BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

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| JOHN COSGROVE, | : | |
| Claimant, | : | File No. 5068073 |
| vs. | : | A R B I T R A T I O N |
| CRST DEDICATED SERVICES, | : | D E C I S I O N |
| Employer,<br>Self-Insured,<br>Defendant. | : | Head Note No.: 1402.40, 1800, 1801, 2200, 2500, 2502, 3000 |

## STATEMENT OF THE CASE

The claimant, John Cosgrove, filed a petition for arbitration seeking workers' compensation benefits from CRST Dedicated Services, as the self-insured employer. Tom Drew appeared on behalf of the claimant. Chris Scheldrup and Dillon Carpenter appeared on behalf of the defendant.

The matter came on for hearing on August 19, 2020, before deputy workers' compensation commissioner Andrew M. Phillips in Des Moines, Iowa. An order issued on March 13, 2020, and updated June 1, 2020, by the Iowa Workers' Compensation Commissioner, In the Matter of Coronavirus/COVID-19 Impact on Hearings (Available online at: https://www.iowaworkcomp.gov/order-coronavirus-covid-19 (last viewed July 29, 2020)) amended the hearing assignment order in each case before the Commissioner scheduled for an in-person regular proceeding hearing between March 18, 2020, and November 20, 2020. The amendment makes it so that such hearings will be held by Internet-based video, using CourtCall. The parties appeared electronically, and the hearing proceeded without significant difficulties. The matter was fully submitted on September 25, 2020, after briefing by the parties.

The record in this case consists of Joint Exhibits 1-4, Claimant's Exhibits 1-5, and Defendant's Exhibits A-F. Testimony under oath was also taken from the claimant, John Cosgrove. Jeanne Strand was appointed the official reporter and custodian of the notes of the proceeding. The exhibits were accepted without objection.

## STIPULATIONS

Through the hearing report, as reviewed at the commencement of the hearing, the parties stipulated and/or established the following:

1. There was an employer-employee relationship at the time of the alleged injury.

2. The claimant sustained an injury, which arose out of and in the scope of employment, on November 1, 2018.

3. Although entitlements to temporary disability and/or healing period benefits cannot be stipulated, claimant was off of work from November 1, 2018, through April 2, 2020.

4. The claimant is entitled to zero percent permanent disability benefits.

5. The claimant was single, entitled to 1 exemption and had gross earnings of $1,000.00 per week, resulting in a weekly compensation rate of $617.50.

6. The fees or prices charged by providers are fair and reasonable.

7. Although disputed, the medical providers would testify as to the reasonableness of their fees and/or treatment set forth in listed expenses, and the defendant is not offering contrary evidence.

8. The claimant was paid zero weeks of compensation at the rate of $617.50 per week.

Additionally, there is no dispute as to the entitlement for permanent partial disability benefits. Defendant waived its affirmative defenses.

The parties are now bound by their stipulations.

## ISSUES

The parties submitted the following issues for determination:

1. Whether the alleged injury is a cause of temporary disability during a period of recovery.

2. Whether the alleged injury is a cause of permanent disability.

3. Whether the claimant is entitled to benefits from November 1, 2018, through April 2, 2020.

4. Whether claimant is entitled to payment, reimbursement, or an order for defendant to otherwise satisfy all past medical expenses contained in Claimant's Exhibit 4.

5. Whether claimant is entitled to reimbursement of his independent medical evaluation fees pursuant to Iowa Code 85.39.

6. Whether costs should be assessed against any party, and if so, in what amount.

## FINDINGS OF FACT

The undersigned, having considered all of the evidence and testimony in the record, finds:

John Cosgrove, the claimant, was 59 years old at the time of the hearing. He currently resides in Hamilton, Ohio. He is single. He attended high school until his junior year, and obtained his GED in 1990. (Claimant Exhibit 3:18; Testimony). He did not attend college. Mr. Cosgrove has a history of working jobs which require manual labor. (CE 3:18-22). From 1999 to 2001, Mr. Cosgrove was incarcerated at the Lima Correctional Institution in Lima, Ohio. (CE 3:20). From May of 2007 to September of 2011, Mr. Cosgrove was again incarcerated at the Allen Correctional Institution in Lima, Ohio. (CE 3:20).

