BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

RICHARD REUTER, Claimant, vs. JOHN DEERE WATERLOO WORKS, Employer, Self-Insured, Defendant.	:	File No. 5064717 A R B I T R A T I O N D E C I S I O N Head Notes: 1106, 1108.50, 1402.40, 1802, 2907, 4000.2

STATEMENT OF THE CASE

Richard Reuter, claimant, filed a petition in arbitration seeking workers' compensation benefits from John Deere Waterloo Works, self-insured employer as defendant. Hearing was held on September 17, 2019 in Waterloo, Iowa.

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.

Richard Reuter was the only witness to testify live at trial. The evidentiary record also includes joint exhibits 1-13, claimant's exhibits 1-6, and defendant's exhibits A-B and E-G. All exhibits were received without objection. The evidentiary record closed at the conclusion of the arbitration hearing.

The parties submitted post-hearing briefs on October 25, 2019, at which time the case was fully submitted to the undersigned.

ISSUES

The parties submitted the following issues for resolution:

1. Whether claimant sustained an injury which arose out of and in the course of employment on March 8, 2017.

2. Whether claimant sustained permanent disability as a result of the alleged March 8, 2017 work injury. If so, the nature and extent of permanent disability claimant sustained.

3. Whether claimant is entitled to healing period benefits from March 14, 2017 through December 21, 2017.

4. Whether defendant is responsible for past medical expenses.

5. Whether claimant is entitled to be reimbursed pursuant to Iowa Code section 85.39 for the independent medical examination (IME).

6. Whether penalty benefits are appropriate.

7. Assessment of costs.

FINDINGS OF FACT

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

Claimant, Richard Reuter, was 49 years old on the date of the arbitration hearing. He started working for John Deere in the Foundry on February 20, 2012 and was still employed with John Deere at the time of the hearing.

On March 8, 2017, Mr. Reuter was working in Department 836, performing the job of furnace repairs on P-4. Evidently, slag builds up when they pour it into the furnace from a ladle car and the workers need to remove the buildup. At the time of his injury, Mr. Reuter was performing furnace repair and popped the lip of the furnace off. The slag also popped up. The pieces of slag weighed 25 pounds or less. Mr. Reuter grabbed two pieces of slag and threw them in a tub. When he bent over to pick up the third piece he heard a pop. The edge of the receiver is very hot, so it cannot be touched. When Mr. Reuter bent over, he could not simply bend over in the usual manner; rather, he had to hold his body away from the hot surface of the receiver while bending to pick up the slag. In order to reach down into the neck of the receiver and pick up slag, Mr. Reuter must stay back so that he does not burn his legs. Due to the height of the receiver, he has to use his tip toes. Additionally, because the receiver is so hot, he had to move very quickly. Mr. Reuter had symptoms essentially as soon as he heard the pop. He was unable to put any weight on his left leg and felt an intense, stabbing pain. The pain was so intense he was nearly in tears. A worker had to help him walk to a different area. He reported the injury to the supervisor and was allowed to go home to ice his leg. (Testimony; Exhibit B, page 10)

Mr. Reuter went home and iced his leg. Due to the pain, he ended up going to Urgent Care. However, Urgent Care told him they could not do anything for him because it was a muscle injury. He went back home and iced his leg again. The next day, he returned to John Deere to the nurse's office. They took him to Allen Occupational Health for treatment. The diagnosis was pain posterior mid-calf, suspected Achilles' tendon rupture. He was given an ortho boot, told to take over-the-counter Tylenol or Advil, and to perform seated work. They recommended an MRI and

to follow-up with John Deere Medical. (Testimony; Joint Exhibit 3, pp. 23-24; JE5, p. 42)

The March 13, 2017 MRI demonstrated minimal edema in the medial head of the gastrocnemius and a likely plantaris tendon tear. (JE6, pp. 43-44) Later that day, Mr. Reuter was seen at the John Deere Clinic and reported that he was unable to ambulate without the walking boot. (JE3, p. 21)

Mr. Reuter returned to the John Deere Clinic on March 14, 2017 to follow up on the MRI. He was wearing his orthotic boot. The clinic notes state, "Employee was instructed that this is not work related, that he will need to file WI." (JE3, p. 20) The note does not indicate why the injury was not accepted as work related. Mr. Reuter testified that he was told his claim was denied because the injury could have happened anywhere.

On March 17, 2017, Mr. Reuter was seen at UnityPoint Clinic Family Medicine by Hephzibah E. Chelli, M.D. for follow-up of his left lower extremity. The assessment was rupture of the plantaris tendon, left. He was in a CAM boot at the appointment and was advised to continue to use it. (JE4, pp. 32-33)

After John Deere denied his workers' compensation claim, Mr. Reuter followed-up with Dr. Chelli. Dr. Chelli is at the same clinic as Mr. Reuter's primary care physician. On March 18, 2017, Mr. Reuter provided Dr. Chelli with the history about his furnace injury. The doctor noted "extreme tenderness" along the left lower leg with decreased range of motion of the ankle and weakness. His impression was rupture of the left plantaris tendon and gastrocnemius muscle strain. Mr. Reuter was instructed to continue use of his CAM boot and to follow up with orthopedic surgeon, Benjamin Torrez, D.O. (JE4, p. 32-33)

