BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

LORI TORRES, Claimant, vs. A.Y. McDONALD, MFG. CO., Employer, Self-Insured, Defendant.	:	File Nos. 5053063, 5053961 ARBITRATION DECISION Head Note Nos.: 1402.30, 1402.40, 1803, 1808, 2209

Claimant Lori Torres filed two petitions in arbitration on February 15, 2017, File Numbers 5053063 and 5053961. In File Number 5053063, Torres alleged she sustained a cumulative injury from repetitive use of her hands and arms while working for the defendant, A.Y. McDonald Manufacturing Company ("A.Y. McDonald"), on May 29, 2014. Torres also stated a claim against the Second Injury Fund of Iowa ("the Fund"), alleging a first loss in 2012 of the right elbow/arm. In File Number 5053961, Torres alleged she sustained injuries to her right hand, wrist, arm, and elbow, and left hand, wrist, arm, and elbow, while working for A.Y. McDonald on July 22, 2015. The Fund filed an answer on March 2, 2017. A.Y. McDonald filed an answer on March 2, 2017. On December 3, 2018, Torres filed a motion to dismiss the Fund, which was granted on December 4, 2018.

An arbitration hearing was held on December 7, 2018, at the Division of Workers' Compensation. Attorney Mark Sullivan represented Torres. Torres appeared and testified. Attorney David Jenkins represented A.Y. McDonald. Joint Exhibits ("JE") 2 through 5, 7 through 8, and Exhibits 1 through 5 and A through F were admitted into the record. The record was held open for the receipt of post-hearing briefs. The briefs were received and the record was closed.

Before the hearing, the parties prepared a hearing report for each case, listing stipulations and issues to be decided. A.Y. McDonald waived all affirmative defenses for both cases.

FILE NO. 5053063

STIPULATIONS

1. An employer-employee relationship existed between A.Y. McDonald and Torres at the time of the alleged injury.

2. Torres sustained an injury on May 29, 2014, which arose out of and in the course of her employment with A.Y. McDonald.

3. The alleged injury is a cause of temporary disability during a period of recovery.

4. Temporary benefits are no longer in dispute.

5. At the time of the alleged injury Torres's gross earnings were $1,142.94 per week, she was married and entitled to two exemptions, and the parties believe the weekly rate is $713.21.

6. Prior to the hearing A.Y. McDonald had paid Torres temporary benefits only and no permanent benefits.

7. A.Y. McDonald agreed to pay one-third of the cost of the independent medical examination performed by Dr. Taylor.

8. Costs have been paid.

ISSUES

1. What is the nature of the injury; did Torres sustain a simultaneous injury to her bilateral upper extremities?

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

3. If the alleged injury is a cause of permanent disability, what is the extent of disability?

4. If the alleged injury is a cause of permanent disability, what is the commencement date of permanent partial disability benefits?

5. Should costs be assessed against either party?

FILE NO. 5053961

STIPULATIONS

1. An employer-employee relationship existed between A.Y. McDonald and Torres at the time of the alleged injury.

2. Temporary benefits are no longer in dispute.

3. If the injury is found to be the cause of permanent disability, the commencement date for permanent partial disability benefits, if any are awarded, is July 23, 2015.

4. At the time of the alleged injury Torres's gross earnings were $947.85 per week, she was married and entitled to two exemptions, and the parties believe the weekly rate is $604.46.

5. Prior to the hearing Torres was paid no weeks of compensation.

6. Costs have been paid.

ISSUES

1. Did Torres sustain an injury on July 22, 2015, which arose out of and in the course of her employment with A.Y. McDonald?

2. What is the nature of the injury?

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

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

5. If the alleged injury is a cause of permanent disability, what is the extent of disability?

6. Is Torres entitled to recover one-third of the cost of the independent medical examination conducted by Dr. Taylor?

7. Should costs be assessed against either party?

FINDINGS OF FACT

Torres graduated from high school and attended one year of college at Southwest Technical College in Wisconsin, earning a diploma in machining. (Exhibit F, page 26; Transcript, p. 53) Torres is married. At the time of the hearing she was forty-nine. (Tr., p. 54)

A.Y. McDonald hired Torres on February 9, 1998. (Ex. F, p. 28; Tr., p. 10) On her application Torres reported she had experience reading blueprints, setting her own tools, reading micrometers, typing, using a personal computer and word processor, and using machinery. (Ex. F, p. 26) Torres continued to work for A.Y. McDonald at the time of the hearing.

A.Y. McDonald manufactures gas and water valves and connections. (Tr., p. 10) Over the course of her employment with A.Y. McDonald Torres has worked both in assembly and machining, but she has spent most of her time in machining. (Tr., p. 10) Each day Torres is assigned a different task for the day, which varies depending on the needs of A.Y. McDonald. (Tr., p. 11) Torres machines, assembles, tests, and packs

valves and connections. (Tr., p. 11) Torres uses both of her hands each day, and she agreed her work is fast-paced, hand intensive, and repetitive in nature. (Tr., pp. 11-12)

Before commencing her employment with A.Y. McDonald Torres had not sustained any injuries to her arms or hands. (Tr., p. 12) In 2004 Torres developed tendinitis in her right thumb and wrist after spinning nuts as a machinist. (Tr., p. 12) Torres agreed her symptoms resolved over time. (Tr., p. 12) In February 2012, Torres sprained her right forearm at work while machining dual checks, assembling by wrenching caps on Machine Number 710. (Tr., pp. 12-13) Torres reported her symptoms did not resolve and she has had problems "with them" always. (Tr., p. 13) Torres received treatment, including therapy and ultrasound waves. (Tr., pp. 13-14)

On November 15, 2012, Torres attended an appointment with her family medicine provider, Jennifer Mohr, D.O., complaining of left elbow and shoulder pain that started two weeks ago after she shoveled gravel. (JE 8, p. 2) Dr. Mohr ordered physical therapy for Torres's left arm pain. (JE 8, p. 3) Torres testified the pain started after she helped her husband shovel landscape rock out of his truck. (Tr., pp. 14-15) Torres did not miss any work related to her left elbow and shoulder pain in 2012. (Tr., p. 15) Torres received physical therapy, and testified her symptoms subsided in December 2012. (Tr., p. 15) This testimony is inconsistent with a medical record from Michael Chapman, M.D., an orthopedic surgeon with Medical Associates Orthopaedics, from May 15, 2013. (JE 4, p. 4)

A.Y. McDonald promoted Torres to the position of factory supervisor for the second shift, effective January 1, 2013. (Ex. F, p. 28; Tr., p. 69) The supervisor position did not involve the same level of physical activity as the machining and assembling Torres did at A.Y. McDonald. (Tr., pp. 69-70) Torres elected to return to production as a machining employee on the second shift effective April 15, 2013. (Ex. F, p. 29; Tr., p. 70)

During an appointment on May 15, 2013, with Dr. Chapman, Torres complained of upper back and left parascapular pain with pain in her left arm and elbow that started six months ago when she was shoveling gravel. (JE 4, p. 4) Dr. Chapman performed a shoulder injection, and ordered physical therapy. (JE 4, p. 4) Dr. Chapman documented magnetic resonance imaging showed a large disc herniation, he believed her elbow pain was caused by lateral epicondylitis, and he believed a tennis elbow brace would help. (JE 4, p. 4)

Torres continued to complain of neck, shoulder, and arm pain with numbness and tingling. (JE 4, p. 5) Dr. Chapman noted he thought Torres might have separate problems with her neck and shoulder, and Torres planned to undergo a C4-C5 anterior cervical discectomy and fusion. (JE 4, p. 5) Torres testified her neck and left shoulder problem "wasn't work – work-related." (Tr., pp. 16-17)

On July 19, 2013, Torres returned to Dr. Mohr, complaining of pain in her right elbow down into her hand for a month or two, numbness and weakness in her grip strength. (JE 8, p. 5) Torres relayed she had been doing a lot of yard work and she was taking ibuprofen for her symptoms. (JE 8, p. 5) Dr. Mohr assessed Torres with lateral epicondylitis, and noted the numbness was of an uncertain etiology and could be related to an ulnar nerve issue. (JE 8, p. 6)

On January 9, 2014, Torres attended an appointment with Dr. Chapman to follow up after anterior cervical discectomy and fusion surgery. (JE 3, p. 1) Torres relayed her pain was back and bothering her as much as ever. (JE 3, p. 1) Dr. Chapman ordered magnetic resonance imaging and referred her to Judson Ott, M.D., an orthopedic surgeon with Medical Associates Orthopaedics. (JE 3, p. 1)

Torres underwent saline shoulder magnetic resonance imaging on January 16, 2014. (JE 3, p. 2) The reviewing radiologist noted a history of an injury while shoveling snow with pain in the joint and up into the neck with tingling into the left arm. (JE 3, p. 2) The radiologist listed an impression of negative left shoulder magnetic resonance imaging. (JE 3, p. 2)