Mr. Cosgrove began employment with CRST in September of 2017. (CE 3:19; Testimony). The claimant was a team truck driver for CRST. (Testimony). He drove long haul trucks with a co-driver. (Testimony). Mr. Cosgrove reports that on November 2, 2018, he was in Connecticut. (Testimony). There are several iterations of how this work incident occurred, but it appears that Mr. Cosgrove was climbing on his truck, slipped, and fell. (Testimony). Upon falling, Mr. Cosgrove struck his head, which caused a laceration. (Testimony). Mr. Cosgrove did not recall how, but he was transported to Waterbury Hospital due to his injury. (Testimony).

On November 2, 2018, Mr. Cosgrove reported to Waterbury Hospital with a head laceration. (Joint Exhibit 1:1). Mr. Cosgrove had a consultation with a neurologist at Waterbury Hospital, wherein he noted he jackknifed his truck. (JE 1:1). When he exited his truck, he was unsure as to whether or not he fell or lost consciousness. (JE 1:1). EMS reported to the hospital that he was found in an empty parking lot with a head laceration. (JE 1:1). Mr. Cosgrove had no recollection of what happened to him once he started backing up his truck. (JE 1:1). He remembered bits and pieces since coming to the hospital, but had a continuous recollection of being in the hospital. (JE 1:1). While in the hospital, he had a transthoracic echocardiogram with a history of amnesia and possible syncope noted. (JE 1:3). As part of his stay in the hospital, Mr. Cosgrove had an electroencephalogram (EEG) due to his altered mental state. (JE 1:4). The EEG indicated abnormal results due to mild generalized slowing. (JE 1:4). This was noted to be suggestive of a mild degree of diffuse encephalopathy; however, no seizure discharges were recorded. (JE 1:4). Mr. Cosgrove also had a CT angiogram of his head with intravenous contrast. (JE 1:5). No significant arterial stenosis, arterial occlusion, or acute intracranial process was seen. (JE 1:5). A CT angiogram of the neck was also performed. (JE 1:5-6). No significant arterial stenosis or occlusion was seen on the CT. (JE 1:6). A CT of the head or brain was also performed. (JE 1:6-7). The CT revealed no evidence of mass effect, mass lesion, intracranial hemorrhage, or acute cortical infarction. (JE 1:7). The ventricles and “CSF spaces” were normal. (JE 1:7). A midline frontal scalp lesion was seen, but no skull fracture was seen. (JE 1:7). A CT of the cervical spine was also done. (JE 1:7). The CT of the cervical spine showed degenerative changes through the cervical spine, but no acute fractures or traumatic subluxations. (JE 1:7). Mr. Cosgrove was discharged

on November 3, 2018. (JE 1:8). Upon discharge, Mr. Cosgrove was stable and understood his discharge instructions to avoid heavy lifting and driving. (JE 1:9). Mr. Cosgrove had a history of hypertension and polysubstance abuse, and presented with a head injury and amnesia after being found in a parking lot at work. (JE 1:9). The progression of events was unclear, as was whether Mr. Cosgrove's symptoms were amnesia or a syncope. (JE 1:9). There is no mention anywhere in his records from Waterbury Hospital of a transient ischemic attack (TIA). Mr. Cosgrove is the only person reporting this now, which is a change from his deposition testimony. (Defendant's Exhibit A:9).

Mr. Cosgrove's daughter drove to Connecticut and picked him up from the hospital. (Testimony). Mr. Cosgrove returned to Ohio, where he sought care with Lima Memorial Occupational Health, and Jamie R. Cook, PA-C. (JE 2:10). On November 12, 2018, Mr. Cosgrove had his first visit with Physician Assistant (PA) Cook. (JE 2:10). Mr. Cosgrove presented to PA Cook for suture removal with the history of a head laceration. (JE 2:12). Mr. Cosgrove noted to PA Cook that he was standing on the steps of his cab attempting to put a stripe on the cab of his truck. (JE 2:12). The next thing he recalled was being in the hospital. (JE 2:12). He claimed to PA Cook that he was informed that he had a TIA upon discharge from the hospital in Connecticut. (JE 2:12). He denied blurred vision, double vision, nausea, vomiting, slurred speech, difficulty communicating, difficulty concentrating, irritability, anxiety, or depression. (JE 2:12). PA Cook reviewed the imaging results from Waterbury Hospital. (JE 2:12). PA Cook further indicated that Mr. Cosgrove should keep the wound clean and dry. (JE 2:10). She instructed Mr. Cosgrove to take over-the-counter Tylenol. (JE 2:10). PA Cook allowed Mr. Cosgrove to work, but indicated he could not perform any DOT driving between November 12, 2018, and November 15, 2018. (JE 2:10).

