BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

RICHARD W. BOOTS,

Claimant,

vs.

MENARD, INC.,

Employer,

and

PRAETORIAN INSURANCE COMPANY,

Insurance Carrier,
Defendants.

File No. 5047709

ARBITRATION

DECISION

Head Note Nos.: 1402.40; 1803; 1804; 2501

STATEMENT OF THE CASE

Claimant, Richard Boots, filed a petition in arbitration seeking workers' compensation benefits from Menard, Inc. (Menard's), employer and Praetorian Insurance Company, insurer, both as defendants. This matter was heard in Davenport, Iowa, on August 4, 2015 with the final submission date of September 4, 2015.

The record in this case consists of claimant's exhibits 1 through 7, defendants' exhibits A through I, and the testimony of claimant.

ISSUES

1. Whether the injury is a cause of permanent disability; and if so,

2. The extent of claimant's entitlement to permanent partial disability benefits;

3. Whether there is a causal connection between the injury and the claimed medical expenses, including medical mileage.

In the post hearing brief, defendants appear to make the argument that apportionment is applicable in this matter (Defendants' Post Hearing Brief, page 5)

Rule 876 IAC 4.19(3)(f) indicates the parties, in the hearing report, are to define defenses and issues for submission to a deputy. Defendants did not identify, in the hearing report, apportionment was an issue for hearing in this case. I recognize the hearing report does not specifically detail apportionment as an issue on the form. However, the hearing report form does have a spot for defendants to designate which "affirmative defenses" are claimed, and what "other issues" are in dispute. Defendants did not indicate apportionment was an issue in the hearing report. As a result, they are precluded from raising the issue of apportionment in this case.

FINDINGS OF FACT

Claimant was 74 years old at the time of hearing. Claimant did not graduate from high school. Claimant has a GED. Claimant has worked in factories and in construction. He has also done some small engine repair. (Exhibit 7, page 101; Ex. C, pp. 1-2)

Claimant began with Menard's in May 1997. Claimant testified he has worked in a number of different positions at Menard's and has worked both full time and part time. At the time of his work injury, claimant worked part time and was employed as a cleaner/operator. Claimant's job duties include, but were not limited to, cleaning floors, using a scrubber, and picking up garbage. (Ex. E, p. 4) Claimant testified his job duties involved picking up loose pallets, picking up and baling card board, and baling plastic.

Claimant's prior medical history is relevant. Claimant indicated in answers to interrogatories he has had multiple back surgeries, multiple hand surgeries, and surgeries to both knees. (Ex. D, p. 3; Ex. G-2, p. 3)

In 2005, claimant was given permanent restrictions of no lifting or carrying over 25 pounds due to a knee injury. (Ex. G-6, pp. 1-2)

In 2008, claimant was assessed as having a severe lumbar spinal stenosis. Claimant ultimately underwent a lumbar laminectomy of the L3-L4, and L5 levels. (Ex. G-4, pp. 1-4)

In May 2010, claimant injured his right shoulder lifting a TV above his head. (Ex. G-2, p. 1) An MRI showed a right rotator cuff tear. (Ex. G-2, p. 7) In June 2010 claimant underwent a right shoulder rotator cuff repair, performed by David Field, M.D. (Ex. G-2, p. 8)

In August 2010, claimant was treated for bilateral shoulder pain. Claimant indicated his pain was so severe he could not sleep. Claimant was assessed as having an impingement on the left and a possible rotator cuff tear, and post right rotator cuff repair. He was given an injection and treated with medications. (Ex. G-2, p. 5)

At claimant's request, claimant was released to return to work with no restrictions by Dr. Field on August 9, 2010. (Ex. G-2, p. 11)

Claimant testified that when he returned to work at Menard's, he had no limitations. He testified he had full use of his right shoulder.