During an appointment with Dr. Ott on January 31, 2014, Torres complained of occasional numbness in her fingers that is "very intermittent" and seems positional. (JE 3, p. 3) Dr. Ott noted he did not see anything surgical on exam or imaging, and assessed Torres with shoulder region disorder. (JE 3, p. 3)

On March 5, 2014, Torres attended an appointment with Dr. Ott for a "first-time evaluation for lateral-sided left elbow pain." (JE 3, p. 4) Torres reported she had the pain for a year with no history of an injury, she had multiple other problems with her right elbow in the past, which she had received injections for, she had recently had cervical disc surgery, and she hoped her left elbow would improve when she was off work. (JE 3, p. 4) Dr. Ott documented Torres's symptoms were most consistent with lateral epicondylitis, directed Torres to wear a forearm strap, and ordered physical therapy. (JE 3, pp. 4-5)

During an occupational therapy session on March 7, 2014, Torres reported her left elbow pain started in the summer when she was raking and never fully subsided. (JE 8, p. 7) Torres noted she had similar symptoms with her right elbow that improved following a cortisone injection. (JE 8, p. 7) During therapy Torres complained of pain with resisted stress testing of her wrist and long finger, but no pain with normal active flexion of her wrist in all planes of movement. (JE 8, p. 7) Torres testified while she was off work following neck surgery the problems in her upper extremities "went away. It subsided." (Tr., p. 20) She agreed with her counsel that her upper extremities were weak. (Tr., p. 20)

Torres reported she was off work until April 1, 2014. (Tr., p. 17) Torres testified her neck surgery relieved her headaches and pain in the back of her neck and she considered the surgery to be a success. (Tr., pp. 17-18) During the time Torres was off work she did well. (Tr., p. 18)

Torres attended a follow-up appointment with Dr. Chapman on April 3, 2014. (JE 3, p. 6) Dr. Chapman assessed Torres with displacement of cervical intervertebral disc without myelopathy, and released her to return to work without restrictions. (JE 3, p. 6)

When Torres returned to work, she was assigned "back to Cell 710, building dual checks." (Tr., p. 18) Torres agreed the job was physically demanding, she used both hands a lot, and the job required gripping and grasping. (Tr., p. 18) Torres built dual checks, which required her spin one inch nuts with her hands into a threaded piece, use an air gun that vibrates and squeeze a trigger to put on tags, and wrench caps to "pull it tight" so it would not leak. (Tr., pp. 24-25) Torres worked forty to forty-eight hours per week, with mandatory overtime on Saturdays. (Tr., pp. 18-19)

Torres testified in April 2014, her upper extremities would swell when she was at work, and she started experiencing pain and tingling when she would wake up in the morning, or in the middle of the night when she was sleeping, and her upper extremities felt like they were falling asleep, so she would wake up and shake her upper extremities. (Tr., p. 19) Torres reported she had pain in both her wrists and hands, down to her fingers, and relayed the symptoms were different from the symptoms she experienced prior to her neck surgery. (Tr., p. 19)

During an appointment with Dr. Ott on May 2, 2014, Dr. Ott documented Torres reported she had improved somewhat overall, and she was experiencing some intermittent numbness in her left upper extremity, but this "seems to have pre-existed her cervical surgery." (JE 8, p. 8) Dr. Ott found no definitive evidence of cubital tunnel syndrome. (JE 8, p. 8)

On May 13, 2014, Torres attended an appointment with Jason Tuthill, ARNP, with Medical Associates Orthopaedics, complaining of a lump on her left hand that had been present over the last few months to up to one year. (JE 3, p. 7) Torres relayed she had sustained an injury to the area about a year ago, but she did not seek treatment and the lump appeared after the injury. (JE 3, p. 7) Tuthill assessed Torres with a left hand ganglion cyst. (JE 3, p. 8) Torres testified she developed the pain after catching her wedding ring on the tailgate of a truck. (Tr., pp. 22-23)

On May 30, 2014, Torres reported a work injury to her supervisor at A.Y. McDonald. (Ex. F, p. 30; Tr., pp. 20-21) Torres relayed she was experiencing pain in her hands while sleeping after her shift. (Ex. F, p. 30) The accident report lists the date of injury as May 29, 2014. (Ex. F, p. 30) Torres testified at hearing she did not report a specific incident or accident was the cause of her symptoms in May 2014. (Tr., p. 70)

A.Y. McDonald arranged for medical care for Torres with Erin Kennedy, M.D., an occupational medicine physician, on May 30, 2014. (Tr., p. 22; JE 1, p. 1) Torres told Dr. Kennedy her hands were numb, tingly, and swollen. (JE 2, pp. 1, 3) Torres relayed she was performing assembly work, wrenching caps, and using a vibrating air gun at work, and her symptoms had come on gradually over the last year. (JE 2, p. 3) Torres complained of numbness and pain from her pointer finger down her thumb side of her hand, the numbness was worse at night, and her right wrist was worse than her left wrist. (JE 2, p. 3) Torres relayed she was "aware of fumbling small objects," she frequently dropped objects at work, and that her symptoms improved when she was away from work. (JE 2, p. 3) Dr. Kennedy diagnosed Torres with bilateral carpal tunnel syndrome, noted Torres did not have any classic personal risk factors, and noted she suspected Torres had sustained "a work related exacerbation given the temporality of symptoms and considering that they dramatically improved while she was away from work." (JE 2, pp. 4-5) Dr. Kennedy prescribed splints, ordered electrodiagnostic testing, and imposed a restriction of working eight hours per day, five days per week. (JE 2, pp. 4-5) The record supports Torres returned to work with the restrictions imposed by Dr. Kennedy.

On June 18, 2014, Torres attended an appointment with Edwin Castaneda, M.D., an orthopedic surgeon with Medical Associates Orthopaedics, to follow up on the cyst on her left palm, a personal condition unrelated to work. (JE 3, p. 9; Tr., p. 27) During the appointment, Torres reported her job at A.Y. McDonald was hand-intensive and she relayed gripping and squeezing bother her, she had nocturnal awakening, and she experienced numbness and tingling off and on during the day, particularly at work. (JE 3, p. 9) Dr. Castaneda found Torres had signs and symptoms consistent with carpal tunnel syndrome and noted she was scheduled for electrodiagnostic testing. (JE 3, pp. 10, 12)

Peggy Mulderig, M.D., a physiatrist, performed electrodiagnostic testing on Torres's bilateral upper extremities on July 8, 2014. (JE 4, p. 6) Dr. Mulderig listed an impression of right carpal tunnel syndrome, noting the study was abnormal and revealed right median mononeuropathy at or distal to the wrist, with a mild degree electrically. (JE 4, pp. 6, 8) Dr. Mulderig found the right and left median motor potentials were reduced in amplitude, noted Torres had a history of left cervical radiculopathy, and found no slowing present across the left wrist. (JE 4, pp. 6, 8)

Following electromyography, Torres returned to Dr. Kennedy on July 11, 2014, complaining her hands hurt "constantly." (JE 2, p. 6) Dr. Kennedy noted Torres had bilateral hand complaints for more than a year, in addition to neck complaints that required a fusion at C4-C5 in December 2013, and following the fusion Torres was "complaint free for the neck and left hand until she returned to work at AY McDonald." (JE 2, p. 6) Dr. Kennedy documented testing revealed mild carpal tunnel syndrome on the right, but not the left, yet Torres continued to experience hand numbness and cramping pain worse on the right than the left that fluctuates with workplace activities of gripping and pinching with the bilateral hands, Torres had "near full resolution of hand complaints while she was off work," and her symptoms returned when she returned to

work. (JE 2, p. 6) Dr. Kennedy documented there were two potential etiologies for Torres's complaints, noting she did not believe Torres's neck condition was contributing to her right hand complaints because the cervical derangement was on the left side, and noted the left side "is more complicated and may be the result of cervical derangement or exacerbation of the previous cervical issue or the result of carpal tunnel syndrome that Is [sic] not yet manifested on electrodiagnostics." (JE 2, p. 6)

Torres attended a follow-up appointment with Dr. Castaneda on July 28, 2014, complaining of a cyst on her left ring finger and right sided symptoms causing nocturnal awakening and numbness and tingling off and on during the day in the long, ring and small fingers of her right hand. (JE 3, p. 14) Dr. Castaneda listed an injury date of May 28, 2014. (JE 3, p. 17) Dr. Castaneda documented Torres denied having carpal tunnel symptoms on her left side. (JE 3, p. 14) Torres testified she did not deny having carpal tunnel symptoms in her left hand. (Tr., p. 74) Dr. Castaneda scheduled Torres for a right open carpal tunnel release with decompression of the median and ulnar nerves, and planned to schedule an excisional biopsy of the small ganglion cyst involving her left ring finger under local anesthesia after she recovered from the carpal tunnel surgery. (JE 3, p. 16) Dr. Castaneda released Torres to return to work without restrictions. (JE 3, p. 17)

