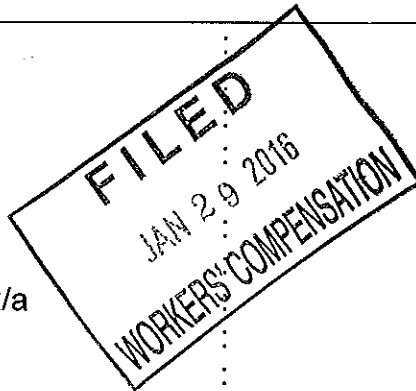
BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER



KEVIN DODDS, Claimant, vs. NICHOLS ALUMINUM a/k/a ALERIS, Employer, and ACE AMERICAN INS. CO., Insurance Carrier, Defendants.	File No. 5051411 ARBITRATION DECISION Head Note No.: 1108, 1803

STATEMENT OF THE CASE

Kevin Dodds, the claimant, seeks workers' compensation benefits from defendants, Nichols Aluminum a/k/a Aleris, the alleged employer, and its insurer, Ace American Ins. Co, as a result of an alleged injury on March 1, 2014. The caption shall change to reflect the proper insurer, and the third party administrator, Gallagher Bassett, is dropped as a party defendant to these proceedings.

Presiding in this matter is Larry P. Walshire, a deputy Iowa Workers' Compensation Commissioner. An oral evidentiary hearing commenced on December 15, 2015, but the matter was not fully submitted until the receipt of the parties' briefs and argument on December 22, 2015. Oral testimony and written exhibits received into evidence at hearing are set forth in the hearing transcript.

Only joint exhibits were submitted and they are marked alphabetically. References in this decision to page numbers of an exhibit shall be made by citing the exhibit letter followed by a dash and then the page number(s). For example, a citation to exhibit A, pages 2 through 4 will be cited as, "Ex A-2:4." Citations to a transcript of testimony in claimant's deposition (Ex. O) shall be to the actual page number(s) of the original transcript, not to page numbers of a copy of the transcript containing multiple pages.

The parties agreed to the following matters in a written hearing report submitted at hearing:

1. An employee-employer relationship existed between claimant and defendant employer at the time of the alleged injury.

2. If a work injury is found to have occurred and to have caused permanent disability, the type of disability is an industrial disability to the body as a whole.

3. If I award permanent partial disability benefits, they shall begin on October 15, 2014.

4. At the time of the alleged injury, claimant's gross rate of weekly compensation was $1,059.00. Also, at that time, he was married and entitled to two exemptions for income tax purposes. Therefore, claimant's weekly rate of compensation is $722.15, according to the workers' compensation commissioner's published rate booklet for this injury.

5. Medical benefits are not in dispute.

ISSUES

At hearing, the parties submitted the following issues for determination:

I. Whether claimant received an injury arising out of and in the course of employment;

II. The extent of claimant's entitlement to permanent disability benefits; and,

III. The extent of claimant's entitlement to reimbursement for an independent medical examination (IME) from Richard Neiman, M.D. performed on March 31, 2015.

FINDINGS OF FACT

In these findings, I will refer to the claimant by his first name, Kevin, and to the defendant employer as Nichols.

From my observation of his demeanor while testifying at hearing, I found Kevin sincere and credible.

Kevin is 59 years of age. He only completed 10th grade in high school before dropping out. He obtained a GED in 2013 at a community college.

Kevin has worked for Nichols since June 1977 and continues to do so at the present time. For the last 15 years he has been a Rotary Barrel Furnace (RBF) operator. He heads a team consisting of himself and three assistants or utilities.

Together they operate and maintain the RBF. (Ex. O-23:24) The RBF melts down scrap aluminum, and the molten metal coming out of the furnace is then poured into molds. Kevin, as the operator, is to control what goes in and what comes out of the furnace. Although he acts a lead person, he is expected to do utility labor as well when needed. (Ex. L & M) At hearing, Kevin explained that a flue in the door of the furnace is occasionally blocked by debris, and this is opened up using a long handled rake.