Claimant testified in deposition that in April 2013 he was in a motor vehicle accident and injured his left shoulder. (Ex. A, Deposition page 39; Ex. G-1, p. 1) Claimant was assessed as having a left right rotator cuff tear. (Ex. G-1, p. 1)

After conservative treatment failed to resolve his symptoms, claimant underwent a left reversed total arthroplasty of left shoulder. (Ex. G-1, pp. 4-5) Surgery was performed by Gerald Meester, M.D. (Ex. G-1, pp. 4-5) Claimant testified in deposition he was returned to work with a 5-pound lifting restriction on the left. (Ex. A, Dep. p. 8) The record suggests claimant did lift pallets and operate a pallet jack with both his left and right upper extremities.

Claimant testified that on February 19, 2014, he was picking up pallets. Claimant was using a pallet jack. He said he accidently ran the pallet jack into a pallet rack. This caused the handle of the pallet jack to strike his right shoulder and knocked claimant down. (Ex. A, Dep. pp. 24-27)

On March 12, 2014, claimant was evaluated by Dr. Meester with complaints of right shoulder pain caused by an accident with a pallet jack. Claimant said before the accident he did not have a very functional shoulder. An MRI showed a complete tear of the rotator cuff. Dr. Meester indicated he could not offer further care and referred claimant to University of Iowa Hospitals and Clinics (UIHC). Dr. Meester was not sure if the February 19, 2014 accident caused the rotator cuff tear given claimant's prior right shoulder surgery. (Ex. F)

On March 28, 2014, claimant was evaluated by James Nepola, M.D., at the UIHC. Physical therapy and cortisone injections were recommended. Claimant was given a temporary right arm sling. He was assessed as having a right rotator cuff tear. (Ex. 1a)

Claimant returned to Dr. Nepola on April 22, 2014 with continued complaints of right arm pain. Claimant indicated he did not pursue treatment options of physical therapy and injections as recommended. Claimant continued to work at Menard's. He was given a cortisone injection and physical therapy was again recommended. (Ex. 1b)

Claimant returned to Dr. Nepola on May 6, 2014. Claimant did not have adequate relief of his symptoms. Surgery was recommended as a treatment option. (Ex. 1c)

In a May 8, 2014 note, Dr. Nepola indicated claimant's accident of February 19, 2014 materially aggravated or caused claimant's rotator cuff tear. Dr. Nepola indicated he had not seen documentation that claimant had a rotator cuff repair on the right prior to the February 2014 accident. He found claimant's complaints and need for a right reverse total shoulder replacement were due to the February 2014 incident. (Ex. 2)

When conservative treatment failed to remedy claimant's symptoms, claimant underwent surgery. On June 20, 2014, Dr. Nepola performed a right reversed total shoulder arthroplasty. (Ex. 1d, 1e) Surgery was approved by defendant insurer. (Ex. 3)

Claimant testified after surgery, his right arm began to feel numb and he began to have difficulty with circulation.

Claimant returned to Dr. Nepola in follow up in July and September 2014. Claimant reported trouble with right shoulder pain. He was given a one-pound lifting restriction on the right. Claimant was kept off of work from Menard's. (Ex. 1f, 1g)

Claimant returned in follow up with Dr. Nepola in February 2014 and January 2015. Claimant continued to complain of right shoulder pain. Claimant indicated his shoulder limited his activities of daily living (ADL) and made sleep difficult. Claimant was given a right shoulder injection on January 20, 2015. Claimant reported only a small improvement in pain. (Ex. 1h, 1j, 1k)

Claimant returned to Dr. Nepola on April 7, 2015 with continued complaints of right shoulder pain that had not improved. Claimant was kept on his current work restrictions. (Ex. 1k)

On April 28, 2015 claimant saw Dr. Nepola. Claimant's pain had improved slightly. Claimant was found to be at maximum medical improvement (MMI). He was given permanent restrictions of no pushing, pulling, or lifting more than one pound on the right. (Ex. 1l)