On March 27, 2017, Mr. Reuter saw Dr. Torrez. The pain diagram does not indicate any back pain. Dr. Torrez's impression was likely plantaris rupture with medial gastroc pain. The doctor wanted to take Mr. Reuter off work for one week, but the patient refused the office note. Dr. Torrez recommended continued use of the boot and physical therapy. (JE7, pp. 47-49)

On April 10, 2017, Mr. Reuter began his physical therapy with Athletico. He advised the therapist that he was placed in a tall walking boot on March 9 and had been wearing it almost 24 hours per day. The therapist noted left calf pain demonstrating decreased range of motion, decreased strength, impaired ambulation, impaired function, and pain. Mr. Reuter was noted to ambulate with a tall CAM walking boot with deviations consistent with walking in a boot. (JE9, pp. 72-74)

Mr. Reuter continued to attend physical therapy. During his treatment the therapist noted issues with his gait, "deviations consistent with walking in a boot" and "decreased stance time LLE." (JE9, pp. 73-74) The therapist also noted gait issues consisting of "weight shift to the lateral aspect of the foot, no toe off, [with] no contact of

the big toe during the stance phase." (JE9, pp. 76-81) The notes indicate that he had worn down the outside part of his shoe when attempting to walk without the boot. (JE9, p. 79) His therapy ended on July 14, 2017. (JE9, pp. 81-82)

On April 17, 2017 Mr. Reuter saw Dr. Torrez and reported a lot of pain and weakness. The doctor noted weakness in his ankle dorsiflexion, plantar flexion. He also noted atrophy in his calf. (JE7, p. 50)

Mr. Reuter returned to see Dr. Torrez on May 18, 2017. Dr. Torrez felt he was not doing well, as he had not had any improvement, even with therapy. He recommended another MRI to make certain that they were not missing an undisclosed Achilles rupture. (JE7, p. 52)

The MRI was performed on May 23, 2017. The impression on the radiology report was Grade 1 strain of the left medial head of gastrocnemius muscle; tear of the fascial layer between the left medial head of gastrocnemius muscle and soleus muscle; and small amount of fluid in the left retrocalcaneal bursa, which could represent retrocalcaneal bursitis. (JE10, pp. 88-89)

Mr. Reuter returned to see Dr. Torrez on May 25, 2017. The doctor noted that all of Mr. Reuter's pain was in his medial calf in the region where the strain and tear were shown on the MRI. Dr. Torrez stated there was no way Mr. Reuter could perform his job, especially without the brace. He recommended that Mr. Reuter be set up with an AFO. He also recommended improving his mobility with physical therapy for six weeks. He restricted Mr. Reuter from working until he obtained the left ankle brace. (JE7, pp. 53-54)

When Mr. Reuter returned to Dr. Torrez on July 17, 2017, he continued to have problems with weakness on plantar flexion, specifically of his great toe. He also had significant atrophy of the medial aspect of his calf. There was severe lateral wear on his boot because he could not put pressure on that medial side. Dr. Torrez stated, "[h]e is a diligent hard worker, and now he is at the point where he wants to get back to work but he cannot function on that leg." (JE7, p. 56) He recommended sending him to Iowa City for a consultation to see if they have a grafting technique that could help. (JE7, pp. 56-57)

On July 21, 2017, Mr. Reuter went to the emergency room at Allen Memorial Hospital. He reported low back pain that began three days prior. He reported a 2010 back surgery for herniated L4. He had been in a left foot boot for the past four months due to torn left calf muscle. The impression was acute bilateral low back pain with bilateral sciatica. The notes indicate that Mr. Reuter significantly improved after he received medications. He was discharged with prescriptions for medications. (JE11, pp. 90-91)

Mr. Reuter returned to UnityPoint on August 8, 2017 where he saw Carla J. Springer, M.D. for left-sided low back pain that radiated to the buttock and upper thigh laterally. He was referred to physical therapy. (JE4, pp. 34-35)

On September 7, 2017 Mr. Reuter returned to Dr. Torrez. He had obtained an AFO brace which seemed to be working great. He was walking normally without any gait disturbance, but John Deere would not let him back to work because he wears an AFO brace and they need him in a metatarsal protected boot. The notes indicate that Mr. Reuter did go see Phinit Phisitkul, M.D., who stated he was going to be able to fix his leg, but the doctor was now out on an emergency leave. Unfortunately, the other Iowa City doctor was not able to do anything for Mr. Reuter. Dr. Torrez's plan was to get Mr. Reuter to a 50-pound weight restriction in order to get him some sort of job so he could get back to work. He was to continue with therapy and follow-up with Dr. Torrez as needed. On September 11, 2017 Dr. Torrez issued a note stating Mr. Reuter was able to return to work lifting 50 pounds when wearing an AFO with metatarsal boot. (JE7, pp. 58-60)

Mr. Reuter returned to UnityPoint on September 19, 2017 to see Dr. Springer. He reported left low back pain with sciatica. He had attended therapy for two weeks and had bilateral low back pain and continued left sciatica to the left hip. He also reported that sometimes his hip would just give out on him. (JE4, pp. 35-37)

On September 27, 2017, Dean Sturch, CO/LO from the Prosthetic and Orthotic Centre of Excellence wrote a "to whom it may concern" note. He is the practitioner who saw Mr. Reuter for the AFO. Originally, Mr. Sturch delivered a custom brace to be worn at all times when Mr. Reuter was up. The custom brace reduced motion of his foot and ankle to help reduce pain when walking. Mr. Sturch felt that due to the way the custom orthotic was made, working in very warm conditions could warp the plastic in the orthotic and reduce the support to the foot and ankle or it could be warm enough to burn his skin. (JE12)