Dr. Castaneda performed a right open carpal tunnel release with decompression of the median and ulnar nerves on Torres on August 22, 2014. (JE 5, p. 1) Dr. Castaneda listed a postoperative diagnosis of right carpal tunnel syndrome with involvement of both the median and ulnar nerves. (JE 5, p. 1) Following surgery Dr. Castaneda restricted Torres from working and released her to return to work with a restriction of no use of the right hand with a splint. (JE 5, p. 3) Torres returned to work after surgery and stuffed nuts, where she put friction rings and gaskets into nuts. (Tr., p. 31) Torres reported the job was boring, but not very physically demanding. (Tr., p. 31)

On August 27, 2014, Torres returned to Dr. Castaneda, reporting her numbness and tingling had resolved. (JE 3, p. 18) Dr. Castaneda ordered occupational therapy, and released Torres to return to work with a splint and restrictions of lifting, carrying, pushing, and pulling up to two pounds with the right arm. (JE 3, pp. 18, 20-21) Torres denied telling Dr. Castaneda that her symptoms had fully resolved. (Tr., p. 30) She testified at hearing she told him her right hand was better, but she still had numbness and pain in her right wrist. (Tr., p. 30) Dr. Castaneda did not remove Torres's ganglion cyst because it went away on its own. (Tr., p. 74)

Torres attended a follow-up appointment with Dr. Castaneda on September 22, 2014. (JE 3, p. 22) Dr. Castaneda observed she had good range of motion, but her grip was weak and she was tender over her wound, and noted she had not started any therapy. (JE 3, p. 22) Dr. Castaneda referred Torres to occupational therapy and released her to return to work with restrictions of lifting, carrying, pushing, and pulling up to five pounds with the right arm. (JE 3, pp. 23-24)

On October 23, 2014, Torres attended an appointment with Dr. Castaneda. (JE 3, p. 25) Dr. Castaneda documented Torres's right upper extremity numbness and tingling had fully resolved, her grip strength had not fully returned, and she was still tender over the wound. (JE 3, p. 25) Dr. Castaneda released Torres to return to work with restrictions of lifting, carrying, pushing, and pulling up to twelve pounds with no repetitive use of the right arm. (JE 3, pp. 25, 27) Torres agreed the "falling asleep part of it" that caused her to wake up at night went away after surgery, her right upper extremity numbness and tingling was better, but it had not fully resolved. (Tr., p. 34) Torres also reported her grip strength had never fully returned. (Tr., pp. 34-35)

Torres returned to Dr. Castaneda on November 20, 2014. (JE 3, p. 28) Dr. Castaneda noted he had treated Torres for atypical right carpal tunnel syndrome and classic left carpal tunnel syndrome, which were work-related. (JE 3, p. 28) With respect to her right upper extremity, Dr. Castaneda found Torres had recovered her normal range of motion, strength, and neurovascular status, and that she had returned to normal activity without restrictions. (JE 3, p. 28) Dr. Castaneda opined Torres had reached maximum medical improvement for her right hand, her impairment rating for the right was zero percent, she did not need additional treatment for her right hand, and he released her from care for her right hand. (JE 3, pp. 28-30) Dr. Castaneda found Torres's left hand continued to be symptomatic with nocturnal wakening, and numbness and tingling in the median nerve distribution of her left hand. (JE 3, p. 28) Dr. Castaneda assessed Torres with bilateral carpal tunnel syndrome, recommended Torres undergo a left endoscopic carpal tunnel release, and released her without restrictions. (JE 3, pp. 29-31)

On November 25, 2014, Torres attended an appointment with her family medical provider, Dr. Mohr, complaining of right elbow pain that had been ongoing since summer after she did a project at her home. (JE 4, p. 10) Dr. Mohr documented the pain had persisted since the project and Torres had pain in the medial aspect of her elbow that sometimes radiates up into her medial arm or down into her pinky finger, noting her elbow symptoms did not improve after she underwent carpal tunnel surgery. (JE 4, p. 10) Dr. Mohr assessed Torres with ulnar neuropathy, and ordered electromyography. (JE 4, p. 11)

Marsha Horwitz, M.D., a neurologist, performed electromyography on Torres on December 4, 2014. (JE 4, p. 12) Dr. Horwitz found the study was normal of the right forearm and hand with no evidence of ulnar nerve entrapment of the right elbow. (JE 4, p. 12)

During an appointment with Torres on December 22, 2014, Dr. Castaneda noted he was following Torres for flexor tenosynovitis and carpal tunnel syndrome, she had undergone a right open carpal tunnel release, and she was scheduled for a similar procedure on her left side on December 30, 2014. (JE 3, pp. 32-33) Torres reported she was continuing to have nocturnal awakening and numbness and tingling throughout the day. (JE 3, p. 32) Dr. Castaneda noted electrodiagnostic testing from July 8, 2014, demonstrated findings of bilateral carpal tunnel syndrome, with the right greater than the

left, noting she had done well with her right side. (JE 3, p. 32) Dr. Castaneda noted he had also followed Torres for a ganglion cyst involving her left ring finger, but that had resolved and there was no evidence of a ganglion cyst overlying the A1 pulley to her left ring finger at that time. (JE 3, p. 33) Dr. Castaneda released Torres to full duty. (JE 3, p. 34)

Dr. Castaneda performed a left endoscopic carpal tunnel release on Torres on December 30, 2014. (JE 5, p. 4) Dr. Castaneda listed a postoperative diagnosis of left carpal tunnel syndrome, and released Torres to return to work on January 7, 2015, with a restriction of no use of the left hand with a splint. (JE 5, p. 4)

During a follow-up appointment with Torres on January 5, 2015, Dr. Castaneda documented Torres was no longer experiencing any numbness or tingling in her left hand, and her wounds were in good repair. (JE 3, p. 36) Dr. Castaneda ordered occupational therapy, and imposed restrictions of wearing a splint, and lifting, carrying, pushing, and pulling up to two pounds with no repetitive grasping, gripping, pinching or squeezing with the left hand. (JE 3, pp. 39) Dr. Castaneda again noted Torres had not sustained a permanent disability or impairment with respect to her right upper extremity. (JE 3, p. 36)

On January 29, 2015, Torres attended an appointment with Dr. Castaneda. (JE 3, p. 40) Dr. Castaneda documented following surgery both sides were doing very well, Torres had resumed normal activity on her right side, and her neurovascular status had returned to normal on the left side with some minimal sensitivity over the wound and some tenderness over the transverse carpal ligament. (JE 3, p. 40) Dr. Castaneda released Torres to return to work with restrictions of lifting, carrying, pushing, and pulling up to twelve pounds with the left arm and no repetitive grasping, gripping, pinching, or squeezing with the left hand. (JE 3, pp. 40, 42) After her second surgery, Torres returned to work and A.Y. McDonald had her stuff nuts. (Tr., p. 39)

Torres returned to Dr. Castaneda on February 23, 2015. (JE 3, p. 43) Dr. Castaneda documented Torres was doing very well and had recovered normal sensation and use of her hand with no pain with gripping, squeezing, lifting, or carrying. (JE 3, p. 43) Dr. Castaneda opined Torres had reached maximum medical improvement that date, she did not need any additional treatment, she could return to full duty without restrictions, she had no residual disability, and, thus, her impairment rating for the injury would be zero percent. (JE 3, pp. 43, 45) Torres agreed that the tingling in her left upper extremity that woke her up during the night went away, but she testified the weakness and pain in her left wrist did not go away. (Tr., p. 39)

At work Torres was assigned to build gas valves using an air gun and air ratchet to spin on nuts and torque them down with a wrench at the same time. (Tr., p. 43) If the nuts were over torqued, then she would have to tear them apart, which occurred frequently. (Tr., p. 43) Torres relayed that when tearing apart the assembly, she had to use a lot of force with her hands. (Tr., p. 43) Torres agreed the air gun created a lot of vibration. (Tr., p. 43) Torres also picked grease out parts with a metal tool fabricated

by A.Y. McDonald. (Tr., pp. 43-44) Torres reported the metal handle for the tool had duct tape around it and it bothered her hands. (Tr., p. 44)

On August 7, 2015, Torres completed an employee injury/illness report for A.Y. McDonald, reporting she had sustained a work injury on July 22, 2015. (Ex. F, p. 32) Torres described the injury or illness as "[h]ands stiff fingers stiff, knuckles sore, lump and swelling on right hand pinky finger," caused by picking grease out of a gas valve body, and documented her right and left hands were affected. (Ex. F, p. 32) Torres testified after she filed the report, A.Y. McDonald started rotating the jobs,

> [o]ne person was picking grease, and then if the valves were overtorqued, they'd retorque them, and then the other person would build them, build the valves.
>
> So one person was building the valves, and then after four hours, they would rotate with the other person who was picking the grease.