In a May 18, 2015 letter Dr. Nepola found the claimant had a 30 percent permanent impairment to the body as a whole as a result of the right shoulder injury. This was based upon the AMA Guides, finding that claimant had a permanent impairment due to loss of range of motion, and a permanent impairment due to the implant in the shoulder. Dr. Nepola indicated the permanent restrictions were the result of the injury of February 19, 2014. He found that treatment given to claimant was the result of an aggravation of claimant's pre-existing shoulder condition from the February 2014 work accident. (Ex. 4)

In a June 30, 2015 report, Mark Kirkland, D.O., gave his opinions of claimant's condition following a records review. Dr. Kirkland reviewed right shoulder MRI's from June 8, 2010 and from March 6, 2014. Based on his review of claimant's records and review of the aforementioned MRI's, Dr. Kirkland believed that the injury of February 19, 2014 did not cause or complete the tear shown in the March 6, 2014 MRI. He opined the injury did not materially aggravate claimant's shoulder conditions, but that the incidents "... did light up a preexisting condition." (Ex. B, p. 3) He opined claimant would have needed a reversed total shoulder replacement without the February 19, 2014 injury. Dr. Kirkland agreed that claimant had reached MMI as of April 28, 2015. (Ex. B, p. 3)

Dr. Kirkland believed claimant had a 24 percent permanent impairment to the right upper extremity based on the AMA Guides to the Evaluation of Permanent Impairment, Fifth Edition, Table 16-27. (Ex. B, p. 3)

In a July 8, 2015 letter, Dr. Nepola reiterated the opinions found in his letter of May 18, 2015. (Ex. 5)

In a July 13, 2015 letter, Dr. Kirkland opined that the February 19, 2014 surgery did not change the underlying condition of claimant's shoulder. Claimant's history indicated he had rotator cuff repair on June 1, 2010. Progress notes after surgery show that claimant had little improvement. Based on claimant's symptoms after his right shoulder surgery in 2010, a smoking history, the February 19, 2014 incident did not have a significant role in claimant's right shoulder pathology. (Ex. B, pp.5-6)

Dr. Kirkland indicated Dr. Nepola did find claimant had a 34 percent permanent impairment to the right upper extremity due to loss of range of motion. This would have combined with the 24 percent permanent impairment to the right upper extremity secondary to the implant. According to the combined values charts of the Guides, the combined values of the two impairments would result in a 50 percent permanent impairment to the right upper extremity, resulting in a 30 percent permanent impairment to the body as a whole under the Guides. (Ex. B, pp. 5-6)

In a July 6, 2015 report, Lana Sellner, M.S., CRC, gave her opinions of claimant's condition. Ms. Sellner opined that given claimant's restrictions from Dr. Nepola, and prior work restrictions, she believed claimant could work in the light to selective medium work category. She opined claimant could find positions as a security guard, or in customer service, or as a greeter. (Ex. C)

Claimant testified that he has difficulty with ADLs. He said he has difficulty driving because of his right shoulder limitations. Claimant said he is no longer able to mow his lawn or shovel snow. Claimant said he has difficulty sleeping due to right shoulder problems. He said he wears a "gun slinger brace" at night on his right arm to help him sleep.

Claimant testified he has spoken with the manager at Menard's regarding returning to work. Claimant said he was told that given his permanent restrictions, there were no jobs for him at Menard's. Claimant said he was told that given his permanent restrictions, he could not return to work at any job at Menard's.

Claimant said given his limitations, he could not return to work to any of his prior jobs. He said he did not believe he could return to Menard's picking up pallets.

Claimant has not looked for other work, other than Menard's, since his surgery.

Claimant testified he has been receiving Social Security retirement benefits for approximately 15 years. He said he was not aware he was limited in the number of hours he could work due to the Social Security retirement benefit.