Mr. Reuter returned to Dr. Torrez on November 20, 2017. Mr. Reuter was able to walk without the brace. He was able to work with a 50-pound weight restriction. According to Mr. Reuter, his job did not entail anything heavier than 50 pounds, so he would be able to perform his duties. The doctor noted he could raise his heel off the ground just partially, but could not perform a full heel raise, which was an indication of dramatic return of strength, but it was still not full compared to the other side. Dr. Torrez discharged Mr. Reuter and released him to full line of duty. (JE7, pp. 61-63)

Mr. Reuter also treated at the Allen Pain Clinic treatment center. The notes from October 16, 2017 indicate Mr. Reuter was having problems with his right low back and at times felt like his left hip was going out. He believed this was related to his calf muscle at work. Subsequently, he was placed in a walking boot and a brace for his left leg. Mr. Reuter reported that these two devices really threw his gait off; he had to place a lift in his right shoe. His pain was predominantly in his right low back and into his buttock and upper thigh. His left pain was pretty much in his mid-buttock and came

around into his groin. There were times when he felt his hip go out of the socket. The impression was right lumbar spondylosis without radiculopathy; low back pain; multilevel degenerative lumbar disc disease; status post right L4-5 hemilaminectomy; right sacroiliitis; and torn left gastrocnemius muscle. The symptoms Mr. Reuter described fit with facet disease. Diagnostic/therapeutic right-sided facet injections were performed. (JE13, pp. 93-94)

On November 6, 2017, Mr. Reuter returned to the pain clinic for right low back and left hip pain. He reported 20 to 25 percent improvement from his prior injections. This result did not qualify for consideration for further treatment of the facets. He was still experiencing pain in his low back. A lumbar epidural steroid injection was performed. (JE13, pp. 95-96)

On April 20, 2018, at the request of his attorney, Mr. Reuter saw David H. Segal, M.D. for an Independent Medical Evaluation (IME). Dr. Segal opined that multiple injuries were directly and causally related and secondarily related to the work injury of March 8, 2017. With regard to the left lower extremity, he diagnosed: tear of plantaris tendon, gastrocnemius muscle tear, left foot drop requiring AFO with residual weakness, and gait abnormality. For the lumbar spine, he diagnosed: permanent exacerbations of preexisting degenerative spine disease and spinal stenosis, degenerative disc disease and stenosis, and facet arthropathy. Dr. Segal also diagnosed left hip arthropathy, possibly tendonitis or bursitis. He felt that the lumbar and hip diagnoses were caused by the compensation and aggravation of the altered gait and Mr. Reuter's need to wear the boot and AFO for prolonged periods of time. Dr. Segal causally related the diagnoses to the work injury. He stated that Mr. Reuter "was bent forward to lift a heavy object. This was in the course of doing heavy labor for hours, and in the course of bending to lift is when his plantaris tendon ruptured, causing these diagnoses." (Cl. Ex. 1, p. 31) He believed that Mr. Reuter was at MMI for the left lower extremity as of November 20, 2017, when he was discharged by Dr. Torrez. However, for his low back and hip, Mr. Segal felt that Mr. Reuter had not had an adequate workup, but would place him at MMI as of December 6, 2017. With regard to permanent functional impairment, Dr. Segal assigned 15 percent whole person impairment due to gait derangement. He described his gait disturbance as significant. He assigned another 15 percent whole person impairment for weakness in the foot and the knee as well as for the fixed valgus deformity. Dr. Segal assigned an additional 1 percent whole person impairment for trochanteric bursitis with an abnormal gait. Dr. Segal placed Mr. Reuter in DRE Lumbar Category II and assigned 7 percent impairment of the whole person. He also made numerous recommendations for additional testing and treatment. (Cl. Ex. 1, pp. 1-36)

On June 18, 2018, Mr. Reuter returned to Dr. Torrez for a recheck of his left calf. He noted he still had some limitations in running and stair use. He still had pain in his calf. His calf hurt the most when going up stairs which was now making his hip hurt. He was placed at MMI and told to follow-up as needed. (JE7, pp. 64-65)

Mr. Reuter returned to Dr. Springer on August 28, 2018. He felt that wearing the walking boot and AFO shifted his hip and with bending over, turns, and pivoting he felt as though the hip popped out of place, then he would experience a sharp stabbing pain and his lower extremity would give out. Also, he felt a lack of strength. (JE4, pp. 38-41)

On March 14, 2019, Mr. Reuter returned to Dr. Torrez's office with left hip pain. He reported that he hurt his left calf muscle at work and was placed in a CAM boot, which made his gait uneven and he developed pain in his left hip. He described his pain as deep in the socket. His hip gives way and he felt there is no strength in his hip. He reported difficulty going up and down stairs. The notes state, "[h]is left foot drags 'drop foot'". (JE7, p. 68) He denied any injury between original injury and now. The doctor's assessment included arthritis of left hip, trochanteric bursitis of left hip, pain in left lower extremity, and tear of left acetabular labrum. He recommended an injection for the left hip and left lower extremity. (JE7, pp. 66-68)