(Tr., p. 44)

On August 11, 2015, Torres attended an appointment with Dr. Kennedy, complaining of pain in her left middle back that is sharp depending on activity, and reporting physical therapy helped ease the pain, but did not resolve it. (JE 8, p. 9) Dr. Kennedy assessed Torres with a thoracic backache, and noted she had a left rhomboid and parascapular muscle spasm from overuse and fatiguing. (JE 8, p. 9) Torres testified she had pain in her pinky finger and it was starting to curl, which concerned her. (Tr., p. 42)

On August 12, 2015, Torres returned to Dr. Kennedy, complaining of soreness in both wrists and stiffness in her fingers for the past month, with pain mostly in her right hand, fingers and wrist, which she believed was related to the repetitive motion for her job. (JE 2, p. 9) Torres reported the pain was most severe in her ring and pinky and worse during work days. (JE 2, p. 9) Dr. Kennedy assessed Torres with bilateral right greater than left diffuse hand and wrist pain, most prominent in the dominant hand affecting digits four and five in a setting of repetitive movement of the wrist and static gripping of the hands, listing an injury date of July 22, 2015. (JE 2, pp. 9-10) Dr. Kennedy prescribed Voltaren, and released Torres to return to regular duty without restrictions. (JE 2, pp. 10. 13)

Torres testified she bid back to the machine shop to work on Machine 707 where she was involved with machining, assembly, testing, and packing. (Tr., p. 45) The job required Torres to spin larger double nuts that "were anywhere inch and a half to 2-inch nuts on valves." (Tr., p. 46)

Torres attended a follow-up appointment with Dr. Kennedy on September 1, 2015, reporting she was doing "alright," but she was still having tenderness in her right hand, and weakness in both hands. (JE 2, p. 14) Torres relayed she had bid into a

new position that would allow more job variability. (JE 2, p. 14) Dr. Kennedy diagnosed Torres with right hand stiffness and pain, ordered Torres to resume using hand splints overnight, and released her to full duty. (JE 2, pp. 15-16)

During a recheck on September 18, 2015, Torres reported she was doing well with machining work and her symptoms had improved, with her symptoms confined to her right pinky finger. (JE 2, p. 17) Dr. Kennedy found Torres had reached maximum medical improvement on September 18, 2015, and opined Torres had not sustained a permanent impairment. (JE 2, p. 18) Torres agreed her symptoms had settled down. (Tr., p. 47)

Mark Taylor, M.D., an occupational medicine physician, conducted an independent medical examination for Torres in April 2016, and issued his report on May 4, 2016. (Ex. 1, p. 6) Dr. Taylor reviewed Torres's medical records and examined her. (Ex. 1)

Dr. Taylor's report covered three injury dates, May 29, 2014, March 12, 2015, and July 22, 2015. (Ex. 1, p. 6) The March 12, 2015 injury date involves File Number 5053064. In the petition for File Number 5053064, Torres alleged a cumulative work injury to her neck, cervical spine, and back. The matter proceeded to an arbitration hearing on November 18, 2016. Torres v. A.Y. McDonald Mfg. Co., File No. 5053064, 1, 1 (Arb. Dec. Oct. 9, 2017). Relying on the opinions of Dr. Taylor and K. Lindblom, ARNP, Deputy Workers' Compensation Commissioner Toby Gordon found Torres "sustained an injury arising out of and in the course of her employment with [A.Y. McDonald] on March 11, 2015, resulting in symptoms involving her neck, posterior left shoulder/back as described by Dr. Taylor." Id. at 6. Deputy Workers' Compensation Commissioner Gordon determined causation, Torres's rate, found Torres was not entitled to alternate medical care, and ordered A.Y. McDonald to pay the $100.00 filing fee, and one-third of the cost of Dr. Taylor's independent medical examination. Id. at 7-13.

With respect to the May 2014 work injury, Dr. Taylor opined prior to May 2014, Torres was not experiencing chronic numbness or tingling in her hands or pain in her hands, and he agreed with Dr. Kennedy that Torres's "work exposures represented a significant contributing factor to her development of the nerve conditions in the upper extremities. (Ex. 1, p. 14) Dr. Taylor opined Torres reached maximum medical improvement six months after her last surgery, or on June 30, 2015. (Ex. 1, p. 15) Using the Guides to the Evaluation of Permanent Impairment (AMA Press, 5th Ed. 2001) ("AMA Guides"), Dr. Taylor opined:

> [t]he instructions on page 495 would apply. Ms. Torres continues with minimal to mild symptoms on the left and mild to moderate symptoms on the right. She feels like her strength never returned to normal and she drops things with the right hand and has residual pain. Due to the residual symptoms in the right hand and coupled with the pain over and around the scar and the residual numbness, I would assign a 3% right upper

> extremity impairment rating. Her symptoms on the left side are less pronounced and I would assign a 2% left upper extremity impairment rating. I will also note that Ms. Torres was diagnosed with ulnar nerve irritation at the level of the right wrist. As per Table 16-15, on page 492, this can be assigned up to a 7% upper extremity impairment related to sensory deficits or pain. This must first be multiplied by a modifier which can be identified in Table 16-10, on page 482. I would assign her to Grade 3 mainly related to the fact that her pinky finger is especially associated with pain and numbness that can interfere with certain activities but generally does not prevent them. Her two-point discrimination at the time of her evaluation was normal but apparently the symptoms do worsen with increased use. I would assign her a 40% deficit. When 40% is multiplied by 7%, the result is a 3% right upper extremity impairment rating. As far as the right upper extremity, when 3% is combined with 3%, the result is a 6% right upper extremity impairment rating. As per Table 16-3, on page 439, this converts to a 4% whole person impairment rating.
>
> On the left side, her 2% upper extremity impairment converts to a 1% whole person impairment rating. When 4% and 1% are combined as per the Combined Values Chart on page 604, the result is a 5% whole person impairment rating related to the bilateral carpal tunnel syndrome and right ulnar nerve neuropathy at the wrist.

(Ex. 1, pp. 14-15) Dr. Taylor recommended restrictions of avoiding forceful gripping and grasping, occasional forceful gripping with the hands, and rare to occasional use of vibratory or power tools, including air tools, noting she would not tolerate the use of such tools on a repetitive or sustained basis. (Ex. 1, p. 15)

With respect to the July 22, 2015 injury, Dr. Taylor noted,

> [b]ased on the history provided, it was my understanding that Ms. Torres had symptoms that worsened, especially affecting the fourth and fifth digits of the right hand with significantly less symptoms over the left hand. The difficulty in this situation is that there has not yet been a definitive diagnosis as far as the right hand and fourth and fifth digits with a slight flexion contracture of the right fifth digit compared to the left. This may represent chronic ulnar nerve issue with a contracture or she may also have Dupuytren's. She demonstrated ulnar neuritis with diminished sensation over an ulnar distribution extending from the elbow down through the hand and into the fourth and fifth digits. Dr. Kennedy commented with regard to the repetition and force as part of her job. Again, I agree that her job functions represented a significant contributing factor to her development and/or worsening of this condition. In this circumstance, it is possible that some of the ulnar nerve issues may have been present dating back to her original injury for which she had seen Dr.

> Castaneda and this may have represented an aggravation of that condition. Therefore, this could be viewed as either a new injury related to her work on a cumulative basis or it could be considered an aggravation. Either way, it is my opinion that her work was a significant factor.

(Ex. 1, p. 17)

Dr. Taylor found Torres reached maximum medical improvement on September 18, 2015, the date of her last appointment with Dr. Kennedy. (Ex. 1, p. 18) Using the AMA Guides, Dr. Taylor found he had already assigned a rating of seven percent related to sensory deficits or pain for ulnar neuritis and he could not assign an additional specific impairment, finding "she also demonstrated a loss of 10 degrees of extension of the PIP joint which, as per Figure 16-23, on page 463, is assigned a 3% right fifth finger impairment. As per Table 16-1, on page 438, this converts to a 1% hand impairment, which as per Table 16-2 converts to a 1% upper extremity impairment." (Ex. 1, p. 18) Dr. Taylor recommended additional evaluation of the fifth digit, noted repeat neurodiagnostic studies might also be indicated, and recommended a second opinion from an upper extremity specialist, such as Dr. Lawler at the University of Iowa. (Ex. 1, pp. 18-19)

Dr. Mulderig performed electromyography on Torres on August 10, 2016. (JE 4, p. 16) Dr. Mulderig found the study was abnormal, with no evidence of right ulnar neuropathy at or distal to the elbow, but found left ulnar neuropathy at the elbow, demonstrated by low amplitude motor potential recorded at and above the elbow. (JE 4, pp. 16, 19) Dr. Mulderig assessed Torres with left ulnar neuropathy. (JE 4, pp. 16, 19)