Mr. Cosgrove returned to Lima Memorial Occupational Health on November 15, 2018, to visit PA Cook. (JE 2:14-18). He noted intermittent headaches across the forehead, which he treats with over-the-counter Tylenol. (JE 2:17). He denied any other head symptoms. (JE 2:17). His neurologic function remained intact. (JE 2:17). PA Cook cleared Mr. Cosgrove to return to work as of November 15, 2018. (JE 2:14). PA Cook pronounced Mr. Cosgrove to be at maximum medical improvement (MMI) effective November 15, 2018. (JE 2:14). PA Cook indicated that she diagnosed Mr. Cosgrove with a laceration without foreign body of the head, and checked a box indicated that the condition was not causing temporary total disability. (JE 2:15). PA Cook noted that Mr. Cosgrove should have a return to work DOT physical performed to determine if he is medically qualified to operate a commercial motor vehicle due to "the questionable TIA that occurred with the work related injury." (JE 2:18).

On February 3, 2020, Mr. Cosgrove reported to Health Partners of Western Ohio, where Amee Croy, CNP, examined him. (JE 3:19-23). CNP Croy noted that Mr. Cosgrove wanted to establish care and obtain a referral to a neurologist for a possible seizure disorder. (JE 3:19). The consult was necessary due to his DOT physical pending a neurology consult. (JE 3:19). Mr. Cosgrove reported to CNP Croy that he had "seizure like activity" after falling off of a truck. (JE 3:19). CNP Croy noted

that the CT of the head was negative, but noted that the EEG performed was abnormal as it showed mild generalized slowing, suggestive of a mild degree of diffuse encephalopathy. (JE 3:19). CNP Croy assessed Mr. Cosgrove with "[o]ther seizures," and generalized idiopathic epilepsy and epileptic syndromes not intractable without status epilepticus. (JE 3:22). CNP Croy referred Mr. Cosgrove to neurology. (JE 3:22).

Mr. Cosgrove reported to ProHealth Neurosurgery and Neurology on April 2, 2020, for an examination with Marietta Medel, M.D. (JE 4:24-26). Mr. Cosgrove visited due to a need for clearance to return to work driving a truck. (JE 4:24). Additionally, Mr. Cosgrove denied ever having a seizure, but told Dr. Medel that the hospital originally listed his diagnosis as a TIA. (JE 4:24). He had no other history of a head injury beyond that suffered in November of 2018. (JE 4:24). Dr. Medel assessed Mr. Cosgrove with seizure disorder, a history of a TIA, essential hypertension, dyslipidemia, and paralysis of vocal cords. (JE 4:25). Dr. Medel ordered an MRI of the brain and repeat EEG. (JE 4:25).

On May 1, 2020, Mr. Cosgrove reported to Lima Memorial Health System for a repeat EEG. (JE 4:27). Gerald Riess, M.D. performed and interpreted the EEG. (JE 4:27). Dr. Reiss opined that Mr. Cosgrove had a normal awake EEG. (JE 4:27).

Also on May 1, 2020, Mr. Cosgrove underwent a brain MRI. (JE 4:28-29). Richard Eickler, M.D. interpreted and reviewed the MRI. (JE 4:28-29). Dr. Eickler noted no evidence for a recent intracranial ischemia. (JE 4:28). Dr. Eickler's final impression was a normal unenhanced and enhanced MRI of the brain. (JE 4:28).

Following the EEG and MRI, Mr. Cosgrove returned to visit Dr. Medel on May 7, 2020. (JE 4:30-31). Dr. Medel noted the normal EEG and normal MRI. (JE 4:30). Dr. Medel noted, "[h]e does not have a seizure disorder." (JE 4:30). Dr. Medel indicated that Mr. Cosgrove sustained an injury to his head, and a history of a TIA that was "diagnosed per hospital in CT." (JE 4:31). Dr. Medel finally noted that Mr. Cosgrove was cleared to drive. (JE 4:31).