Kevin testified that he injured his neck, right shoulder and upper back on March 1, 2014 while using the rake to open the furnace flue. The rake became caught on the furnace door, and while pulling or jerking the rake to loosen it, he felt the onset of pain in his right arm and shoulder and a pop in his neck adjacent to the right shoulder. (Ex. O-37) He immediately reported this to his supervisor and was sent by defendants for medical treatment to Camilla Frederick, M.D., an occupational medicine physician.

Kevin admitted to prior cervical spine problems in 1997 when he was seen by an orthopedist, Richard Ripperger, M.D. for right shoulder pain. The doctor felt that his pain was referred pain from his degenerative arthritic neck, which was aggravated by a couple of injuries at Nichols. (Ex. B-1) Kevin states that at this time he was told he had a congenital fusion of the C6-C7 vertebras. (Ex. O-39) Dr. Ripperger prescribed exercises. Kevin returned on February 14, 1997 reporting that his pain is a "kink once in a while" which is resolved by resting for 5-10 minutes. (Ex. B-2) No records of further treatment were provided in evidence. At hearing, Kevin agreed with defense counsel that he was paid worker's compensation benefits by Nichols for a 5 percent industrial loss as a result of the prior work injuries. In August 1997, Kevin reported to a family doctor while presenting for a CPX (the record does not explain a CPX) that he has some slight arthritic problems in his shoulders when he works above his head, but these resolve. (Ex. A)

There are no further records in evidence of treatment for a neck or right shoulder problem from 1998 until March 5, 2014. In September 2009, Kevin was evaluated by William Boulden, M.D. an orthopedist, for a low back condition following a slip and fall on ice in the Nichols parking lot. The doctor states that although he mainly has low back pain, he does have some shoulder pain. The doctor did not specify which shoulder. As the doctor reported that he fell onto his buttocks and an outstretched left arm, I must assume that the doctor was referring to the left shoulder.

In his deposition in December 2015, Kevin admitted to periodic chiropractic manipulations for the last 20 years. He explained these were maintenance treatments, and it involved his entire spine, which includes the neck, but denies any specific complaints of neck problems to his chiropractic providers or to receiving any specific chiropractic treatments for neck complaints before his work injury of March 1, 2015. (Ex. O-17:20) Kevin admitted that chiropractic records may contain references to neck stiffness. (Ex. O-41) Kevin maintains that he had no significant or chronic right arm, right shoulder or neck problems before in the years before his injury on March 1, 2014.

Dr. Frederick reports that she initially saw Kevin on March 5, 2014 with complaints of pain in the upper back, neck and right shoulder. She noted that he saw a chiropractor seven to eight years ago. The doctor reported the primary problem was in the upper back with a stabbing pain with an intensity of 6/10 (six out of 10 with 10 being the highest level); the right shoulder pain was 5/10, and the neck pain was intermittent at an intensity of 5/10. The doctor diagnosed strains in the upper back, neck and right shoulder causally related to his incident at work. She prescribed medications, but returned Kevin to full duty work. (Ex. D-3:6)

It should be noted that at no time during his treatment following the alleged work injury in this case was Kevin given temporary or permanent work activity restrictions by treating physicians. Kevin explained that during this time most of the manual labor work is done by the utilities.

Following the first visit with Dr. Frederick, Kevin continued to see Dr. Frederick over the next several months. During this time, the doctor referred Kevin to various specialists for evaluation and treatment recommendations. An MRI only revealed the congenital fusion of C6-C7 with mild degenerative changes at other levels of the cervical spine. (Ex. H) Although the symptoms in the upper back quickly subsided, his neck and right shoulder complaints continued. (Ex. D-7:30)

