BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

PATRICIA CUNNINGHAM, Claimant, vs. WAL-MART, Employer, and NEW HAMPSHIRE INSURANCE COMPANY, Insurance Carrier, Defendants.	File No. 5063087 ARBITRATION DECISION Head Note Nos.: 1106; 1108.50; 1402.20; 1402.40; 1804; 2907

FILED
JUN 26 2018
WORKERS' COMPENSATION

STATEMENT OF THE CASE

Patricia Cunningham, claimant, filed a petition in arbitration seeking workers' compensation benefits from Wal-Mart, employer and New Hampshire Insurance Company, insurance carrier, as defendants. Hearing was held on April 19, 2018 in Davenport, Iowa.

Claimant, Patricia Cunningham, was the only witness to testify live at trial. The evidentiary record also includes joint exhibits JE1, JE2, JE2A, JE3, JE4, and JE5, claimant' s exhibit 1-6, defendants' exhibits A-F.

The parties filed a hearing report at the commencement of the arbitration hearing. On the hearing report, the parties entered into various stipulations. All of those stipulations were accepted and are hereby incorporated into this arbitration decision and no factual or legal issues relative to the parties' stipulations will be raised or discussed in this decision. The parties are now bound by their stipulations.

The case was fully submitted upon receipt of the parties' post-hearing briefs on May 31, 2018.

ISSUES

The parties submitted the following issues for resolution:

1. Whether claimant sustained an injury that arose out of and in the course of employment on August 17, 2016?

2. Whether claimant sustained any permanent disability as a result of the August 17, 2016 injury? If so, the extent of permanent disability claimant sustained, including whether claimant is permanently and totally disabled?

3. A determination of the appropriate commencement date for any benefits.

4. Whether claimant is entitled to temporary benefits from August 17, 2016 through June 26, 2017?

5. Whether claimant is entitled to reimbursement of an IME pursuant to Iowa Code section 85.39?

6. Whether claimant is entitled to payment of past medical expenses?

7. Assessment of costs.

FINDINGS OF FACT

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

Claimant, Patricia Cunningham, fell and fractured her right hip while working at Wal-Mart on August 17, 2016. The central dispute in this case is whether the fall arose out of and in the course of her employment. Defendants have denied the injury and contend that the fall was idiopathic and therefore not compensable. I find that Ms. Cunningham did sustain an injury which arose out of and in the course of her employment on August 17, 2016.

Ms. Cunningham was hired by Wal-Mart in 2000. Initially, she worked in the garden center. More recently she worked as a sales associate in the electronics department at Wal-Mart. Some of her duties included working at the electronics department counter, answering the phone, changing out movie displays and stocking TVs and computers. Ms. Cunningham was diagnosed with multiple sclerosis (MS) in 2005. After this diagnosis she reduced her weekly work hours at Wal-Mart from 40 to 35. (Defendants Exhibit B)

There is no dispute that prior to the injury in question Ms. Cunningham struggled with her balance some days. Despite Ms. Cunningham's diagnosis of MS she was still able to perform her job duties. Defendants offered video from store surveillance which showed Ms. Cunningham using store shelves to help her balance as she walked. There is no indication of what date or time of day the video is from. However, we know the video was taken prior to her work injury because after her work injury she was taken via ambulance to the emergency room and she never worked for Wal-Mart again. (Testimony, Def. Ex. D, and Claimant's Exhibit 4)

Ms. Cunningham was also diagnosed with Chronic Obstructive Pulmonary Disease (COPD) prior to her work injury. She testified that her COPD progressively worsened until she was placed on oxygen in January of 2017. (Testimony)

On the date of the August 17, 2016 fall, Ms. Cunningham was in the cash wrap area, which is where customers could pay for their items in the electronics department. Ms. Cunningham was getting ready to walk out of the cash wrap when the telephone rang so she stepped back to answer the phone. When she was stepping back she caught her foot on the corner of the anti-fatigue rug. Ms. Cunningham stated that she and other employees had previously complained about the mat because they felt it was a dangerous tripping hazard. Ms. Cunningham testified that at the time of her fall the mat caused her to lose her balance. Because the mat was in the way, she was unable to regain her footing. The store surveillance footage of Ms. Cunningham's fall is in evidence as joint exhibit 5. A Walmart Safety OSHA Reportable Incident form was also completed. The incident details portion of the form states:

> Review of CCTV show that associate (Patti) was standing at the electronics counter. Patti walks towards the trash can and appears to set something on the counter next to it. As she steps backwards away from the counter she appears to roll her right ankle and attempts to balance herself. As she pulls her left foot back to regain balance she steps on the edge of a register anti-fatigue mat on the floor. This results in both feet being approx. half on the mat and half on tile. She then falls directly to the floor at an angle to her right side. The first to arrive was there about six seconds after the fall.

(Cl. Ex. 1)

I find that the description of the incident set forth in claimant's exhibit one is consistent with the video contained in joint exhibit 5. Although the video does not contain any sound, Ms. Cunningham's testimony regarding the ringing of the telephone also appears consistent with the video.

Defendants contend that the injury did not arise out of and in the course of her employment. Rather, defendants assert that Ms. Cunningham fell for reasons personal to her, her MS. In support of their position, they offer the opinion of Peter G. Matos, D.O. Dr. Mato is an occupational medicine doctor who performed an IME on January 24, 2018, at the request of the defendants. Dr. Mato viewed the video of Ms. Cunningham's fall. Defendants asked Dr. Mato to provide his opinion regarding causation in this matter. He stated:

> Ms. Cunningham suffers from multiple sclerosis, a relapsing and progressive disease. Individuals with multiple sclerosis (MS) are at an increased risk of hip fracture. The increased risk is due to impaired immobilization and a high rate of vitamin D deficiency. Ms. Cunningham

> would be in a high-risk category for a hip fracture and muscle weakness. Thus, even a minor fall could cause a fracture.
>
> On August 17, 2016 Ms. Cunningham allegedly fell at work. Video surveillance showed her limping and holding onto store shelfs [sic] prior to and after the fall. It is not clear that she tripped over a carpet from the video viewed. It appears that her muscle weakness from MS caused her to fall and not a carpet. The significant and substantial contributing factor to her hip fracture was her MS and not her employment at Walmart. She suffered, a right hip fracture due to her MS. She would have reached MMI on 11/24/16 when Dr. Pyveich released her to return to work with a walker.
>
> Her ongoing symptoms are related to multiple sclerosis, a relapsing and progressive disease.

(Def. Ex. A, p. 2)

Dr. Mato believes that the video of Ms. Cunningham walking through the store contains footage from after her fall. This is clearly erroneous because after the fall Ms. Cunningham was taken out of the store on a stretcher and never worked for Wal-Mart again. Furthermore, while muscle weakness Ms. Cunningham had as a result of her MS may have affected her ability to regain her balance it was still the risk of the mat, the uneven surface, that necessitated her need to regain her balance.

I do not find defendants' argument to be persuasive. I find that Ms. Cunningham was in the process of stepping back to answer the store's telephone when her feet came in contact with the anti-fatigue mat and she fell. Ms. Cunningham testified that the mat prevented her from regaining her balance. The OSHA report notes that both of her feet were approximately half on the mat and half on tile. Thus, Ms. Cunningham was not on an even surface. I further find that claimant has demonstrated that the change in surface from the bare floor to the anti-fatigue mat is a risk of employment that contributed to her injury.

After her fall, Ms. Cunningham was taken via ambulance to the emergency room where she was diagnosed with nondisplaced right intertrochanteric hip fracture. She underwent surgery for her fractured hip with Michael Pyevich, M.D. Following surgery Ms. Cunningham remained hospitalized until August 23, 2016. She was then transferred to a nursing home where she stayed for approximately one month. At the time she was released from the nursing home she was using a walker. (Testimony)

Dr. Pyevich last saw Ms. Cunningham on November 14, 2016. She reported that she was still having pain with walking. She also reported weakness. He recommended that she continue to use her walker and continue physical therapy. Dr. Pyevich released Ms. Cunningham to return to work with the use of a walker on November 14, 2016. He advised her to call if her symptoms did not continue to improve. (JE4, p. 6)