On June 16, 2020, Mr. Cosgrove reported via telemedicine for an independent medical examination (IME) with Jacqueline Stoken, D.O., F.A.A.P.M.R., F.A.O.C.P.M.R., C.I.M.E. (Claimant Exhibit 1:1-8). Dr. Stoken is board certified in physical medicine and rehabilitation, independent medical examination, and holistic medicine. (CE 1:1). Dr. Stoken reviewed Mr. Cosgrove's medical history. (CE 1). Mr. Cosgrove told Dr. Stoken that he "felt concussiony for 4 months." (CE 1:2). He further indicated feeling as though he were in a fog, could not think clearly, and could not follow conversation. (CE 1:2). It is repeated that he was told in the hospital that he suffered a TIA. (CE 1:2). Dr. Stoken's impression was: "[s]tatus post work injury on or about November 2018 with mild concussion and head laceration." (CE 1:6). Dr. Stoken assessed no permanent impairment, or work restrictions. (CE 1:7). Dr. Stoken noted that falling off of the truck caused the head injury. (CE 1:7).

During his first deposition, and at hearing, defendant asked Mr. Cosgrove why he had not returned to work. Mr. Cosgrove indicated that he wanted to go through the

workers' compensation process, and that he had a negative experience with CRST. (Testimony; Def. Ex. A:11). He indicated that he was capable of driving a semi, as he felt better physically. (Def. Ex. A:11). Mr. Cosgrove's testimony was difficult to follow with regard as to why he did not return to work or seek other employment. He indicated that he was told that he could not return due to his head issue, but there is no record of this anywhere in the evidence. (Testimony). Mr. Cosgrove testified that his DOT physical, a requirement for operating a commercial motor vehicle, was active until August of 2020. (Def. Ex. B:3). Mr. Cosgrove finally had a repeat DOT physical on July 3, 2020. (Def. Ex. D:1-2). Physician Assistant Allison Camp certified that Mr. Cosgrove is qualified under Federal Motor Carrier Safety Regulations through July 3, 2022. (Def. Ex. D:2).

## CONCLUSIONS OF LAW

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

### Temporary and Permanent Disability

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 medical causation is "essentially within the domain of expert testimony." Cedar Rapids Cmty. Sch. Dist. V. Pease, 807 N.W.2d 839, 844-45 (Iowa 2011). The commissioner, as the trier of fact, must "weigh the evidence and measure the credibility of witnesses." Id. The trier of fact may accept or reject expert testimony, even if uncontroverted, in whole or in part. Frye, 569 N.W.2d at 156. When considering the weight of an expert opinion, the fact-finder may consider whether the examination occurred shortly after the claimant was injured, the compensation arrangement, the nature and extent of the examination, the expert's education, experience, training, and practice, and "all other factors which bear upon the weight and value" of the opinion. Rockwell Graphic Sys., Inc. v. Prince, 366 N.W.2d 187, 192 (Iowa 1985). Unrebutted expert medical testimony cannot be summarily rejected. Poula v. Siouxland Wall & Ceiling, Inc., 516 N.W.2d 910 (Iowa App. 1994). Supportive lay testimony may be used to buttress expert testimony, and therefore is also relevant and material to the causation question.

Iowa Code 85.33 governs temporary disability benefits, and Iowa Code 85.34 governs healing period and permanent disability benefits. Dunlap v. Action Warehouse, 824 N.W.2d 545, 556 (Iowa Ct. App. 2012).

As a general rule, "temporary total disability compensation benefits and healing-period compensation benefits refer to the same condition." Clark v. Vicorp Rest., Inc., 696 N.W.2d 596, 604 (Iowa 2005). The purpose of temporary total disability benefits and healing period benefits is to "partially reimburse the employee for the loss of earnings" during a period of recovery from the condition. Id. The appropriate type of benefits depends on whether or not the employee has a permanent disability. Dunlap v. Action Warehouse, 824 N.W.2d 545, 556 (Iowa Ct. App. 2012).

When an injured worker has been unable to work during a period of recuperation from an injury that did not produce permanent disability, the worker is entitled to temporary total disability benefits during the time the worker is disabled by the injury.

Iowa Code 85.33(1) provides

> the employer shall pay to an employee for injury producing temporary total disability weekly compensation benefits, as provided in section 85.32, until the employee has returned to work or is medically capable of returning to employment substantially similar to the employment in which the employee was engaged at the time of injury, whichever occurs first.