On April 24, 2014, Kevin was evaluated by Abdul Foad, M.D., an orthopedist on referral by Dr. Frederick. Dr. Foad reports an MR arthrogram of the right shoulder revealed degenerative changes of the AC joint along with rotator cuff tears in the supraspinatus and infraspinatus tendons. Despite the tendon tears, the doctor did not think Kevin would benefit from shoulder surgery in that he was sleeping fairly well and did not have significant weakness or impingement signs in the shoulder. He suggested treatment symptomatically and recommended further treatment of the neck such as injections and continued physical therapy. (Ex. F-1:2)

Kevin was next referred by Dr. Frederick to Sanjay Sundar, M.D., a pain specialist, on June 9, 2014. Dr. Sundar diagnosed cervical stenosis and cervical radiculitis and recommended an epidural steroid injection (ESI) into the cervical spine. (Ex I-2) The ESI was performed on July 16, 2014. (Ex. I-3) Kevin returned July 2, 2014 reporting some improvement of the cervical radiculitis symptoms, but continued trapezius (shoulder) pain. The doctor felt that the main problem was a focal area of myofascial spasm over the right trapezius and recommended trigger point injections. (Ex. I-5) This was done on July 19, 2014, but the trapezius spasm in the shoulder persisted and the doctor recommended use of a “compounded cream.” (Ex. I-6)

At some point in time, Dr. Sundar or Dr. Frederick prescribed use of a TENS unit. This is an electrical stimulation device with electrodes that is used to reduce pain. The first mention of continued use of this unit appears in Dr. Frederick’s office note of June 20, 2014 which states that the unit was helping Kevin with his pain. (Ex. D-22) Use of the unit since that time was subsequently continued by Dr. Frederick, and Kevin

continues to use this device today and attaches the leads to the front and back of his right shoulder.

On August 13, 2014, Kevin was evaluated by Todd Ridenour, M.D., a neurosurgeon, on referral by Dr. Frederick. Dr. Ridenour diagnosed degenerative cervical disc, but stated it was doubtful that Kevin's right arm numbness was due to his cervical radiculopathy and suspected that it was more likely a brachial plexus issue. The brachial plexus is a group of nerves extending from the spine to the shoulder and arm. The doctor rejected surgery and recommended an EMG/NCV testing. (Ex. J-3) This testing was performed on August 20, 2014 by Daniel Johnson, M.D., a neurologist. Following this testing, Dr. Johnson reported the following impression:

> Impression: This study demonstrates a neuropathy which could be secondary to the patient's known amyloidosis. No cervical radiculopathy is identified. Clinical correlation is needed.

(Ex. K-2)

Dr. Johnson was the first doctor in this record to mention amyloidosis during Kevin's treatment for his alleged work injury. In his deposition, Kevin testified that he was diagnosed with this condition at the age of five when doctors removed a growth from his bladder. He stated that it is caused by excessive protein levels in the blood. He stated that he is being followed annually by physicians who perform blood tests to determine protein levels, and they scope the urinary tract and bladder for cysts or any abnormalities. Kevin admits that amyloidosis can impact his nerves. He states that he does not take prescription medication for this condition, but takes vitamin C because his own interest research shows that Vitamin C can reduce protein levels in the blood. Kevin has not contacted his amyloidosis physicians about his work injury. (Ex. O-46:49) A definition of amyloidosis from the Mayo Clinic website in evidence indicates that this is a rare disease in which a substance called amyloid, an abnormal protein, builds up in a person's organs. The condition can affect different organs in different people, and there are different types of amyloids. According to this website, amyloidosis frequently affects the heart, kidneys, liver, spleen, nervous system and digestive tract. (Ex. P)

Kevin was last seen by Dr. Frederick on October 15, 2014. The doctor notes that Kevin reported a mild intermittent right shoulder pain level of 0-2/10 and intermittent neck pain of 2/10 and felt that he was 90 percent improved. The doctor opines that Kevin was at maximum medical improvement and that he suffered a temporary aggravation of his degenerative cervical spine disease from his injury. Given the views of Dr. Johnson, Dr. Frederick opines that Kevin's continuing symptoms and functional loss is due to Kevin's neuropathy caused by his non-work related amyloidosis. He opined that Kevin has a 1 percent impairment of his right upper extremity under the AMA Guides, but opines this is not the result of the work injury. The doctor notes that Kevin is continuing to use his TENS unit to reduce his pain. (Ex. D-31:35)