On June 27, 2017, at the request of her attorney, claimant underwent an IME with Richard L. Kreiter, M.D. His diagnosis related to the fall at Wal-Mart included: healed right intertrochanteric fracture with retained long nail, with chronic trochanteric bursitis, chronic right buttock and thigh pain with right sciatica, aggravation and acceleration of underlying degenerative lumbosacral spine during recovery from hip fracture, with limp and walker use, no obvious exacerbation of multiple sclerosis. For the trochanter bursitis he assigned 3 percent whole person impairment. With regard to the lumbar spine injury he placed Ms. Cunningham in the DRE category II and assigned 8 percent whole person impairment. Thus, Dr. Kreiter assigned a total impairment of 11 percent whole person. He recommended conservative treatment for the hip and back. He did not address the issue of restrictions. (Cl. Ex. 2)

In his IME report Dr. Mato opined that Ms. Cunningham reached MMI for her fall as of November 24, 2016. He further opined that her current condition and symptoms were not causally related to the fall. Rather, he felt that her ongoing symptoms were the result of a pre-existing degenerative process, MS. He stated that Ms. Cunningham did not sustain any permanent impairment as a result of the August 17, 2016, non-work injury. He also did not feel she needed any restrictions as a result of the alleged injury of August 17, 2016. (Ex. A)

With regard to restrictions and impairment, I do not find the opinions of Dr. Mato to be persuasive. He attributes the hip fracture to Ms. Cunningham's MS and vitamin D deficiency. He does not comment on what affect the hard, industrial floor had on her hip. Additionally, he understood that Ms. Cunningham was up and walking around after the fall. This is wrong. I find the opinions of Dr. Kreiter are more persuasive than those of Dr. Mato. Therefore, I find that as a result of the work injury Ms. Cunningham has sustained 11 percent functional impairment to her whole person. Dr. Kreiter did not address the issue of permanent restrictions. The last time Ms. Cunningham saw the treating physician, Dr. Pyevich was on November 14, 2016. At that time, he stated that she could return to work with the use of a walker. I find that as a result of the work injury she has permanent work restrictions of using a walker.

Ms. Cunningham is not sure if she could return to her pre-injury job in the electronics department due to her hip injury. She is uncertain if she could pick up a t.v. or a computer. She cannot get down on the floor. She believes she would also have difficulty getting down to the cabinets or things on the lower shelves. (Def. Ex. B)

At the time of the arbitration hearing Ms. Cunningham was 61 years old. She was 5'6" and weighed approximately 95 pounds. She was still using a walker. There were times at her home when she did not use her walker, but only if she was only going approximately 15-20 feet. She still experiences a stabbing pain in her hip. She is also using oxygen due to her COPD. She applied for and was receiving Social Security Disability benefits. (Testimony)

Ms. Cunningham's testified that she believes she could no longer work at many of her prior jobs. She could not work as a waitress because she would not be able to carry the heavy trays of food. She also could not work selling shoes because she could not stoop down to reach the customer's feet. She could not perform housekeeping work because she cannot bend to make a bed or clean a bathtub, sink, or toilet. Additionally, she does not believe she could return to working as an apartment manager because this requires walking the property and climbing stairs. I find that Ms. Cunningham could not return to any of her pre-injury employment. I find that because of her work injury she is precluded from performing work that her experience, training, and intelligence would otherwise allow her to perform.