Temporary total disability benefits cease when the employee returns to work, or is medically capable of returning to substantially similar employment.

Iowa Code 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 first of the three items to occur ends a healing period. See Waldinger Corp. v. Mettler, 817 N.W.2d 1 (Iowa 2012); Evenson v. Winnebago Indus., 881 N.W.2d 360 (Iowa 2012); Crabtree v. Tri-City Elec. Co., File No. 5059572 (App., Mar. 20, 2020). 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, 312 N.W.2d 60 (Iowa App. 1981). Healing period benefits can be interrupted or intermittent. Teel v. McCord, 394 N.W.2d 405 (Iowa 1986). Compensation for permanent partial disability shall begin at the termination of the healing period. Id.

Based upon the evidence in the record, the claimant suffered no permanent disability. Even the claimant's own expert, Dr. Stoken, opined that Mr. Cosgrove sustained no permanent disability. Therefore, the question is whether Mr. Cosgrove is entitled to temporary total disability benefits. Mr. Cosgrove was injured on November 1, 2018. He was admitted to the hospital for a brief period of time. Mr. Cosgrove claims that he was diagnosed with a TIA, but there is no diagnosis of a TIA in the initial hospital records. The only mention of a TIA comes from Mr. Cosgrove recounting his history to various providers. Additionally, Mr. Cosgrove argues that a provider told him that he could not operate a commercial vehicle for a time after sustaining a TIA. This is not in any of the medical records. Even if Mr. Cosgrove sustained a TIA, there is no evidence that it is work related.

However, there is ample evidence that Mr. Cosgrove sustained an injury on November 1, 2018. Mr. Cosgrove suffered a lacerated scalp as a result of a fall while in the course and scope of his employment. Additionally, it is reasonable that Mr. Cosgrove required some time off work due to his injuries. I find that Mr. Cosgrove is entitled to temporary total disability benefits from November 5, 2018, through November 15, 2018. November 5, 2018, is the commencement date due to Iowa Code 85.32, which states, "[e]xcept as to injuries resulting in permanent partial disability, compensation shall begin on the fourth day of disability after the injury." I conclude that Mr. Cosgrove's temporary total disability benefits end on November 15, 2018, as that is the date on which Mr. Cosgrove was placed at MMI.

**Rate**

The parties stipulated that the claimant earned a gross weekly wage of $1,000.00, was single, and entitled to one exemption. The parties contend that this provides for a compensation rate of $617.50. However, the applicable compensation rates in the Ratebook Spreadsheet issued by the Iowa Division of Workers' Compensation, indicate that the proper rate from July 1, 2018, to June 30, 2019, for a single person earning $1,000.00 in gross weekly wages with entitlement to one exemption, indicate that the proper rate is $612.36.

**Medical Expenses**

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. Iowa Code 85.27. Holbert v. Townsend Engineering Co., Thirty-second Biennial Report of the Industrial Commissioner 78 (Review-Reopening October 1975).

Pursuant to Iowa Code 85.27, claimant is entitled to payment of reasonable medical expenses incurred for treatment of a work injury. Claimant is entitled to an order of reimbursement if he/she has paid those expenses. Otherwise, claimant is entitled only to an order directing the responsible defendant to make such payments directly to the provider. See Krohn v. State, 420 N.W.2d 463 (Iowa 1988).

In cases where the employer's medical plan covers the medical expenses, claimant is entitled to an order of reimbursement only if he has paid treatment costs; otherwise, the defendant is ordered to make payments directly to the provider. See Krohn, 420 N.W.2d at 463. Where medical payments are made from a plan to which the employer did not contribute, the claimant is entitled to a direct payment. Midwest Ambulance Service v. Ruud, 754 N.W.2d 860, 867-68 (Iowa 2008) ("We therefore hold that the commissioner did not err in ordering direct payment to the claimant for past medical expenses paid through insurance coverage obtained by the claimant

independent of any employer contribution."). See also Carl A. Nelson & Co. v. Sloan, 873 N.W.2d 552 (Iowa App. 2015) (Table) 2015 WL 7574232 15-0323.