At the request of his attorney, Kevin was evaluated by Richard Neiman, M.D., a neurologist. Dr. Neiman opines that Kevin has work-related impairment of the cervical spine and right shoulder. Using the AMA Guides, Dr. Neiman provides a 10 percent permanent partial impairment to the whole person for the cervical condition due to unoperated on, but stable intervertebral disc or other soft tissue lesion, from a medically documented injury. He provides a 4 percent permanent partial impairment to the whole person for lost range of motion in the right shoulder. The doctor then combines the two ratings to arrive at a total permanency rating of 14 percent to the body as a whole. At the request of Kevin, Dr. Neiman did recommend permanent activity restrictions. In this report, Dr. Neiman does not mention or address amyloidosis, although he reports that Kevin was seen by Dr. Johnson. It is unknown whether Dr. Neiman was aware of Dr. Johnson's report or Kevin's congenital amyloidosis.

When asked why he did not investigate whether or not his amyloidosis was a cause of his neck and right arm/shoulder symptoms, Kevin simply stated in his deposition that he did not have his symptoms before the injury on March 1, 2014. (Ex. O-48)

In their post hearing brief, defendants stated that "In no uncertain terms, Dr. Johnson's conclusion was that the neurological pain, tingling, aching and shoulder motion restrictions reported by Dodds were caused by amyloidosis - not a 03/01/14 work injury." (Defendants' post-hearing brief, p. 4) That is an overstatement to say the least. Dr. Johnson only stated that it was a possible cause, and he found no evidence of a cervical radiculopathy and then added that clinical correlation was needed. It was Dr. Frederick that opined the ongoing pain was caused by the amyloidosis. Dr. Frederick is an occupational medicine physician. There is no showing that he has had any specialized training in neurology or neuropathies or any expertise in amyloidosis. As the Mayo Clinic website states, there are many types of amyloidosis, and they can impact different organs in different persons. What type of amyloidosis Kevin has is not contained in the record. Also, there are no records from the doctors following Kevin for this disease whether his amyloid protein levels continue to be a problem. Interestingly, there is no report form Dr. Ridenour who requested the EMG/NCV testing as to his thoughts on the results of the testing.

The fact remains that Dr. Sundar's final analysis was that the problem was coming from the shoulder, not the spine. This was the conclusion of Dr. Ridenour. The views of Dr. Foad and Dr. Ripperger that Kevin's pain, numbness and tingling problems are from the cervical spine disease is contradicted by the testing of Dr. Johnson which did reveal no evidence of cervical radiculopathy.

Finally, Kevin's response to defense counsel in his deposition that he rejected any cause of his condition other than the work injury is that he had no similar symptoms before his work injury is a powerful response if it is consistent with the record. I find that it was in that there are no records of any medical treatment for neck and right shoulder problems for many years before his March 1, 2014 work injury. Kevin's testimony that he had no chiropractic care for specific neck complaints until after the March 1, 2014

injury is uncontroverted. While he had similar complaints years ago, the reoccurrence of these symptoms with increased intensity on March 1, 2014 and their continuation to the present time renders unconvincing defendants' argument that this injury was only a temporary aggravation of a prior condition.

Kevin testified at hearing that while his current right shoulder and neck problems do not impair his ability to do his job, he does have problems with non-work physical activities requiring extensive use of his right arm and shoulder such as yard or mechanical work. His request that Dr. Neiman not restrict his activities is evidence that he does not want to risk continued employment at Nichols. He has problems tilting his head and has trouble lifting objects over 10 pounds away from his body and overhead. Kevin states that he does not use his TENS unit at work but does use it at home 1-3 times per week for about 30 minutes each time. (Ex. O-28:29) He takes over-the-counter pain medications daily.