Ms. Cunningham has not worked since her August 2016 injury. Ms. Cunningham testified that she cannot return to her pre-injury duties. Her testimony is consistent with the medical records and my observations. Ms. Cunningham is now on oxygen 24 hours per day. However, this is related to her COPD, not to the work injury. After Dr. Pyevich released Ms. Cunningham to return to work with the use of a walker Wal-Mart sent her a letter. Ms. Cunningham testified that she had received a letter from Wal-Mart wanting to know if she was going to come back to work. Apparently, the letter also indicated that Wal-Mart had called her on three occasions. However, claimant testified that she no longer had a home phone and she had no knowledge of the phone calls. It is not clear from the record if Wal-Mart was actually offering her work that was within her restrictions. The type and/or amount of work that may have been offered is also not clear. An exit interview form indicates that Ms. Cunningham was voluntarily terminated effective May 31, 2017. The manager comments indicate that she had been on leave of absence which had expired as of March 14, 2017. Ms. Cunningham did not renew her leave or respond to Wal-Mart's attempts to contact her. Claimant testified she does not believe she is physically capable of performing her pre-injury duties. She testified that she has not applied for any jobs but would be willing to work if there was a job that she could physically perform.

Ms. Cunningham testified about her current physical condition. She cannot even take a bath by herself. Ms. Cunningham's testimony is consistent with the medical records and recommendations from Dr. Pyevich.

At her age, Ms. Cunningham is not likely to be able to successfully retrain. Claimant is not capable of performing manual labor or any of her prior jobs. She requires the use of a walker outside of her home. She is not capable of performing employment that requires any significant standing or walking.

Having considered Ms. Cunningham's age, educational level, employment history, the situs and severity of her injuries, her permanent restrictions, the unlikelihood of retraining, claimant's motivation level, as well as all other factors of industrial disability outlined by the Iowa Supreme Court, I find that Ms. Cunningham has proven by a preponderance of the evidence that she is not capable of performing work that her

experience, training, education, intelligence level, and physical capabilities would otherwise permit her to perform.

Permanent total disability benefits properly commence on the date of claimant's injury, August 17, 2016. Therefore, any dispute regarding healing period benefits is rendered moot.

Claimant is seeking payment of medical expenses as set forth in claimant's exhibit 6. The records demonstrate that the medical expenses were reasonable and necessary as a result of the work injury. Defendants make no specific argument as to why these bills should not be their responsibility. I find that defendants are responsible for the medical expenses set forth in claimant's exhibit 6.

Claimant has alleged penalty benefits. Claimant does not state the specific basis for the penalty claim in either the petition, hearing report, or her brief. Presumably claimant's basis for the penalty claim is an unreasonable denial of benefits. I find that the defendants' did have a reasonable basis to deny claimant's claim. Defendants were aware that Ms. Cunningham had been diagnosed with MS and had difficulty with her balance and with walking through the store. I conclude that penalty benefits are not appropriate in this case.

Claimant is seeking reimbursement for an IME under Iowa Code section 85.39. Claimant obtained an IME from Dr. Kreiter on June 27, 2017. This was the first time that an evaluation of impairment had been made in this case. I find that claimant failed to show entitlement to an 85.39 examination because there had not been a prior evaluation of permanent disability made by a physician retained by the employer.

Finally, claimant is seeking an assessment of costs. I find that an assessment of costs is appropriate because claimant was generally successful in her claim. I find that the filing fee in the amount of 100.00 is an appropriate cost under 876 IAC 4.33(7). I find that cost of service in the amount of $12.92 is an appropriate cost under 876 IAC 4.33(3). Claimant is also seeking the IME of Dr. Kreiter as a cost. The Des Moines Area Reg'l Transit Auth. v. Young, 867 N.W.2d 839, (Iowa 2015) decision holds that only the cost associated with the preparation of a written report of a claimant's IME can be reimbursed as a cost at hearing under rule 876 IAC 4.33. See Young, 867 N.W.2d, at 846-847. Under Young, defendant in this case would only have to pay the cost of preparing the IME report. The evidence in this case does not qualify for reimbursement under Young because there is no break down what amount was charged specifically for "record review" and what amount was charged for the written report itself. Therefore, no portion of Dr. Kreiter's IME charge can be taxed as a cost under rule 876 IAC 4.33. Thus, defendants are assessed costs totaling $112.92.

CONCLUSIONS OF LAW

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

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.