Claimant has requested reimbursement for $33,573.19 in medical billing. Considering that the undersigned found a period of temporary disability from November 1, 2018, through November 15, 2018, it is reasonable for the defendant to pay for visits during this time. Billing and payment records are presented in Claimant's Exhibit 4, page 30, et seq., and Defendant's Exhibit E, page 1. Defendant paid for visits with Lima Memorial Health System on November 12, 2018, and November 15, 2018. They also paid for the claimant's stay at Waterbury Hospital. The only outstanding billing during the time in question is a November 2, 2018, date of service, for treatment with Waterbury Neurology, LLC. The bill is $337.00, and the claimant paid $168.50, with an adjustment of $168.50. Therefore, I order the defendant to reimburse the claimant $168.50.

**IME under Iowa Code 85.39**

Iowa Code 85.39(2) states:

> If an evaluation of permanent disability has been made by a physician retained by the employer and the employee believes this evaluation to be too low, the employee shall, upon application to the commissioner and upon delivery of a copy of the application to the employer and its insurance carrier, be reimbursed by the employer the reasonable fee for a subsequent examination by a physician of the employee's own choice, and reasonably necessary transportation expenses incurred for the examination.

Iowa Code 85.39(2).

Defendant is 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 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).

Iowa Code 85.39 was amended in 2017. Iowa Code 85.39(2) added:

> An employer is only liable to reimburse an employee for the cost of an examination conducted pursuant to this subsection if the injury for which the employee is being examined is determined to be compensable under this chapter or chapter 85A or 85B. An employer is not liable for the cost of such an examination if the injury for which the employee is being examined is determined not to be a compensable injury. A determination of the reasonableness of a fee for an examination made pursuant to this

> subsection shall be based on the typical fee charged by a medical provider to perform an impairment rating in the local area where the examination is conducted.

Iowa Code 85.39(2) (2017).

The claimant requests that the undersigned order payment to the claimant of the fee for Dr. Stoken's IME. No provider arranged by the defendant provided an impairment rating. Therefore, under applicable Iowa law, the claimant is not entitled to reimbursement for Dr. Stoken's IME.

**Costs**

Claimant seeks the award of costs as outlined in Claimant's Exhibit 5. Costs are to be assessed at the discretion of the deputy commissioner hearing the case. See 876 Iowa Administrative Code 4.33; Iowa Code 86.40. 876 Iowa Administrative Code 4.33(6) provides:

> [c]osts taxed by the workers' compensation commissioner or a deputy commissioner shall be (1) attendance of a certified shorthand reporter or presence of mechanical means at hearings and evidential depositions, (2) transcription costs when appropriate, (3) costs of service of the original notice and subpoenas, (4) witness fees and expenses as provided by Iowa Code sections 622.69 and 622.72, (5) the costs of doctors' and practitioners' deposition testimony, provided that said costs do not exceed the amounts provided by Iowa Code sections 622.69 and 622.72, (6) the reasonable costs of obtaining no more than two doctors' or practitioners' reports, (7) filing fees when appropriate, including convenience fees incurred by using the WCES payment gateway, and (8) costs of persons reviewing health service disputes.

The administrative rule expressly allows taxation of costs for transcriptions, the reasonable cost of obtaining no more than two doctors' or practitioners' reports, and the costs of filing fees.

In my discretion, I decline to award costs in this matter.

## ORDER

IT IS THEREFORE ORDERED:

The defendant is to pay unto claimant one point four three (1.43) weeks of temporary total disability benefits at the rate of six hundred twelve and 36/100 dollars ($612.36) per week from November 1, 2018, through November 15, 2018.

That the proper weekly rate is six hundred twelve and 36/100 dollars ($612.36) per week.

The defendant is to reimburse the claimant one hundred sixty-eight and 50/100 dollars ($168.50) for previously paid medical billing.

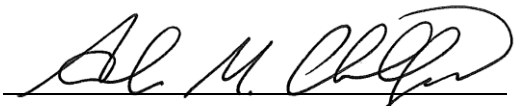
That defendant shall pay interest on unpaid weekly benefits awarded herein as set forth in Iowa Code 85.30. Defendant shall pay accrued weekly benefits in a lump sum together with interest payable at an annual rate equal to the one-year treasury constant maturity published by the federal reserve in the 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).

That defendant shall be given credit for benefits previously paid.

That the parties shall bear their own costs.

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

Signed and filed this 28th day of October, 2020.



ANDREW M. PHILLIPS
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

The parties have been served, as follows:

Tom L. Drew (via WCES)

Chris Scheldrup (via WCES)
Dillon Carpenter (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.