On July 17, 2019, claimant's counsel authored a missive to Dr. Springer as a follow up on the in-person conference he had with her. Claimant's counsel set forth his understanding of Dr. Springer's opinions and asked her to agree or disagree with his understanding. Dr. Springer confirmed that she had been Mr. Reuter's primary care physician since December 5, 2012. She deferred to Dr. Torrez's diagnosis regarding his left leg injury. Dr. Springer indicated that the task Mr. Reuter was performing when his injury occurred places strain on the back of the knee and proximal calf. Dr. Springer opined that the work activity on March 8, 2017 was a substantial contributing factor in causing the diagnosis for the left leg and the need for the treatment from Dr. Torrez. Dr. Springer confirmed that Mr. Reuter "has had altered gait since his injury due to altering the way he bears weight on his left foot secondary to pain, as well as the various boots and braces he has required since his injury." (Cl. Ex. 2, p. 48) Dr. Springer also stated that his altered gait, which was the result of his March 8, 2017 injury, materially aggravated his lumbar spine condition. (Cl. Ex. 2, pp. 45-48)

On July 24, 2019, at the request of the defendants, Mr. Reuter saw Trevor R. Schmitz, M.D. for an independent medical examination. Dr. Schmitz could not attribute the plantaris rupture to bending over and picking up a beam. He felt it was difficult to state that the injury was directly caused by his work injury. However, Dr. Schmitz did not set forth a persuasive rationale for his opinion. With regard to Mr. Reuter's back, Dr. Schmitz noted that he had a longstanding history of low back pain and lumbar radicular-type issues. Dr. Schmitz offered no explanation for the gap in Mr. Reuter's low back treatment and symptomatology leading up to the March 8, 2017 injury. Overall, the doctor felt that Mr. Reuter had a plantaris rupture and chronic axial low back pain which were not caused by his employment, and his work duties were not a significant factor leading to the injuries. Dr. Schmitz could not in any way causally relate the lumbar radicular-type symptoms to Mr. Reuter being placed in a boot or having an altered gait. Rather, he felt that this was a natural manifestation of his chronic underlying lumbar degenerative issues. Dr. Schmitz felt Mr. Reuter had reached MMI on November 20, 2017. Pursuant to the attorney's request, Dr. Schmitz addressed the issues of

permanent impairment and restrictions, regardless of his opinion on causation. (Def. Ex. A)

After reviewing Dr. Schmitz's IME report, Dr. Segal issued a report on September 4, 2019. Dr. Segal was critical of Dr. Schmitz's opinions and ultimately stood by his opinions from his April 2018 report. (Cl. Ex. 1, pp. 37-40) Dr. Schmitz pointed out that prior to wearing the boot for his lower extremity injury, Mr. Reuter only had short-lived flare-ups of his back pain. There was no documented treatment for his low back for a year and a half prior to the work injury. There was one minor tweak of his back in July of 2016 which is documented in the John Deere Medical. After that tweaking of his back there were no findings on exam and he received no treatment. Dr. Segal opined that the left lower extremity and the lumbar spine injury as well as the left hip issues were directly and causally related to the work injury of March 8, 2017. Dr. Segal noted that Mr. Reuter's left lower extremity problems began during his work duty while he was performing heavy labor. Dr. Segal stated that he had been in a walking boot for an extended period of time, and during that time, Mr. Reuter developed low back pain that he had not had for a year and a half. The symptoms were permanent and were exacerbated in a manner greater than Mr. Reuter had experienced any time since his lumbar surgery. Dr. Segal confirmed his opinion that the work-related injury and the need to walk in a boot was a substantial factor in the development of Mr. Reuter's low back pain.

The first issue that must be determined is whether Mr. Reuter's left lower extremity injury is related to his work injury on March 8, 2017. Several physicians have offered their opinions regarding causation in this matter. I find the opinions of Dr. Springer and Dr. Segal to be persuasive. Dr. Springer stated that the task Mr. Reuter was performing when his injury occurred placed strain on the back of the knee and proximal calf. She opined that the work activity on March 8, 2017 was a substantial contributing factor in his injury and need for treatment. Dr. Segal also causally related his left lower extremity problems to the March 8, 2017 work injury. I find their opinions are more persuasive than that of Dr. Schmitz who could not attribute the plantaris rupture to Mr. Reuter's work. Dr. Schmitz fails to provide any convincing rationale to support his position. I find Mr. Reuter's work activity on March 8, 2017 was a substantial contributing factor in his injury and need for treatment. I further find Mr. Reuter's left lower extremity injury was caused by a condition of his employment. I find Mr. Reuter's left lower extremity injury is causally related to the March 8, 2017 work injury at John Deere.

We now turn to the issue of causation regarding Mr. Reuter's low back and left hip. Mr. Reuter testified that his gait was altered by the boot and AFO that he wore after the accident. The medical records are replete with documentation of Mr. Reuter's gait disturbance since the date of injury. Dr. Segal opined:

> The lumbar and hip diagnoses are caused by the compensation and aggravation of the altered gait and the need to wear the boot and AFO for the prolonged period of time. Now even after the AFO has been stopped,

> the pain continues. While there were sporadic flare-ups of back pain through the years, the low back pain and hip pain now are permanent, requiring treatments that Mr. Reuter had not had in years prior to the work injury.