However, injuries that occur in the course of employment or even on the employer's premises do not necessarily also arise out of the claimant's employment. Miedema v. Dial Corp., 551 N.W.2d 309, 311 (Iowa 1996). The Iowa Supreme Court has specifically declined to adopt the positional risk doctrine. Lakeside Casino v. Blue, 743 N.W.2d 169, 177 (Iowa 2007). The term "arising out of" refers to the cause and origin of the injury. This element requires proof that a causal connection exists between the conditions of the employment and the injury. Lakeside Casino v. Blue, 743 N.W.2d 169 (Iowa 2007). Thus, "the injury must not have coincidentally occurred while at work, but must in some way be caused by or related to the working environment or the conditions of [the] employment." Miedema, 551 N.W.2d at 311. Stated another way, "[t]he injury must be a natural incident of the work. This means it must be a rational consequence of a hazard connected with the employment." Cedar Rapids Community Sch. v. Cady, 278 N.W.2d 298, 299 (Iowa 1979).

It is long established Iowa law that an employer takes the employee "as is" and thus takes an employee subject to any active or dormant health impairment that she has. See Honeywell v. Allen Drilling Co., 506 N.W.2d 434 (Iowa 1993); See also 15 Iowa Workers' Compensation Law and Practice, § 4:3 (2017). In the present case, the employer took Ms. Cunningham subject to her preexisting conditions of MS and COPD.

Based on the above findings of fact, I conclude that Ms. Cunningham did sustain an injury which arose out of her employment on August 17, 2016. Ms. Cunningham's fall did not merely coincidentally occur at work. She stepped back to answer the work phone, as she stepped back the mat created an uneven work surface which caused her

to fall. She landed on the hard floor and fractured her hip. I conclude that her fall was caused by her work environment and therefore arose out of her employment.

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

The question of causal connection is essentially within the domain of expert testimony. The expert medical evidence must be considered with all other evidence introduced bearing on the causal connection between the injury and the disability. Supportive lay testimony may be used to buttress the expert testimony and, therefore, is also relevant and material to the causation question. The weight to be given to an expert opinion is determined by the finder of fact and may be affected by the accuracy of the facts the expert relied upon as well as other surrounding circumstances. The expert opinion may be accepted or rejected, in whole or in part. St. Luke's Hosp. v. Gray, 604 N.W.2d 646 (Iowa 2000); IBP, Inc. v. Harpole, 621 N.W.2d 410 (Iowa 2001); Dunlavey v. Economy Fire and Cas. Co., 526 N.W.2d 845 (Iowa 1995). Miller v. Lauridsen Foods, Inc., 525 N.W.2d 417 (Iowa 1994). Unrebutted expert medical testimony cannot be summarily rejected. Poula v. Siouxland Wall & Ceiling, Inc., 516 N.W.2d 910 (Iowa App. 1994).

A personal injury contemplated by the workers' compensation law means an injury, the impairment of health or a disease resulting from an injury which comes about, not through the natural building up and tearing down of the human body, but because of trauma. The injury must be something that acts extraneously to the natural processes of nature and thereby impairs the health, interrupts or otherwise destroys or damages a part or all of the body. Although many injuries have a traumatic onset, there is no requirement for a special incident or an unusual occurrence. Injuries which result from cumulative trauma are compensable. Increased disability from a prior injury, even if brought about by further work, does not constitute a new injury, however. St. Luke's Hosp. v. Gray, 604 N.W.2d 646 (Iowa 2000); Ellingson v. Fleetguard, Inc., 599 N.W.2d 440 (Iowa 1999); Dunlavey v. Economy Fire and Cas. Co., 526 N.W.2d 845 (Iowa 1995); McKeever Custom Cabinets v. Smith, 379 N.W.2d 368 (Iowa 1985). An occupational disease covered by chapter 85A is specifically excluded from the definition of personal injury. Iowa Code section 85.61(4) (b); Iowa Code section 85A.8; Iowa Code section 85A.14. Under the Iowa Workers' Compensation Act, permanent partial disability is compensated either for a loss or loss of use of a scheduled member under Iowa Code section 85.34(2)(a)-(t) or for loss of earning capacity under section 85.34(2)(u). The extent of scheduled member disability benefits to which an injured worker is entitled is determined by using the functional method. Functional disability is "limited to the loss of the physiological capacity of the body or body part." Mortimer v.