CONCLUSIONS OF LAW

The first issue to be determined is if claimant sustained a permanent disability from his injury of February 19, 2014. Defendants stipulated claimant sustained a work injury on February 19, 2014 that arose out of and in the course of employment. Defendants contend that claimant's February 2014 work injury was an insignificant factor in the right shoulder replacement surgery and permanent disability resulting from that surgery. (Defendants post hearing brief, p. 3)

The party who would suffer loss if an issue were not established has the burden of proving that issue by a preponderance of the evidence. Iowa R. App. P. 6.14(6).

The claimant has the burden of proving by a preponderance of the evidence that the alleged injury actually occurred and that it both arose out of and in the course of the employment. Quaker Oats Co. v. Ciha, 552 N.W.2d 143 (Iowa 1996); Miedema v. Dial Corp., 551 N.W.2d 309 (Iowa 1996). The words "arising out of" referred to the cause or source of the injury. The words "in the course of" refer to the time, place, and circumstances of the injury. 2800 Corp. v. Fernandez, 528 N.W.2d 124 (Iowa 1995). An injury arises out of the employment when a causal relationship exists between the injury and the employment. Miedema, 551 N.W.2d 309. The injury must be a rational consequence of a hazard connected with the employment and not merely incidental to the employment. Koehler Electric v. Wills, 608 N.W.2d 1 (Iowa 2000); Miedema, 551 N.W.2d 309. An injury occurs "in the course of" employment when it happens within a period of employment at a place where the employee reasonably may be when performing employment duties and while the employee is fulfilling those duties or doing an activity incidental to them. Ciha, 552 N.W.2d 143.

The claimant has the burden of proving by a preponderance of the evidence that the injury is a proximate cause of the disability on which the claim is based. A cause is proximate if it is a substantial factor in bringing about the result; it need not be the only cause. A preponderance of the evidence exists when the causal connection is probable rather than merely possible. George A. Hormel & Co. v. Jordan, 569 N.W.2d 148 (Iowa 1997); Frye v. Smith-Doyle Contractors, 569 N.W.2d 154 (Iowa App. 1997); Sanchez v. Blue Bird Midwest, 554 N.W.2d 283 (Iowa App. 1996).

The question of causal connection is essentially within the domain of expert testimony. The expert medical evidence must be considered with all other evidence introduced bearing on the causal connection between the injury and the disability. Supportive lay testimony may be used to buttress the expert testimony and, therefore, is also relevant and material to the causation question. The weight to be given to an expert opinion is determined by the finder of fact and may be affected by the accuracy of the facts the expert relied upon as well as other surrounding circumstances. The expert opinion may be accepted or rejected, in whole or in part. St. Luke's Hosp. v. Gray, 604 N.W.2d 646 (Iowa 2000); IBP, Inc. v. Harpole, 621 N.W.2d 410 (Iowa 2001); Dunlavey v. Economy Fire and Cas. Co., 526 N.W.2d 845 (Iowa 1995). Miller v. Lauridsen Foods, Inc., 525 N.W.2d 417 (Iowa 1994). Unrebutted expert medical

testimony cannot be summarily rejected. Poula v. Siouxland Wall & Ceiling, Inc., 516 N.W.2d 910 (Iowa App. 1994).

The Iowa Supreme Court has adopted the full-responsibility rule. Under that rule, where there are successive work-related injuries, the employer liable for the current injury also is liable for the preexisting disability caused by any earlier work-related injury if the former disability when combined with the disability caused by the later injury produces a greater overall industrial disability. Venegas v. IBP, Inc., 638 N.W.2d 699 (Iowa 2002); Second Injury Fund of Iowa v. Nelson, 544 N.W.2d 258, 265 (Iowa 1995); Celotex Corp. v. Auten, 541 N.W.2d 252, 254 (Iowa 1995). The full-responsibility rule does not apply in cases of successive, scheduled member injuries, however. Floyd v. Quaker Oats, 646 N.W.2d 105 (Iowa 2002).