A.Y. McDonald sent Dr. Kennedy a copy of Dr. Taylor's independent medical examination report on June 15, 2016. (JE 2, p. 19) With respect to the March 11, 2015 work injury pertaining to left parascapular pain, Dr. Kennedy agreed with Dr. Taylor that Torres should continue home stretches she learned in physical therapy, and that if her symptoms worsened, she should return to Dr. Kennedy. (JE 2, p. 19) With respect to the July 22, 2015 work injury pertaining to her bilateral hands, Dr. Kennedy noted Torres underwent bilateral carpal tunnel releases with debridement of the median and ulnar nerves and continued to present with ulnar neuritis of the right upper extremity and diminished sensation from elbow through digits four and five, that she might have a small digit contracture of the right hand due to ulnar nerve dysfunction or a Depuytren's contracture of the right small digit, unrelated to ulnar neuritis. (JE 2, p. 19) Dr. Kennedy noted she agreed with Dr. Taylor's recommendation Torres be evaluated by an upper extremity specialist, such as Dr. Lawler at the University of Iowa Hospitals and Clinics. (JE 2, p. 19) She also agreed with Dr. Taylor's recommendation of permanent restrictions of occasional gripping forcefully with hands, rare to occasional use of vibratory tools or power tools, including air tools, lifting up to thirty-five pounds occasionally, and lifting limited to knee to chest level, preferably with arms close to the body, and no "jerking type movements" with the upper extremities, such as loosening a nut that is stuck. (JE 2, p. 20)

On July 7, 2016, Torres returned to Dr. Kennedy. (JE 2, pp. 21-22) Dr. Kennedy assessed Torres with ulnar neuritis and recommended a referral to a hand specialist. (JE 2, p. 22) Dr. Torres prescribed physical therapy for four weeks, ordered electromyography, and imposed a thirty-five pound restriction between the knee to chest only for lifting and carrying, and restrictions of occasional forceful gripping, rare vibration exposure, and no jerky-type movement. (JE 2, pp. 25-26)

Torres attended a follow-up appointment with Dr. Kennedy on August 17, 2016, following electromyography. (JE 2, p. 28) Dr. Kennedy noted Torres had progressive tingling from the elbow to fingers four and five of the right hand, and progression into the left, noting the right pinky had started to curl with extension at the metacarpophalangeal joints, and she could not extend her digit the whole way. (JE 2, p. 29) Torres also complained of numbness in digits four and five of the right hand, and numbness from the shoulder to fingertips of digits four and five on the left. (JE 2, p. 29) Dr. Kennedy documented electromyography revealed left cubital tunnel syndrome, but no abnormality of the right ulnar nerve to explain weakness and sensory changes of digits four and five of the right hand. (JE 2, p. 29) Dr. Kennedy recommended cervical spine magnetic resonance imaging to assess for cervical etiology, assessed Torres with hand weakness, and back pain, and recommended a referral to a hand specialist. (JE 2, p. 29)

Torres underwent cervical spine magnetic resonance imaging on September 16, 2016. (JE 2, p. 37) The reviewing radiologist listed an impression of surgical changes with anterior fusion hardware in place and C4-C5, and no spinal canal compromise or acute finding. (JE 2, p. 37)

On September 21, 2016, Torres returned to Dr. Kennedy, complaining of right upper extremity small digit problems with numbness, weakness, and curling of the small digit, and difficulty gripping and holding onto tools, and left upper extremity aching and tingling of the right hand and forearm, with occasional shooting up her arm from her elbow. (JE 2, p. 39) Dr. Kennedy assessed Torres with a right hand paresthesia and left cubital tunnel syndrome, and referred Torres to Dr. Castaneda for further evaluation or treatment. (JE 2, p. 39) Dr. Kennedy opined both conditions were work-related, and continued her restrictions. (JE 2, pp. 39-40)

Torres returned to Dr. Castaneda on October 17, 2016, for a "recheck of RIGHT small finger contracture as well as LEFT cubital tunnel." (JE 3, p. 46) Dr. Castaneda documented Torres relayed the last year she had experienced trouble with her left arm and "trouble from her neck all the way down." (JE 3, p. 46) Dr. Castaneda assessed Torres with left ulnar neuropathy, finding she had a mild compressive lesion of her ulnar nerve at the elbow, but found decompression of the nerve could resolve some of the numbness and tingling in her ring or small fingers, but the pain from her neck through her hand would not be affected by surgery at the elbow. (JE 3, p. 46)

Dr. Castaneda sent a letter on October 20, 2016, concerning Torres's right small finger contracture and left cubital tunnel syndrome. (JE 3, p. 48) Dr. Castaneda noted the right small finger contracture was minimal and he did not believe surgery was necessary or related to her workers' compensation condition, and that he believed the only workers' compensation condition was the numbness and tingling in her left upper extremity. (JE 3, p. 48)

Dr. Kennedy sent a letter to the claims service for A.Y. McDonald on November 22, 2016, opining she believed Torres's work activities "contributed substantially to cubital tunnel syndrome in the left upper extremity," and she recommended referral to an orthopedic specialist, noting there was no evidence clinically or on imaging to suggest her symptoms were coming from her neck. (JE 2, p. 45)

On December 5, 2016, Torres attended an appointment with Dr. Castaneda for a recheck of her hands and right small finger contracture. (JE 3, p. 49) Dr. Castaneda noted Torres was scheduled for a left ulnar nerve decompression at Tri-State Surgery Center. (JE 3, p. 49) Dr. Castaneda assessed Torres with ulnar neuropathy, finding she had "very mild cubital tunnel syndrome," he discouraged her from undergoing surgery because "she has very minimal symptoms of ulnar neuropathy or compressive neuropathy of the ulnar specifically at the left elbow" and he did not believe she would receive significant relief from surgery. (JE 3, p. 51)

On January 9, 2017, Christopher Palmer, M.D., an orthopedic surgeon, conducted an independent medical examination of Torres for A.Y. McDonald. (JE 7, p. 1) Dr. Palmer reviewed Torres's medical records and examined her. (JE 7, p. 1) Dr. Palmer noted Torres complained primarily of pain

> in the left side of her upper back, "behind her shoulder blade primarily" that radiates up into her neck and down into her shoulder, occasionally into the elbow. She states she is having approximately 90-95% pain in this region, and the remainder she describes as being in her elbow and below into her hand occasionally. She also ascribes the same percentages of what is occasional numbness and tingling to the neck, upper back, and shoulder region approximately in the 90-95% range, and only about 5-10% of her overall numbness and tingling which again is intermittent down into her hand. She describes that while the numbness, tingling, and radiating pain is intermittent, the pain in her shoulder and upper back is almost constant. She states it does get down to a reasonable level of a 1-2/10 pain when she is at rest or does her "stretches" or takes Tylenol, but at other times it goes up to a 4 or 5/10 pain. She states that her right upper extremity is not an issue at this time.

(JE 7, pp. 1-2)

Dr. Palmer opined "a small portion of her symptomatology is related to mild cubital tunnel" and that he believed Dr. Castaneda's decision not to perform surgery was appropriate. (JE 7, p. 3) Dr. Palmer did not recommend surgery without progressive tingling, numbness, and weakness related to ulnar nerve parethesias and dysfunction from a compression lesion at the elbow. (JE 7, p. 3)

A.Y. McDonald inquired whether Torres has experienced left arm symptoms other than those associated with cubital tunnel syndrome, and if so, what diagnoses he could provide as to the condition causing the symptoms. (JE 7, p. 3) Dr. Palmer responded:

> [a]t this point I do not feel I can with any degree of medical certainty, provide a single or a simple diagnosis to explain her constellation of symptoms. A chronic regional pain syndrome for lack of better terminology is likely what most of her pain relates to. There certainly could be a small component of a "double crush" phenomenon. Since the beginning of these evaluations, she has not yet returned to her spine surgeon of record, and I think this might be of some benefit in spite of radiographic evidence she has a well-healed cervical discectomy and fusion. Electrodiagnostically, I think she can be given a diagnosis of mild cubital tunnel syndrome, but as stated before in my opinion, this in no way explains the bulk of her symptomatology. I think some consideration can be given to a thoracic outlet syndrome. Although this is a bit unlikely, I would opine this would not be related to her work related condition.