Given Kevin's credible testimony and the views expressed above, I find that Kevin suffered a work injury on March 1, 2014 to his right shoulder, neck and upper back. Kevin continues to have problems with his right shoulder and neck, albeit mild. He must still use analgesics and an electrical device to deal with ongoing pain with activity. Therefore, I find that claimant has suffered a significant permanent partial loss of use to the body as a whole.

I find that the work injury of March 1, 2015 is a cause of a 10 percent permanent loss of earning capacity. Kevin had a prior work injury. His combined industrial disability for the 1997 and 2014 injuries is 15 percent to the body as a whole. However, claimant has already been paid permanent partial industrial disability benefits for the prior 5 percent industrial loss.

I find that Dr. Neiman's evaluation came after an evaluation of permanent disability by Dr. Frederick, an employer-retained physician for this work injury. Dr. Neiman's fee for this evaluation was $850.00, which is a very reasonable fee.

CONCLUSIONS OF LAW

I. The claimant has the burden of proving by of 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.

In the case sub judice, I found that claimant carried the burden of proof and demonstrated by the greater weight of the evidence that he suffered the asserted injury arising out of and in the course of employment with defendant employer.

II. 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 treating physician's opinions are not to be given more weight than a physician who examines the claimant in anticipation of litigation as a matter of law. Gilleland v. Armstrong Rubber Co., 524 N.W.2d 404.408 (Iowa 1994); Rockwell Graphic Systems, Inc. v. Prince, 366 N.W.2d 187, 192 (Iowa 1985).

The extent of claimant's entitlement to permanent disability benefits is determined by one of two methods. If it is found that the permanent physical impairment or loss of use is limited to a body member specifically listed in schedules set forth in one of the subsections of Iowa Code section 85.34(2)(a-t), the disability is considered a scheduled member disability and measured functionally. If it is found that the permanent physical impairment or loss of use is to the body as a whole, the disability is unscheduled and measured industrially under Code subsection 85.34(2)(u). Graves v. Eagle Iron Works, 331 N.W.2d 116 (Iowa 1983); Simbro v. Delong's Sportswear, 332 N.W.2d 886, 887 (Iowa 1983); Martin v. Skelly Oil Co., 252 Iowa 128, 133, 106 N.W.2d 95, 98 (1960).

Industrial disability was defined in Diederich v. Tri-City Ry. Co., 219 Iowa 587, 258 N.W.2d 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. However, consideration must also be given to the injured workers' medical condition before the injury, immediately after the injury and presently; the situs of the injury, its severity, and the length of healing period; the work experience of the injured worker prior to the injury, after the injury, and potential for rehabilitation; the injured worker's qualifications intellectually, emotionally and physically; the worker's earnings before and after the injury; the willingness of the employer to re-employ the injured worker after the injury; the worker's age, education, and motivation; and, finally the inability because of the injury to engage in employment for which the worker is best fitted; Thilges v. Snap-On Tools Corp., 528 N.W.2d 614, 616, (Iowa 1995); McSpadden v. Big Ben Coal Co., 288 N.W.2d 181 (Iowa 1980); Olson v. Goodyear Serv. Stores, 255 Iowa 1112, 125 N.W.2d 251 (1963); Barton v. Nevada Poultry Co., 253 Iowa 285, 110 N.W.2d 660 (1961).

The parties agreed that if I found a work injury and that the work injury was a cause of permanent impairment, the disability is an industrial disability to the body as a whole, a nonscheduled loss of use. Consequently, this agency must measure claimant's loss of earning capacity as a result of this impairment.

A showing that claimant had no loss of his job or actual earnings does not preclude a finding of industrial disability. Loss of access to the labor market is often of paramount importance in determining loss of earning capacity, although income from continued employment should not be overlooked in assessing overall disability. Ellingson v. Fleetguard, Inc., 599 N.W.2d 440 (Iowa 1999); Bearce v. FMC Corp., 465 N.W.2d 531 (Iowa 1991); Collier v. Sioux City Comm. Sch. Dist., File No. 953453 (App. February 25, 1994); Michael v. Harrison County, Thirty-fourth Biennial Rep. of the Industrial Comm'r, 218, 220 (App. January 30, 1979).