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

As noted in the Findings of Fact, claimant has had numerous back, knee, and shoulder surgeries. As noted in the Findings of Fact, claimant did have a right rotator cuff repair in June 2010. (Ex. G-2, p. 8) Claimant was returned to work by Dr. Field on August 9, 2010, with no work restrictions. (Ex. G-2, p. 11) There is little evidence in the record that claimant had any permanent impairment following the June 2010 rotator cuff surgery on the right. There is little in the evidence in the record that claimant had any difficulty with the right shoulder after his return to work by Dr. Field on August 9, 2010.

Two experts have opined regarding the causal connection between claimant's February 2014 injury and the need for the right shoulder arthroplasty.

Dr. Nepola treated claimant for an extended period of time and performed surgery on him. He opined, on a number of occasions, that claimant's need for treatment was a result of a material aggravation of a pre-existing shoulder condition. It is obvious from Dr. Nepola's opinion, and his medical records, that he was aware that claimant had a prior rotator cuff injury occurring in 2010. (Ex. 1a, Ex. 4, 5)

Dr. Kirkland evaluated claimant's records. He did not examine claimant. He did not treat claimant. Dr. Kirkland opined that the injury on February 19, 2014 did not have a significant role in claimant's right shoulder pathology. (Ex. B, p. 5) Dr. Kirkland however did indicate that the work injury of February 2014 "... did light up a preexisting condition." (Ex. B, p. 3)

I respect Dr. Kirkland's opinion. However, the record indicates claimant worked from approximately August 2010 until February 2014 with no permanent restrictions or permanent impairment to his right shoulder. There is little evidence in the record that claimant received any kind of medical treatment from that period of time to the right shoulder. There is little evidence in the record that claimant had any problems with his right shoulder during that period of time. Even Dr. Kirkland indicates that the February 2014 injury "lit up" claimant's preexisting condition. Dr. Kirkland did not treat claimant. He did not evaluate claimant. As a practical matter, Dr. Nepola has far more experience with claimant's medical presentation than Dr. Kirkland. Given this record, it is found that the opinions of Dr. Nepola regarding causation of the need for the right shoulder arthroplasty, are more convincing than those of Dr. Kirkland.

Claimant returned to work in August 2010 following right shoulder surgery with no permanent impairment or permanent restrictions. There is no record claimant had any treatment or complained of his right shoulder pain between August 2010 until the February 2014 injury. Dr. Nepola found that claimant's February 2014 injury materially aggravated his preexisting shoulder condition. Dr. Kirkland's opinions regarding causation are found not convincing. Given this record, claimant has carried a burden of proof that his February 19, 2014 work injury resulted in a permanent disability. See Plumbrose USA v. Hathaway, No. 13-0495, filed January 23, 2014 (Iowa Ct. of App.), 844 N.W.2d 469 (Table).

The next issue to be determined is the extent of claimant's entitlement to permanent partial disability benefits. Claimant contends he is permanently and totally disabled. Defendants argue that claimant may have some industrial disability.

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

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

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

A loss of earning capacity due to voluntary choice or lack of motivation to return to work is not compensable. Copeland v. Boones Book and Bible Store, File No. 1059319 (App. November 6, 1997); Snow v. Chevron Phillips Chemical Co., File No. 5016619 (App. October 25, 2007). An employee making a claim for industrial disability will benefit by showing some attempt to seek training or to find work. Brown v. Nissen, Corp., 89-90 IAWC 56, 62 (Appeal 1989).

Claimant was 74 years old at the time of the hearing. He has a GED. Claimant has worked in factories and in construction.

Both Dr. Nepola and Dr. Kirkland agree that claimant has a 30 percent permanent impairment to the body as a whole. (Ex. 4; Ex. B, pp. 5-6)

Claimant has severe restrictions that limit him to lifting up to one pound on the right. Claimant believes he has a five-pound lifting restrictions on the left. (Ex. A, Dep. p. 8) There is no evidence detailing this restriction. The record indicates that claimant returned to work after his left shoulder surgery and was able to operate a pallet jack and to move pallets with both arms.