(JE 7, p. 3)

Dr. Kennedy received a copy of Dr. Palmer's opinion and opined Dr. Palmer's opinion was very complete. (JE 2, p. 48) Dr. Kennedy opined that to prevent a work-related worsening of left cubital tunnel syndrome, Torres's left elbow should be protected from hazardous workplace exposures, particularly repetitive elbow movement, continued her permanent restrictions, and opined she did not believe the cervical spine was the etiology of the complaints in the left upper extremity or the scapular region. (JE 2, pp. 49-50) Torres admitted that in May 2014 she was only complaining of problems with her hands and not her left elbow. (Tr., p. 67) After Dr. Kennedy reviewed Dr. Palmer's report she noted, "[r]eview of the records reveals that symptoms in the ulnar nerve distribution in the left arm did not present in the left upper extremity early on." (Tr., p. 67; JE 2, p. 45)

Torres testified she told Dr. Kennedy A.Y. McDonald could not accommodate permanent restrictions. (Tr., pp. 55-56; JE 2, p. 50) Dr. Kennedy spoke with A.Y. McDonald and she recommended permanent restrictions of no lifting over thirty-five pounds, occasional forceful gripping, rare vibration, and no jerking movements, which A.Y. McDonald can accommodate. (Tr., p. 55-56)

Torres alleges she sustained another separate work injury on August 30, 2018 involving the fourth and fifth fingers of her right hand clawing up. (Tr., p. 56) During a follow-up appointment with Dr. Kennedy on October 2, 2018, Torres reported she had received a foot control for her station and that her hands felt improved and less swollen as a result, but she was experiencing pain in the right thumb metacarpophalangeal joints. (JE 2, p. 52) Dr. Kennedy assessed Torres with hand pain, and restricted Torres from forceful gripping with her right and left hands for three weeks. (JE 2, p. 52) Dr. Kennedy noted Torres has had a Depuytren's contracture for some time of the fifth finger, and noted the fourth finger may be starting as well. (JE 2, pp. 52, 56) During a follow-up appointment on October 23, 2018, Torres reported she had improved with restriction, and Dr. Kennedy released her without restrictions. (JE 2, p. 57)

On November 28, 2018, Dr. Kennedy assessed Torres with osteoarthritis of the bilateral hands, noting Torres reported her pain had improved with Voltaren gel. (JE 2, p. 59) Dr. Kennedy found Torres was at maximum medical improvement, and recommended Voltaren for capsulitis of the metacarpophalangeal joints of the bilateral thumbs. (JE 2, p. 59)

Torres testified her right and left upper extremity symptoms did not go away after both surgeries. (Tr., pp. 40-41) Torres agreed with her counsel the tingling in both of her upper extremities went away after the two surgeries, and agreed with her counsel that at the time of the hearing she was still experiencing swelling, numbness, and pain in the wrist. (Tr., pp. 40-41) Torres relayed she has symptoms are from her wrists up through her "whole hands," with weakness, numbness, and swelling in her fingers. (Tr., pp. 57-60) Torres reported she has pain in both wrists that varies in severity, but is always there, and is worse with spinning and turning parts at work. (Tr., pp. 58-59) Torres testified her right upper extremity is weaker and worse than her left. (Tr., pp. 60, 61) During cross-examination, Torres reported she would not be surprised if Dr. Taylor found that her right upper extremity was stronger than her left upper extremity. (Tr., p. 61) She also admitted Dr. Taylor did not issue a rating for loss of strength or motion, or for her left ulnar nerve. (Tr., p. 61) Torres relayed she cannot fully strengthen her right pinky finger. (Tr., p. 64)

CONCLUSIONS OF LAW

I. Applicable Law

This case involves several issues, including extent of disability, recovery of the cost of an independent medical examination, and interest under Iowa Code sections 85.34, 85.39, and 535.3. In March 2017, the legislature enacted changes (hereinafter "Act") relating to workers' compensation in Iowa. 2017 Iowa Acts chapter 23 (amending Iowa Code sections 85.16, 85.18, 85.23, 85.26, 85.33, 85.34, 85.39, 85.45, 85.70, 85.71, 86.26, 86.39, 86.42, and 535.3). Under 2017 Iowa Acts chapter 23 section 24, the changes to Iowa Code sections 85.34 and 85.39 apply to injuries occurring on or after the effective date of the Act. This case involves an injury occurring before July 1, 2017, therefore, the provisions of the new statute involving extent of disability under

Iowa Code section 85.34 and recovery of the cost of an independent medical examination under Iowa Code section 85.39 do not apply to this case. The calculation of interest is governed by Gamble v. AG Leader Tech., File No. 5054686 (App. Apr. 24, 2018). (Interest for all weekly benefits payable and not paid when due which accrued before July 1, 2017, is payable at the rate of ten percent; all interest on past due weekly compensation benefits accruing on or after July 1, 2017, is 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).

II. Nature, Causation, and Extent

To receive workers' compensation benefits, an injured employee must prove, by a preponderance of the evidence, the employee's injuries arose out of and in the course of the employee's employment with the employer. 2800 Corp. v. Fernandez, 528 N.W.2d 124, 128 (Iowa 1995). An injury arises out of employment when a causal relationship exists between the employment and the injury. Quaker Oats v. Ciha, 552 N.W.2d 143, 151 (Iowa 1996). The injury must be a rational consequence of a hazard connected with the employment, and not merely incidental to the employment. Koehler Elec. v. Willis, 608 N.W.2d 1, 3 (Iowa 2000). The Iowa Supreme Court has held, an injury occurs "in the course of employment" when:

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

Farmers Elevator Co., Kingsley v. Manning, 286 N.W.2d 174, 177 (Iowa 1979) (quoting Bushing v. Iowa Ry. & Light Co., 208 Iowa 1010, 1018, 226 N.W. 719, 723 (1929)).

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

"[i]t only needs to be one cause." Armstrong Tire & Rubber Co. v. Kubli, 312 N.W.2d 60, 64 (Iowa 1981).

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

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

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

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

A. File Number 5053063 – Right and Left Upper Extremities

1. Cumulative Injuries and Iowa Code section 85.34(2)(s)

Torres contends she sustained simultaneous bilateral cumulative injuries to her right and left upper extremities while working for A.Y. McDonald. A.Y. McDonald rejects Torres's contention, and avers Torres did not sustain simultaneous bilateral injuries to her right and left upper extremities caused by a single accident.

Permanent partial disabilities are divided into scheduled and unscheduled losses. Iowa Code § 85.34(2). If the claimant's injury is listed in the specific losses found in Iowa Code section 85.34(2)(a)-(t), the injury is a scheduled injury and is compensated by the number of weeks provided for the injury in the statute. Second Injury Fund v. Bergeson, 526 N.W.2d 543, 547 (Iowa 1995). "The compensation allowed for a

scheduled injury 'is definitely fixed according to the loss of use of the particular member.'" Id. (quoting Graves v. Eagle Iron Works, 331 N.W.2d 116, 118 (Iowa 1983)). If the claimant's injury is not listed in the specific losses in the statute, compensation is paid in relation to 500 weeks as the disability bears to the body as a whole. Id.; Iowa Code § 85.34(2)(u). "Functional disability is used to determine a specific scheduled disability; industrial disability is used to determine an unscheduled injury." Bergeson, 526 N.W.2d at 547.

Torres avers she sustained a simultaneous cumulative injury to her bilateral upper extremities on May 29, 2014, entitling her to benefits under Iowa Code section 85.34(2)(s). Iowa Code section 85.34(2)(s) (2013), provides:

> [t]he loss of both arms, or both hands, or both feet, or both legs, or both eyes, or any two thereof, caused by a single accident, shall equal five hundred weeks and shall be compensated as such; however, if said employee is permanently and totally disabled the employee may be entitled to benefits under subsection 3.

A.Y. McDonald contends a cumulative injury to both upper extremities such as the injury sustained by Torres cannot be the result of a "single accident" entitling Torres to benefits under Iowa Code section 85.34(2)(s). A.Y. McDonald avers the cumulative injuries sustained by Torres, if compensable, are determined under Iowa Code section 85.34(2)(m), which allows for a maximum recovery of 250 weeks of permanent partial disability benefits for each upper extremity. A.Y. McDonald's argument raises issues of statutory interpretation and construction.

The term "single accident" in Iowa Code section 85.34(2)(s) is not defined in Iowa Code chapter 85, or in the administrative rules adopted by the Workers' Compensation Commissioner, 876 IAC chapters 1 through 12. The goal of statutory interpretation is "to determine and effectuate the legislature's intent." Ramirez-Trujillo v. Quality Egg, L.L.C., 878 N.W.2d 759, 769 (Iowa 2016) (citing United Fire & Cas. Co. v. St. Paul Fire Marine Ins. Co, 677 N.W.2d 755, 759 (Iowa 2004)). Workers' compensation statutes are interpreted liberally in favor of the injured worker. Denison Mun. Util. v. Iowa Workers' Comp. Comm'r, 857 N.W.2d 230, 237 (Iowa 2014); Bell Bros. Heating & Air Conditioning v. Gwinn, 779 N.W.2d 193, 206 (Iowa 2010); Jacobson Transp. Co. v. Harris, 778 N.W.2d 192, 198 (Iowa 2010); Stone Container Corp. v. Castle, 687 N.W.2d 485, 489 (Iowa 2003); Danker v. Wilimek, 577 N.W.2d 634, 636 (Iowa 1998).

When interpreting a statute, the court begins with the wording of the statute. Myria Holdings, Inc. v. Iowa Dep't of Rev., 892 N.W.2d 343, 349 (Iowa 2017). When determining legislative intent, the court looks at the express language of the statute, and "not what the legislature might have said." Id. (citing Schadendorf v. Snap-On Tools Corp., 757 N.W.2d 330, 337 (Iowa 2008)). If the express language is ambiguous, then the court looks to the legislative intent behind the statute. Sanford v. Fillenwarth, 863 N.W.2d 286, 289 (Iowa 2015) (citing Kay-Decker v. Iowa State Bd. of Tax Review, 857 N.W.2d 216, 223 (Iowa 2014)). A statute is ambiguous when reasonable persons could

disagree as to the statute's meaning. Ramirez-Trujillo, 878 N.W.2d at 769 (citing Holstein Elect. v. Brefogle, 756 N.W.2d 812, 815 (Iowa 2008)). An ambiguity may arise when the meaning of particular words is uncertain or when considering the statute's provisions in context. Id.