Although claimant is closer to a normal retirement age than younger workers, proximity to retirement cannot be considered in assessing the extent of industrial disability. Second Injury Fund of Iowa v. Nelson, 544 N.W.2d 258 (Iowa 1995). However, this agency does consider voluntary retirement or withdrawal from the work force unrelated to the injury. Copeland v. Boones Book and Bible Store, File No. 1059319 (App. November 6, 1997). Loss of earning capacity due to voluntary choice or lack of motivation is not compensable. Id.

A release to return to full duty work by a physician is not always evidence that an injured worker has no permanent industrial disability, especially if that physician has also opined that the worker has permanent impairment under the AMA Guides. Such a rating means that the worker is limited in the activities of daily living. See AMA Guides to the Evaluation of Permanent Impairment, Fifth Edition, Chapter 1.2, page 2. Work

activity is commonly an activity of daily living. This agency has seen countless examples where physicians have returned a worker to full duty, even when the evidence is clear that the worker continues to have physical or mental symptoms that limit work activity, *e.g.* the worker in a particular job will not be engaging in a type of activity that would cause additional problems, or risk further injury; the physician may be reluctant to endanger the worker's future livelihood, especially if the worker strongly desires a return to work and where the risk of re-injury is low; or, a physician, who has been retained by the employer, has succumbed to pressure by the employer to return an injured worker to work. Consequently, the impact of a release to full duty must be determined by the facts of each case.

In the case sub judice, I found that claimant suffered a 10 percent loss of his earning capacity as a result of the March 2014 work injury. However, we have a prior compensable industrial injury in 1997 with the same employer. Consequently, any award of compensation is governed by Iowa Code section 85.34(7)(b)(1) dealing with successive disabilities. According to that Code section, the employer is liable for the combined disability that is caused by the current and prior injury, but that liability is to be considered partially satisfied to the extent of the percentage of disability for which the employee was previously compensated by the employer, assuming there had been no reduction in earnings after the prior injury. In this case, I found the combined disability to be 15 percent to the body as a whole, but claimant was paid benefits for the prior work injury equivalent to a 5 percent industrial loss.

Therefore, claimant is entitled to benefits for a 10 percent permanent industrial loss, which is 50 weeks of permanent partial disability benefits as a matter of law under Iowa Code section 85.34(2)(u), or 10 percent of 500 weeks, the maximum allowable number of weeks for an injury to the body as a whole in that subsection.

III. Pursuant to Iowa Code section 85.39, claimant is entitled reimbursement for a permanent disability evaluation by a doctor of his choosing subsequent to a permanent disability evaluation by an employer-retained physician. In this case, Dr. Neiman's evaluation came after an employer-retained physician's evaluation. Claimant is entitled to reimbursement for the $850.00 expended for Dr. Neiman's evaluation.

ORDER

1. Defendants shall pay to claimant fifty (50) weeks of permanent partial disability benefits at the stipulated rate of seven hundred twenty-two and 15/100 dollars ($722.15) per week from the stipulated date of October 15, 2014. Defendants shall pay accrued weekly benefits in a lump sum.

2. Defendants shall pay to claimant the sum of eight hundred fifty and 00/100 dollars ($850.00) as reimbursement for the cost of Dr. Neiman's evaluation.

3. Defendants shall pay interest on unpaid weekly benefits awarded herein pursuant to Iowa Code section 85.30.

4. Defendants shall pay the costs of this action pursuant to administrative rule 876 IAC 4.33, including reimbursement to claimant for any filing fee paid in this matter.

5. Defendants shall file subsequent reports of injury (SROI) as required by our administrative rule 876 IAC 3.1(2).

Signed and filed this 29th day of January, 2016.

LARRY WALSHIRE
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.