Claimant testified that he has received Social Security retirement benefits for approximately 15 years. He testified he did not believe that he had any restrictions due to the number of hours he could work because of his Social Security retirement.

The Federal Social Security website indicates that for 2015, if a participant was receiving retirement benefits, there was a one dollar reduction of retirement benefits for every two dollars earned over $15,720.
https://faq.ssa.gov/link/portal/34011/34019/Article/3739/What-happens-if-I-work-and-get-Social-Security-retirement-benefits

The record indicates Menard's would not return claimant to any job at Menard's given his restrictions. The record also indicates claimant has not looked for work at any place else other than Menard's. Ms. Sellner opined that claimant could not return to part-time work, taking his recent restrictions into consideration. There is no vocational opinion that contradicts Ms. Sellner's opinion.

When all relevant factors are considered, it is found claimant has a 70 percent loss of earning capacity or industrial disability.

Claimant would also not be considered an odd-lot employee using the same factual determinations and factors as used for determining industrial disability.

As noted in the Issues section of this decision, defendants did not indicate apportionment was an issue in the hearing report. As a result, defendants are precluded from raising the issue of apportionment in this case.

However, even if defendants are allowed to raise apportionment as an issue in this case, apportionment does not apply. Defendants have the burden of proof to prove apportionment. Iowa Rules of Civil Procedures 6.14(6).

As detailed above, claimant had no permanent impairment or permanent restrictions regarding his right shoulder prior to the 2014 work injury. Defendants contend that the holding in Warren Properties v. Stewart, No. 13-0474, filed May 29, 2015 (Iowa) applies. The Supreme Court of Iowa held in Warren Properties that an employer who was liable to compensate an employer for a successive unscheduled work injury is not liable to pay for the pre-existing disability that arose from a concurrent employment with a different employer, when the employee's earning capacity is not reevaluated in the competitive job market or otherwise reevaluated prior to the successive injury. Claimant, in this case, had no concurrent employment with another employment. As a result, the holding in Warren Properties does not apply here. In brief, even if defendants had not waived apportionment as an issue in this case, defendants would have failed to carry their burden of proof in proving apportionment in this matter.

The final issue to be determined is if there is a causal connection between the injury and the claimed 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. Section 85.27. Holbert v. Townsend Engineering Co., Thirty-second Biennial Report of the Industrial Commissioner 78 (Review-Reopening October 1975).

As noted above, claimant's right shoulder injury is found to have been caused by the February 2014 work injury. There is no evidence in the record that the costs related to claimant's injuries are not fair and reasonable. There is no evidence that the medical expenses claimed and not causally connected to the treatment for claimant's shoulder and neck. As noted in the Findings of Fact, the right shoulder replacement surgery was approved by the defendant insurer. (Ex. 3) Based on this record, defendants are liable for the claimed medical expenses, including medical mileage.

ORDER

THEREFORE, IT IS ORDERED:

That defendants shall pay claimant three hundred fifty (350) weeks of permanent partial disability benefits at the rate of two hundred thirty-four and 92/100 dollars ($234.92) per week commencing on April 28, 2015.

That defendants shall pay accrued benefits in a lump sum.

That defendants shall pay interest on unpaid weekly benefits as awarded above and as set forth in Iowa Code section 85.30.

That defendants shall receive a credit for benefits previously paid.

That defendants shall pay medical charges including medical mileage, as detailed above.

That defendants shall pay the costs of this matter.

That defendants shall file subsequent reports of injury as required under rule 876 IAC 3.1(2).

Signed and filed this 26th day of October, 2015.

JAMES F. CHRISTENSON
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

Copies To:

Emilie Roth Richardson
Attorney at Law
1400 University Ave., Ste. D
Dubuque, IA 52001
eroth@rothlawdbq.com

Charles A. Blades
Attorney at Law
PO Box 36
Cedar Rapids IA 52406
cblades@scheldruplaw.com

JFC/kjw

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