When the legislature has not defined a term in a statute, the court considers the term in the context in which it appears and applies the ordinary and common meaning to the term. Id. (citing Rojas v. Pine Ridge Farms, L.L.C., 779 N.W.2d 223, 235 (Iowa 2010). Courts determine the ordinary meaning of a term by examining precedent, similar statutes, the dictionary, and common usage. Sanford, 863 N.W.2d at 289.

Torres alleges she sustained a simultaneous cumulative injury to her bilateral upper extremities. The cumulative injury rule may apply "when the disability develops over a period of time; then the compensable injury itself is held to occur at a later time." McKeever Custom Cabinets v. Smith, 379 N.W.2d 368, 373 (Iowa 1985). In the case of State v. Carpenter, 334 N.W.2d 137, 140 (Iowa 1983), the Iowa Supreme Court defined the term "accident" using Webster's Third New International Dictionary (1976), as a "sudden event or change occurring without intent or volition through carelessness, unawareness ignorance, or a combination of causes and producing an unfortunate result." In Skipton v. S & J Tube, Inc., No. 11-1902, 2012 WL 38604546, at *5 (Iowa Ct. App. Sept. 6, 2012), the Iowa Court of Appeals used the definition of "accident" adopted by the Iowa Supreme Court in Carpenter and found "[a] cumulative injury is not a sudden event or change, and we conclude it is not an accidental injury" in an action for wrongful termination and violation of Iowa Code section 730.5, after the employee was terminated following testing after she reported she developed carpal tunnel syndrome due to cumulative trauma at work. The nature of a disability that develops over time is inconsistent with the term "accident" which the court has defined as a sudden event or change. By their nature, cumulative injuries do not occur suddenly.

The use of the word "single" before accident further supports A.Y. McDonald's argument. Webster's Dictionary defines "single" as "one only; one and no more; individual; without another or others; alone, solitary." The plain meaning of the term "single accident" is inconsistent with a cumulative injury. Under the case law, a cumulative injury involves a disability that develops over time, not from a single sudden accident or event. Given Torres relies on the cumulative injury rule, extent of disability in this case must be determined using Iowa Code section 85.34(2)(m), which allows for recovery of a maximum of 250 weeks of permanent partial disability benefits per upper extremity.

2. Nature and Extent of the Injuries

Torres has a long history of medical treatment involving multiple parts of her body. In this case Torres avers she sustained work-related cumulative injuries to her bilateral upper extremities. As analyzed above, extent of disability is determined under Iowa Code section 85.34(2)(m), which allows for recovery of a maximum of 250 weeks of permanent partial disability benefits per upper extremity.

In her post-hearing brief, Torres alleges she sustained "bilateral carpal tunnel injuries involving both of her arms as a result of her 5-19-14 cumulative injury." (Claimant's Brief, p. 13) In the statement of facts section of Torres's brief, at pages 10 through 12, Torres mentions other conditions, including left ulnar neuritis, left cubital tunnel syndrome, thoracic outlet syndrome, and chronic regional pain syndrome. No experts have causally related these conditions to the May 29, 2014 work injury, or assigned a permanent impairment rating to Torres based on left ulnar neuritis, left cubital tunnel syndrome, thoracic outlet syndrome, or chronic regional pain syndrome with respect to the May 29, 2014 work injury. I do not find Torres has established she sustained a permanent impairment from left ulnar neuritis, left cubital tunnel syndrome, thoracic outlet syndrome, or chronic regional pain syndrome caused by the May 29, 2014 work injury. Dr. Taylor, the occupational medicine physician Torres retained to perform an independent medical examination, did not opine Torres had sustained a temporary or permanent impairment involving one of these conditions caused by her employment with A.Y. McDonald. Torres's brief also mentions a new injury on October 18, 2018. That alleged injury is not the subject of this case.

Two experts have provided impairment ratings with respect to Torres's right and left upper extremities in this case, Dr. Castaneda, a treating orthopedic surgeon, and Dr. Taylor, an occupational medicine physician retained by Torres to conduct an independent medical examination only. A.Y. McDonald avers Dr. Taylor's impairment ratings are not properly grounded on the medical facts, and are inconsistent with the applicable provisions of the AMA Guides. Torres avers Dr. Castaneda's opinions should be disregarded because he assigned a zero percent impairment rating less than three months after he performed surgery, and he failed to reference the AMA Guides. For the reasons discussed below, I find the opinion of Dr. Taylor to be more convincing than the opinion of Dr. Castaneda.

Dr. Castaneda diagnosed Torres with atypical right carpal tunnel syndrome, and classic left carpal tunnel syndrome, which he found was work-related. (JE 3, p. 28) A.Y. McDonald challenged Dr. Castaneda's diagnosis of left carpal tunnel syndrome in its post-hearing brief at page six, noting, Dr. Mulderig's electrodiagnostic testing from July 8, 2014, does not support a diagnosis of left carpal tunnel syndrome. Dr. Mulderig's report lists an impression of right carpal tunnel syndrome, noting the study was abnormal and revealed right median mononeuropathy at or distal to the wrist, with a mild degree electrically. (JE 4, pp. 6, 8). Dr. Mulderig also found the right and left median motor nerve potentials were reduced in amplitude, also finding no slowing present across the left wrist, and noting Torres had a history of left cervical radiculopathy. (JE 4, pp. 6, 8) Dr. Mulderig's report found Torres's right and left median motor nerve potentials were reduced in amplitude. Through additional examination and treatment, including surgery on both upper extremities, Dr. Castaneda continued to opine Torres had sustained right and left carpal tunnel syndrome caused by her work activities, which is also supported by the findings of Dr. Kennedy, the treating occupational medicine physician.

Dr. Castaneda performed a right open carpal tunnel release with decompression of the median and ulnar nerves on Torres on August 22, 2014. (JE 5, p. 1) During an appointment on November 20, 2014, Dr. Castaneda found Torres had recovered her normal range of motion, strength, and neurovascular status, and that she had returned to normal activity without restrictions. (JE 5, p. 1) Dr. Castaneda opined Torres had reached maximum medical improvement, she did not need any additional treatment for her right upper extremity, and that she had sustained a zero percent permanent impairment rating. (JE 3, pp. 38-30) Dr. Castaneda's opinion does not provide whether he used the AMA Guides in reaching his conclusions.

Dr. Castaneda performed a left endoscopic carpal tunnel release on Torres on December 30, 2014. (JE 5, p. 4) During an appointment on February 23, 2015, Dr. Castaneda documented Torres was doing very well and had recovered normal sensation and use of her hand with no pain with gripping, squeezing, lifting, or carrying. (JE 3, p. 43) Dr. Castaneda opined Torres had reached maximum medical improvement that date, she did not need any additional treatment, she could return to full duty without restrictions, she had no residual disability, and thus her impairment rating for the injury would be zero percent. (JE 3, pp. 43, 45) Again, Dr. Castaneda's opinion does not provide whether he used the AMA Guides in reaching his conclusions.

Dr. Castaneda documented Torres's symptoms fully resolved following surgery. This is not consistent with Torres's credible testimony at hearing concerning her ongoing symptoms, or with her other medical records. Due to these inconsistencies and his failure to use the AMA Guides, I do not find Dr. Castaneda's opinion persuasive.

Dr. Taylor diagnosed Torres with bilateral carpal tunnel syndrome and right ulnar nerve neuropathy at the wrist. (Ex. 1, pp. 11, 15) With respect to her left upper extremity, Dr. Taylor assigned a two percent left upper extremity impairment using the AMA Guides. Again using the AMA Guides, Dr. Taylor assigned a six percent right upper extremity impairment. Dr. Taylor recommended permanent restrictions of avoiding forceful gripping and grasping, occasional forceful gripping with the hands, and rare to occasional use of vibratory or power tools, including air tools. (Ex. 1, p. 15)

Contrary to A.Y. McDonald's assertion, Dr. Taylor's opinions are supported by Torres's medical records and credible testimony at hearing concerning her ongoing symptoms following surgery. I find his opinion to be the most persuasive. Considering all of the evidence at hearing, including lay testimony, I find Torres has sustained a two percent permanent impairment to her left upper extremity entitling her to five weeks of permanent partial disability benefits, at the stipulated rate of $604.46 per week, and a six percent permanent impairment to her right upper extremity, entitling her to fifteen weeks of permanent partial disability benefits, at the stipulated rate of $604.46 per week.