(Cl. Ex. 1, p. 31)

Dr. Springer, who has treated Mr. Reuter since December of 2012, confirmed that he had an altered gait since the injury due to altering the way he bears weight on his left foot and due to the various boots and braces he had to wear. (Cl. Ex. 2, p. 48) Dr. Schmitz did not causally connect Mr. Reuter's low back problems to the work injury. Rather, he attributed the problems to Mr. Reuter's preexisting back problems. However, Dr. Schmitz failed to offer a persuasive explanation for the gap in Mr. Reuter's low back treatment and symptoms leading up to the March 8, 2017 injury. Dr. Schmitz also fails to provide a persuasive rationale for the change in the frequency and location of Mr. Reuter's back symptoms after the work injury. I do not find Dr. Schmitz's causation opinions to be persuasive. I find Mr. Reuter's low back conditions are a sequela of the March 8, 2017 work injury.

There is no evidence in the file that Mr. Reuter had any problems with his left hip prior to the work injury. Despite injections from Dr. Torrez, he continues to experience problems with his left hip. For example, when he turns left he experiences a sharp pain, he does not have any strength, and it feels as though his hip is going to give out so he has to stand on his other leg and hang onto something. (Def. Ex. B, p. 6) Dr. Schmitz did not offer a causation opinion regarding Mr. Reuter's hip. Thus, Dr. Segal's opinion regarding Mr. Reuter's left hip is unrebutted. I find Mr. Reuter's current hip condition is a sequela of the March 8, 2017 work injury.

We now turn to the issue of permanency. Dr. Segal and Dr. Schmitz both assign permanent functional impairment to Mr. Reuter's left lower extremity. Both physicians utilize Table 17-8 of The Guides to assign 12 percent impairment of the lower extremity which is the equivalent of 5 percent of the whole person impairment due to weakness to ankle dorsiflexion. I find that he has sustained permanent disability to his left lower extremity as the result of the work injury.

With regard to the left lower extremity, Dr. Segal assigns additional impairment. He assigns 15 percent whole person impairment for gait derangement due to lower limb impairment. His report states that he utilized Table 17-5 on page 529 of The Guides to assign the impairment. However, Section 17.2c states that "the percentages given in Table 17-5 are for full-time gait derangements of persons who are dependent on **assistive devices**." (The Guides, p. 529) Section 71.2c also states that, "[w]henever possible, the evaluator should use a more specific method. . . The lower limb impairment percentages shown in Table 17-5 stand alone and are not combined with any other impairment evaluation method." Id. For these reasons, I do not find Dr. Segal's gait derangement impairment rating to carry any weight.

Dr. Segal assigns an additional 5 percent for mild fixed valgus deformity. He cites Table 17-3, page 527 as his authority for the additional 5 percent impairment. However, Table 17-3 merely calculates whole person impairment values from lower extremity impairment. The table does not provide any method or basis for assigning additional impairment. Thus, I do not give any weight to Dr. Segal's 5 percent impairment rating for mild fixed valgus deformity.

Therefore, I find that Mr. Reuter sustained 12 percent functional impairment to his left lower extremity, which is the equivalent of 5 percent of the whole person, as the result of the March 8, 2017 work injury.

Despite time and treatment, Mr. Reuter continues to have symptoms and problems with this left hip and back. Dr. Springer stated that Mr. Reuter's altered gait materially aggravated his lumbar spine condition. Dr. Segal placed Mr. Reuter in the DRE Lumbar Category II and assigned 7 percent whole person impairment. Dr. Schmitz did not assign any impairment for Mr. Reuter's low back. With regard to the issue of permanency for the low back, I find the opinions of Dr. Segal to carry the greatest weight. Dr. Schmitz's opinion lacked supporting rationale. Dr. Segal's opinion is more consistent with the record as a whole. Therefore, I find Mr. Reuter sustained 7 percent whole person functional impairment to his low back as the result of the work injury.

Dr. Segal is the only doctor to render an opinion regarding the left hip. He assigned 1 percent whole person functional impairment for trochanteric bursitis. I find Dr. Segal's unrebutted opinion to be persuasive. I find that Mr. Reuter sustained 1 percent whole person impairment to his left hip as the result of the work injury.

Using the Combined Values Chart in The Guides, I find Mr. Reuter sustained a total of 13 percent whole person functional impairment as the result of the work injury.

Defendant contends that Mr. Reuter is not credible, and in support of this contention points to some minor discrepancies in his testimony. I do not find defendant's argument to be persuasive. Overall, I find Mr. Reuter's testimony to be straight-forward, persuasive, and consistent with the record as a whole.

At the time of the hearing, Mr. Reuter was 49 years old. He graduated from high school, but testified that he was a "D" student. While at John Deere he did receive some training for CNC and an assembly class. He does have a current CDL. He is not fluent with computer usage. He mainly uses a computer for a fantasy football league. (Testimony)

Prior to the March 8, 2017 work injury, he was in good health and did not have any prior problems with his left lower extremity. He did have a surgery on his back in 2010. As the result of that surgery, He was assigned 7 percent whole person impairment by Dr. Abernathey. Since that time he wore a back brace, but his symptoms would only flare up for a couple of days at a time. He did not have any prior hip

problems. He did not have any conditions that limited his ability to perform his job at John Deere. (Testimony)