Fruehauf Corp., 502 N.W.2d 12, 15 (Iowa 1993); Sherman v. Pella Corp., 576 N.W.2d 312 (Iowa 1998). The fact finder must consider both medical and lay evidence relating to the extent of the functional loss in determining permanent disability resulting from an injury to a scheduled member. Terwilliger v. Snap-On Tools Corp., 529 N.W.2d 267, 272-273 (Iowa 1995); Miller v. Lauridsen Foods, Inc., 525 N.W.2d 417, 420 (Iowa 1994).

Total disability does not mean a state of absolute helplessness. Permanent total disability occurs where the injury wholly disables the employee from performing work that the employee's experience, training, education, intelligence, and physical capacities would otherwise permit the employee to perform. See McSpadden v. Big Ben Coal Co., 288 N.W.2d 181 (Iowa 1980); Diederich v. Tri-City R. Co., 219 Iowa 587, 258 N.W. 899 (1935).

A finding that claimant could perform some work despite claimant's physical and educational limitations does not foreclose a finding of permanent total disability, however. See Chamberlin v. Ralston Purina, File No. 661698 (App. October 1987); Eastman v. Westway Trading Corp., II Iowa Industrial Commissioner Report 134 (App. May 1982).

Based on the above findings of fact, I concluded that Ms. Cunningham's work injury has wholly disabled her from performing work that her experience, training, education, intelligence, and physical capacities would otherwise permit her to perform. Thus, I conclude that as a result of the August 17, 2016 work injury Ms. Cunningham is permanently and totally disabled. I reach this finding under the traditional industrial disability analysis and do not rely upon the odd-lot doctrine in reaching this finding.

We now turn to the issue of past 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).

Claimant is seeking payment of medical expenses as set forth in claimant's exhibit 6. The records demonstrate that the medical expenses were reasonable and necessary as a result of the work injury. Defendants make no specific argument as to why these bills should not be their responsibility. I find that defendants are responsible for the medical expenses set forth in claimant's exhibit 6.

Claimant has also made a claim for penalty benefits. Under Iowa law, if a denial of benefits occurs without reasonable or probable cause or excuse known to the employer at the time of the denial then penalty benefits are appropriate. See Iowa

Code section 86.13. Based on the above findings of fact I conclude that penalty benefits are not appropriate in this case.

Finally, claimant is seeking an assessment of costs. Costs are to be assessed at the discretion of the deputy hearing the case. I find that claimant was generally successful in her claim. Therefore, I exercise my discretion and assess costs against the defendants as set forth above.

ORDER

THEREFORE, IT IS ORDERED:

All weekly benefits shall be paid at the stipulated rate of three hundred nineteen and 34/100 dollars ($319.34).

Defendants shall pay claimant permanent total disability benefits commencing on August 17, 2016 and continuing during the period of claimant's total disability at the stipulated weekly rate of three hundred nineteen and 34/100 dollars ($319.34).

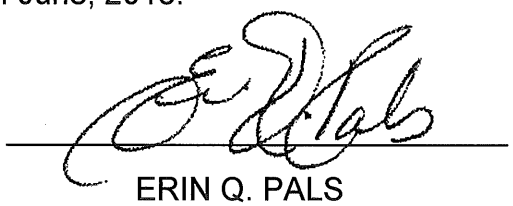
Defendants shall pay accrued weekly benefits in a lump sum together with interest at the rate of ten (10) percent for all weekly benefits payable and not paid when due which accrued before July 1, 2017, and all interest on past due weekly compensation benefits accruing on or after July 1, 2017, shall 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 (2) percent. See Gamble v. AG Leader Technology, File No. 5054686 (App. April 24, 2018).

Defendant shall pay any outstanding medical expenses directly to the medical provider, reimburse claimant for past payments, or otherwise hold claimant harmless for all past medical expenses contained in Claimant's Exhibit 6.

Defendants shall pay costs as set forth above.

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

Signed and filed this 26th day of June, 2018.



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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.