The parties stipulated on the hearing report temporary benefits are no longer in dispute. Torres avers the commencement date for permanency is August 24, 2014. A.Y. McDonald rejects her assertion. In Evenson v. Winnebago Indus., Inc., 881

N.W.2d 360, 372-74 (Iowa 2016), the Iowa Supreme Court held that the healing period set forth in the statute lasts until the claimant has returned to work, has reached maximum medical improvement, or until the claimant is medically capable of returning to substantially similar employment, "whichever occurs first." The record supports Torres returned to work on May 30, 2014, when she reported the May 29, 2014 cumulative work injuries. The commencement date for permanency for Torres's right and left upper extremities under Evenson is May 30, 2014.

B. File Number 5053961 - Right Fifth Finger

In File Number 5053961, Torres alleges she sustained an injury to her right fifth finger on July 22, 2015, which arose out of and in the course of her employment with A.Y. McDonald. A.Y. McDonald contends Torres has not sustained a permanent impairment caused by her employment with respect to the July 22, 2015 injury, the condition of Dupuytren's contracture is not medically known to be caused by work activity, and Torres's symptoms resolved.

Torres originally complained about additional problems with her bilateral upper extremities. She received treatment authorized by A.Y. McDonald, with Dr. Kennedy in August and September 2015. (JE 2, pp. 9-16; JE 8, p. 9) During an appointment with Dr. Kennedy on September 18, 2015, Dr. Kennedy documented Torres's symptoms had improved and that her symptoms were confined to her right fifth or pinky finger. (JE 2, p. 17) At hearing Torres agreed this was correct. (Tr., p. 47) Dr. Kennedy opined Torres had not sustained a permanent impairment and released Torres to full duty. (JE 2, pp. 17-18) Dr. Castaneda sent a letter on October 20, 2016, concerning Torres's right small finger contracture and left cubital tunnel syndrome. (JE 3, p. 48) Dr. Castaneda noted the right small finger contracture was minimal and he did not believe surgery was necessary or related to her workers' compensation condition, and that he believed the only workers' compensation condition was the numbness and tingling in her left upper extremity. (JE 3, p. 48)

Dr. Taylor could not agree on a diagnosis for Torres's right fifth finger condition, noting "there has yet been a definitive diagnosis as far as the right hand and fourth and fifth digits with slight flexion contracture of the right fifth digit compared to the left. This may represent chronic ulnar nerve issue with a contracture or she may also have Dupuytren's." (Ex. 1, p. 17-18) Dr. Taylor found Torres had reached maximum medical improvement, found she had sustained a three percent right fifth finger impairment, and recommended a second opinion from an upper extremity specialist. (Ex. 1, pp. 18-19) Dr. Taylor's opinion regarding the right fifth finger is equivocal. He did not identify a diagnosis. And while he found Torres had reached maximum medical improvement, he recommended a second opinion concerning her condition. I do not find his opinion persuasive. Dr. Kennedy has treated Torres for several years and opined she had not sustained a permanent impairment caused by the July 22, 2015 work injury. Her opinion is supported by Dr. Castaneda, an orthopedic surgeon who has also treated Torres over the course of many years. Torres has not met her burden of proof that she sustained a permanent impairment caused by the July 22, 2015 work injury.

III. Medical Mileage for Both Files

Torres seeks medical mileage totaling $138.88, set forth in Exhibit 2, for the date of loss May 29, 2014. (Ex. 2, p. 1) Torres also seeks medical mileage totaling $107.65, set forth in Exhibit 4, for the date of loss July 22, 2015. (Ex. 4, p. 1)

An employer is required to furnish reasonable surgical, medical, dental, osteopathic, chiropractic, podiatric, physical rehabilitation, nursing, ambulance, hospital services and supplies, and transportation expenses for all conditions compensable under the workers' compensation law. Iowa Code § 85.27(1). The employer has the right to choose the provider of care, except when the employer has denied liability for the injury. Id. "The treatment must be offered promptly and be reasonably suited to treat the injury without undue inconvenience to the employee." Id. § 85.27(4). If the employee is dissatisfied with the care, the employee should communicate the basis for the dissatisfaction to the employer. Id. If the employer and employee cannot agree on alternate care, the commissioner "may, upon application and reasonable proofs of the necessity therefor, allow and order other care." Id. The statute requires the employer to furnish reasonable medical care. Id. § 85.27(4); Long v. Roberts Dairy Co., 528 N.W.2d 122, 124 (Iowa 1995) (noting "[t]he employer's obligation under the statute turns on the question of reasonable necessity, not desirability"). The Iowa Supreme Court has held the employer has the right to choose the provider of care, except when the employer has denied liability for the injury, or has abandoned care. Iowa Code § 85.27(4); Bell Bros. Heating & Air Conditioning v. Gwinn, 779 N.W.2d 193, 204 (Iowa 2010).

A.Y. McDonald authorized medical care for Torres with Dr. Kennedy for her left and right upper extremities. Exhibit 2 documents medical mileage for treatment Torres received for the May 29, 2014 work injury, totaling $138.88, for File Number 5053063. Torres was successful in proving her claim and is entitled to recover the medical mileage she seeks and all causally related medical mileage for File Number 5053063.

While Torres was not ultimately successful in proving she sustained a permanent impairment caused by the July 22, 2015 work injury in File Number 5053961, Dr. Kennedy's records support she sustained a temporary condition requiring treatment. Torres seeks to recover expenses from 2018. That involves a separate work injury, as noted in the decision. Torres is not entitled to recover medical mileage for this unrelated injury. Torres also seeks to recover additional medical mileage in 2016 and 2017, after the date Dr. Kennedy released her to full duty following the July 22, 2015 work injury. Torres is entitled to recover medical mileage for the appointments she attended for her temporary condition in 2015. I award Torres $13.80 in medical mileage. I decline to award Torres the remaining $93.85 in medical mileage set forth in Exhibit 4.

IV. Independent Medical Examination – File Number 5053961

In File Number 5053064, Deputy Workers' Compensation Commissioner Gordon ordered A.Y. McDonald to pay one-third of the cost of Dr. Taylor's independent medical

examination, or $1,060.83. A.Y. McDonald also agreed to pay one-third of the cost of Dr. Taylor's independent medical examination at hearing for File Number 5053063, or $1,060.83. Torres seeks to recover one-third of the cost of Dr. Taylor's independent medical examination for File Number 5053961, or $1,060.83.

After receiving an injury, the employee, if requested by the employer, is required to submit to examination at a reasonable time and place, as often as reasonably requested to a physician, without cost to the employee. Iowa Code § 85.39. If an evaluation of permanent disability has been made by a physician retained by the employer and the employee believes the evaluation is too low, the employee "shall, upon application to the 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 . . . ." Id. No impairment rating was issued for File Number 5053961 before Dr. Taylor conducted his examination of Torres. Under the statute, Torres is not entitled to one-third reimbursement of Dr. Taylor's independent medical examination for File Number 5053961.

V. Costs

Torres seeks to recover the $100.00 filing fees for File Numbers 5053063, and 5053961, and the cost of Dr. Taylor's report. (Ex. 3, p. 1; Ex. 5, p. 1)

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

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

In the case of Des Moines Area Regional Transit Authority v. Young, the Iowa Supreme Court held:

> [w]e conclude section 85.39 is the sole method for reimbursement of an examination by a physician of the employee's choosing and that the expense of the examination is not included in the cost of a report. Further, even if the examination and report were considered to be a single,

> indivisible fee, the commissioner erred in taxing it as a cost under administrative rule 876-4.33 because the section 86.40 discretion to tax costs is expressly limited by Iowa Code section 85.39.

867 N.W.2d 839, 846-47 (Iowa 2015). Dr. Taylor's report is itemized. Dr. Taylor charged Torres $1,787.50 for the report for the three claims. One-third of this amount is $595.33.

Torres was successful in her claim for File Number 5053063. She was not successful in her claim for 5053961. Using my discretion, I decline to award Torres costs for File Number 5053961. I find Torres should be awarded the $100.00 filing fee for File Number 5053063.

ORDER

IT IS THEREFORE ORDERED, THAT:

FOR FILE NUMBER 5053063:

A.Y. McDonald shall pay Torres five (5) weeks of permanent partial disability benefits, for the left upper extremity, and fifteen (15) weeks of permanent partial disability benefits for the right upper extremity, at the stipulated rate of six hundred four and 46/100 dollars ($604.46) per week, commencing on May 30, 2014.

A.Y. McDonald 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 Tech., File No. 5054686 (App. Apr. 24, 2018).

A.Y. McDonald shall pay Torres one hundred thirty-eight and 88/100 dollars ($138.88) for medical mileage.

A.Y. McDonald shall pay Torres one hundred and 00/100 dollars ($100.00) for the filing fee.

FOR FILE NUMBER 5053961:

A.Y. McDonald shall pay Torres thirteen and 80/100 dollars ($13.80) for medical mileage.

FOR BOTH FILES:

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

Signed and filed this 5th day of April, 2019.

HEATHER L. PALMER
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

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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.