At the time of hearing, he continued to have constant pain in his left leg. He is unable to run or stand on his tiptoe. He has difficulty with steps, uneven ground, bending and standing. He also experiences weakness in his left leg, left hip, and in his left ankle. When he walks his foot is on its side, so he is not able to walk on uneven ground. He was also still having constant back pain that varied in degree, depending on his activity level. The back pain he had at the time of the hearing is more severe and frequent than prior to the injury. Additionally, his back pain since the work injury is approximately three to four inches above where his pain was when he had the prior surgery. Standing, walking, prolonged sitting, and lifting all make his pain worse. He does not take prescription pain medications because he has bleeding ulcers. He is able to take Aleve for a couple of weeks at a time if he then goes a couple of weeks without Aleve. His back and hip pain also interfere with his ability to sleep. He only sleeps for two to three hours at a time and estimates he gets 6 hours of sleep per night. (Testimony)

At the time of hearing he was still performing the same job he was performing at the time of his injury. I find that he does not have any restrictions placed on his activities. He has considered bidding on other jobs, but he does not have enough seniority for the jobs he desires. Although he still has the same job, he performs the job slower. He has difficulty bending over to pick up slag out of the receiver. He is able to do this task if he grabs something with his arm to help his balance. While performing certain tasks he utilizes a cart, rather than carrying certain items like he did prior to the injury. He does still work some overtime, but the job he performs during overtime is significantly easier. (Testimony)

His wife has a company that installs flagpoles. He has helped her install the flag poles, but is not paid for his work. Since the injury, he is still able to install flag poles but he cannot lift and carry concrete like he used to. His Dad and uncle provide him with more help now than they did prior to the work injury. (Testimony)

Prior to working at John Deere, Mr. Reuter worked as a truck driver for two years. He does not believe he could go back to that work because he cannot extend his toes, which means he could not operate a clutch. Mr. Reuter also previously worked in construction framing houses. He does not believe he is physically capable of performing that work anymore because he cannot work on uneven ground or ladders. If he had a job where his duties were limited to cutting materials, he believes he could perform that job. Prior to the work injury, Mr. Reuter also did some construction work for a friend, but he has not performed this work since the injury because he cannot go up ladders. (Testimony)

Considering Mr. Reuter's age, educational background, employment history, ability to retrain, motivation to maintain a job, length of healing period, permanent impairment, and permanent restrictions, and the other industrial disability factors set

forth by the Iowa Supreme Court, I find that he has sustained a 20 percent loss of future earning capacity as a result of his work injury with John Deere.

Claimant is seeking healing period benefits from March 14, 2017 through December 21, 2017. Defendant stipulated that if defendant is found liable for the alleged injury then claimant is entitled to healing period benefits from March 14, 2017 through December 21, 2017. I found defendant is liable for the March 8, 2017 work injury. Therefore, defendants shall pay claimant healing period benefits from March 14, 2017 through December 21, 2017.

Claimant is seeking payment of past out-of-pocket medical expenses as set forth in claimant's exhibit 4. In the hearing report, defendant agreed to hold Mr. Reuter harmless for any amounts paid by his non-occupational insurance. A review of exhibit 4 and the medical records demonstrates that the sought after expenses are causally connected to the work injury. Defendant makes no argument as to why defendant should not be liable for claimant's past out-of-pocket medical expenses. I find defendant is responsible for claimant's past out-of-pocket medical expenses as contained in claimant's exhibit 4.

Claimant is also seeking payment of medial mileage as set forth in claimant's exhibit 5. A review of the submitted mileage demonstrates that mileage claimant is seeking was incurred in connection with his treatment for the work injury. Because I found that the injury is compensable, it follows that defendant is responsible for the section 85.27 mileage incurred by the claimant. Defendant is ordered to pay the medical mileage at the applicable statutory rate.

Next, the hearing report indicates that claimant is seeking reimbursement under Iowa Code section 85.39, for the IME of Dr. Segal. However, in his brief claimant concedes he is not entitled to reimbursement of Dr. Segal's examination under section 85.39, Code of Iowa. Therefore, this issue is moot.

Claimant asserts penalty benefits are appropriate because John Deere denied Mr. Reuter's claim without a reasonable basis. With this in mind, I find that the employer made no weekly benefit payments to Mr. Reuter.

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 his claim. Therefore, I exercise my discretion and find that an assessment of costs against the defendant is appropriate.

Claimant is seeking the cost of the preparation of Dr. Segal's report and reviewing records in the amount of $1,562.50. The portion of the IME fee which is attributable to the preparation of the report itself can be taxed as a costs. According to Dr. Segal's invoice he spent 105 minutes writing the report and charged $1,312.50 for that time. I find defendant is assessed $1,312.50 for the preparation of Dr. Segal's report.

Claimant is also seeking the $100.00 filing fee. I find this is an appropriate cost under 876 IAC 4.33(7).

Claimant is seeking an assessment of costs in the amount of $220.00 for two doctor conferences. I find this is not an allowable cost under 876 IAC 4.33.

Thus, defendant is assessed costs totaling $1,412.50.

CONCLUSIONS OF LAW

Defendant challenges whether claimant's injury arose out of his employment. 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 Iowa workers' compensation statutes are to be interpreted liberally for the benefit of the injured worker. McSpadden v. Big Ben Coal Co., 288 N.W.2d 181, 188 (Iowa 1980). However, the workers' compensation statutes are not general health insurance policies for all injuries that occur on the employer's premises. Miedema, 551 N.W.2d at 312. Claimant still must demonstrate that the injury was a rational consequence of a hazard connected with the employment. Id. at 311.

