, it is unclear whether the permanent partial disability rating assigned to Bryant after his first injury was made based on the AMA Guides, because the medical record that contains the impairment rating does not state whether the doctor used the AMA Guides. (See Jt. Ex. 1, p. 13) There is insufficient evidence in the record from which to conclude that Bryant's first permanent partial disability rating was made

using the AMA Guides. To establish an apples-to-apples comparison of the permanent partial disability ratings, both impairment ratings must be made using the AMA Guides. Consequently, the evidence does not support the conclusion that Bryant's second impairment rating, which is based on the AMA Guides, includes the permanent partial disability that resulted from his first injury.

Secondly, the record does not support the conclusion that Bryant's initial impairment rating and his second impairment rating reflect a rating of the same permanent partial disability. The evidence in the record is insufficient to establish that the previous impairment rating is based in part on Bryant's arthritis; rather, it appears based on the procedure: "The patient has permanent partial disability estimated at 5% *related to the meniscectomy*." (See Jt. Ex. 1, p. 13 (emphasis added)) Bryant's second impairment rating, on the other hand, is based in part on a lighting up or aggravation of arthritis. (See Cl. Ex. 5, p. 3) Simply put, the two permanent partial disability ratings appear to be more different than they are similar.

Whether the permanent partial disability of a scheduled member resulting from a subsequent procedure, such as a meniscectomy, results in permanent partial disability that would lead to a double recovery by the claimant is a question of fact that must be decided based on the evidentiary record. In this case, the record does not contain an expert medical opinion regarding Bryant's first injury of sufficient detail to support the conclusion that the permanent partial disability assigned by Dr. Tearse includes the permanent partial disability resulting from Bryant's earlier injury. Therefore, even if we assume arguendo that John Deere's interpretation of the statute is correct, the record does not support the conclusion that John Deere is being held liable for a permanent partial disability that arose out of and in the course of employment with a previous employer resulting in a double recovery for Bryant.

For these reasons, the evidence does not establish that John Deere is entitled to a credit for the permanent partial disability rating assigned to Bryant's right leg that resulted from an injury arising out of and in the course of employment with a previous employer under the version of Iowa Code section 85.34(7) that was in effect between the 2004 and 2017 amendments.

C. Mileage.

Transportation expenses under Iowa Code sections 85.27 and 85.39 include all mileage incident to the use of a private auto under Rule 876 IAC 8.1. "For annual periods beginning July 1, 2006, and thereafter, the per-mile rate shall be the rate allowed by the Internal Revenue Service for the business standard mileage rate in effect on July 1 of each year." 876 IAC 8.1(2). Therefore, Bryant receives reimbursement for travel as shown in the following table.

TIME PERIOD	MILES	RATE	TOTAL	CITATION
On or Before June 30, 2014	129.8	$0.565	$356.06	IR-2012-95
On or After July 1, 2014	248.4	$0.56	$220.66	IR-2013-95

Bryant is entitled to $576.73 total as reimbursement for the miles he traveled under Iowa Code sections 85.27 and 85.39, and Rule 876 IAC 8.1(2).

ORDER

It is therefore ordered:

1) John Deere shall pay Bryant seventeen point six (17.6) weeks of permanent partial disability benefits at the rate of six hundred eleven and 48/100 dollars ($611.48) per week commencing on the stipulated commencement date of May 27, 2014.

2) John Deere shall be entitled to the stipulated credit for four point four (4.4) weeks of compensation at the rate of six hundred eleven and 48/100 dollars ($611.48).

3) John Deere shall pay Bryant mileage reimbursement of five hundred seventy-six and 73/100 dollars ($576.73).

4) John Deere shall pay Bryant accrued weekly benefits in a lump sum.

5) John Deere shall pay interest on unpaid weekly benefits awarded herein as set forth in Iowa Code section 85.30. Defendants shall pay accrued weekly benefits in a lump sum together with interest at the rate of ten percent for all weekly benefits payable and not paid when due which accrued before July 1, 2017, and all interest on past due weekly compensation benefits accruing on or after July 1, 2017, shall be payable at an annual rate equal to the one-year treasury constant maturity published by the federal reserve in the most recent H15 report settled as of the date of injury, plus two percent. See Gamble v. AG Leader Technology, File No. 5054686 (App. Apr. 24, 2018).

6) John Deere shall file subsequent reports of injury as required by this agency under Rule 876 IAC 3.1(2).

7) John Deere shall pay Bryant one hundred and 00/100 dollars ($100.00) for the cost of the filing fee in this case.

Signed and filed this 24th day of February, 2020.

BENJAMIN G. HUMPHREY
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

The parties have been served, as follows:

Dirk Hamel (via WCES)
Paul McAndrew (via WCES)
Arthur Gilloon (via WCES)
Theron Christensen (via WCES)

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 filed via Workers' Compensation Electronic System (WCES) unless the filing party has been granted permission by the Division of Workers' Compensation to file documents in paper form. If such permission has been granted, the notice of appeal must be filed at the following address: Workers' Compensation Commissioner, Iowa Division of Workers' Compensation, 150 Des Moines Street, Des Moines, Iowa 50309-1836. The notice of appeal must be received by the Division of Workers' Compensation 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 legal holiday.