The Iowa Supreme Court has rejected the positional risk doctrine. Lakeside Casino v. Blue, 743 N.W.2d 169, 176-177 (Iowa 2007). Therefore, it is not sufficient that an injury occurred solely on the employer's premises.

The second legal standard is the increased-risk doctrine. In Lakeside Casino v. Blue, 743 N.W.2d 169, 177 (Iowa 2007) (footnote 7), the Court critiqued the district court stating, "[a]lthough the district court purported to apply the actual-risk rule, its rationale is more consistent with the discarded increased-risk rule." Under the increased-risk rule, claimant would be required to establish that the circumstances of employment or the surroundings of the employment caused an increased risk of injury. Koehler Elec. v. Wills, 608 N.W.2d 1, 5 (Iowa 2000). In Bluml, the Court acknowledged that it had generally abandoned to the increased-risk rule. However, it noted that limited exceptions exist and that the increased-risk rule was established in

Koehler for idiopathic injuries and had not been overruled. Bluml, 920 N.W.2d at 85-86. The Court noted that Lakeside Casino v. Blue, 743 N.W.2d 169 (Iowa 2007) did not involve an idiopathic fall and did not modify the applicable legal standard for idiopathic injuries. Bluml, 920 N.W.2d at 86. The Court stated, "in idiopathic -fall cases, we believe the claimant should have both the burden and the opportunity to meet the increased-risk test." Id. at 91. The Court concluded that the increased-risk test was a factual test to be determined on a case-by-case basis. Id.

At the time of the injury, Mr. Reuter was performing a specific work task that lead to his specific left lower extremity injury; this is not an idiopathic injury. Having found that Mr. Reuter's work activity on March 8, 2017 was a substantial contributing factor in his injury and need for treatment, I conclude he did not sustain an idiopathic injury. Because he did not sustain an idiopathic injury the increased-risk test is not applicable.

The third legal test to determine whether an injury arises out of employment, which is applicable in the vast majority of cases, is the actual risk test. In Blue, the Court noted that it had adopted the actual risk rule. Quoting Hanson v. Reichelt, 452 N.W.2d 164, 168 (Iowa 1990), the Court noted:

> If the nature of the employment exposes the employee to the risk of such an injury, the employee suffers an accident injury arising out of and during the course of the employment. And it makes no difference that the risk was common to the general public on the day of the injury.

Lakeside Casino v. Blue, 743 N.W.2d 169, 174 (Iowa 2007). Thus, to prevail under the actual risk test, claimant needs to prove that the employment exposed claimant to the risk of such an injury. Presumably, this is an easier legal standard for the claimant to meet than the increased-risk test.

Based on the above findings of fact, I found Mr. Reuter's work activity on March 8, 2017 was a substantial contributing factor in his injury and need for treatment. Thus, I conclude Mr. Reuter did prove that his injury was the result of an actual risk posed by his work duties and that his injury was a rational consequence to his employment activities.

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).

Based on the above findings of fact, I conclude that claimant also sustained permanent sequelae injuries to his low back and left hip as the result of the March 8, 2017 work injury.

Having concluded that Mr. Reuter sustained permanent disability to his left lower extremity, left hip, and back as the result of the March 8, 2017 work injury, I conclude that he carried his burden of proof and is entitled to recover workers' compensation benefits.

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).

Having considered all of the relevant industrial disability factors, I found claimant sustained a 20 percent loss of earning capacity. 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 20 percent loss of earning capacity entitles Mr. Reuter to an award of 100 weeks of permanent partial disability benefits. These benefits shall commence on the stipulated commencement date of December 22, 2017 and be paid at the stipulated weekly rate of six hundred fifty-eight and 31/100 dollars ($658.31).

Claimant is seeking healing period benefits from March 14, 2017 through December 21, 2017. Defendant stipulated that if defendant is found liable for the alleged injury then claimant is entitled to healing period benefits from March 14, 2017 through December 21, 2017. I found defendant is liable for the March 8, 2017 work injury. Therefore, defendant shall pay claimant healing period benefits at the stipulated weekly rate from March 14, 2017 through December 21, 2017.

Mr. Reuter is seeking payment of past out-of-pocket medical expenses and reimbursement of medical mileage. 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).

Mr. Reuter is seeking payment of past out-of-pocket medical expenses as set forth in claimant's exhibit 4. Defendant agreed to hold Mr. Reuter harmless for any amounts paid by his non-occupational insurance. Having found that, the sought after expenses are causally connected to the work injury. I conclude defendant is responsible for claimant's past out-of-pocket medical expenses as contained in claimant's exhibit 4.

Claimant is also seeking payment of medical mileage as set forth in claimant's exhibit 5. Having found that, the mileage claimant is seeking was incurred in connection with his treatment for the work injury. I conclude defendant is responsible for the section 85.27 mileage incurred by the claimant. Defendant is ordered to pay the medical mileage at the applicable statutory rate.

Mr. Reuter also asserts a claim for penalty benefits. Claimant asserts that the employer unreasonably denied payment of weekly benefits and that penalty benefits should be assessed pursuant to Iowa Code section 86.13.

Iowa Code section 86.13(4) provides:

> a. If a denial, a delay in payment, or a termination of benefits occurs without reasonable or probable cause or excuse known to the employer or insurance carrier at the time of the denial, delay in payment, or termination of benefits, the workers' compensation commissioner shall award benefits in addition to those benefits payable under this chapter, or chapter 85, 85A, or 85B, up to fifty percent of the amount of benefits that were denied, delayed, or terminated without reasonable or probable cause or excuse.
>
> b. The workers' compensation commissioner shall award benefits under this subsection if the commissioner finds both of the following facts:
>
> (1) The employee has demonstrated a denial, delay in payment, or termination in benefits.
>
> (2) The employer has failed to prove a reasonable or probable cause or excuse for the denial, delay in payment, or termination of benefits.

In Christensen v. Snap-on Tools Corp., 554 N.W.2d 254 (Iowa 1996), and Robbennolt v. Snap-on Tools Corp., 555 N.W.2d 229 (Iowa 1996), the supreme court said:

> Based on the plain language of section 86.13, we hold an employee is entitled to penalty benefits if there has been a delay in payment unless the employer proves a reasonable cause or excuse. A reasonable cause or excuse exists if either (1) the delay was necessary for the insurer to investigate the claim or (2) the employer had a reasonable basis to contest the employee's entitlement to benefits. A "reasonable basis" for denial of the claim exists if the claim is "fairly debatable."
>
> Christensen, 554 N.W.2d at 260.

The supreme court has stated:

> (1) If the employer has a reason for the delay and conveys that reason to the employee contemporaneously with the beginning of the delay, no penalty will be imposed if the reason is of such character that a reasonable fact-finder could conclude that it is a "reasonable or probable cause or excuse" under Iowa Code section 86.13. In that case, we will defer to the decision of the commissioner. See Christensen, 554 N.W.2d at 260 (substantial evidence found to support commissioner's finding of legitimate reason for delay pending receipt of medical report); Robbennolt, 555 N.W.2d at 236.
>
> (2) If no reason is given for the delay or if the "reason" is not one that a reasonable fact-finder could accept, we will hold that no such cause or excuse exists and remand to the commissioner for the sole purpose of assessing penalties under section 86.13. See Christensen, 554 N.W.2d at 261.
>
> (3) Reasonable causes or excuses include (a) a delay for the employer to investigate the claim, Christensen, 554 N.W.2d at 260; Kiesecker v. Webster City Meats, Inc., 528 N.W.2d at 109, 111 (Iowa 1995); or (b) the employer had a reasonable basis to contest the claim the "fairly debatable" basis for delay. See Christensen, 554 N.W.2d at 260 (holding two-month delay to obtain employer's own medical report reasonable under the circumstances).
>
> (4) For the purpose of applying section 86.13, the benefits that are underpaid as well as late-paid benefits are subject to penalties, unless the employer establishes reasonable and probable cause or excuse. Robbennolt, 555 N.W.2d at 237 (underpayment resulting from application of wrong wage base; in absence of excuse, commissioner required to apply penalty).

> If we were to construe [section 86.13] to permit the avoidance of penalty if any amount of compensation benefits are paid, the purpose of the penalty statute would be frustrated. For these reasons, we conclude section 86.13 is applicable when payment of compensation is not timely . . . or when the full amount of compensation is not paid.

Id.

(5) For purposes of determining whether there has been a delay, payments are "made" when (a) the check addressed to a claimant is mailed (Robbennolt, 555 N.W.2d at 236; Kiesecker, 528 N.W.2d at 112), or (b) the check is delivered personally to the claimant by the employer or its workers' compensation insurer. Robbennolt, 555 N.W.2d at 235.

(6) In determining the amount of penalty, the commissioner is to consider factors such as the length of the delay, the number of delays, the information available to the employer regarding the employee's injury and wages, and the employer's past record of penalties. Robbennolt, 555 N.W.2d at 238.

(7) An employer's bare assertion that a claim is "fairly debatable" does not make it so. A fair reading of Christensen and Robbennolt, makes it clear that the employer must assert facts upon which the commissioner could reasonably find that the claim was "fairly debatable." See Christensen, 554 N.W.2d at 260.

Meyers v. Holiday Express Corp., 557 N.W.2d 502 (Iowa 1996).

Penalty is not imposed for delayed interest payments. Davidson v. Bruce, 593 N.W.2d 833, 840 (Iowa App. 1999). Schadendorf v. Snap-On Tools Corp., 757 N.W.2d 330, 338 (Iowa 2008).

When an employee's claim for benefits is fairly debatable based on a good faith dispute over the employee's factual or legal entitlement to benefits, an award of penalty benefits is not appropriate under the statute. Whether the issue was fairly debatable turns on whether there was a disputed factual dispute that, if resolved in favor of the employer, would have supported the employer's denial of compensability. Gilbert v. USF Holland, Inc., 637 N.W.2d 194 (Iowa 2001).

In this case, claimant established that the employer paid no weekly workers' compensation benefits to claimant after the date of injury. Claimant clearly established a denial of weekly benefits. Therefore, claimant established a prima facie case for penalty benefits.

Claimant asserts that penalty benefits are appropriate because John Deere denied the claim without a reasonable cause or excuse. At the time John Deere denied

the claim, they had obtained an MRI to identify what the injury was. After reviewing the MRI, Mr. Reuter was told that his injury was not work related. Claimant testified that John Deere told him his claim was denied because his injury "could happen anywhere." (Tr. p. 18) Defendant argues that they had a reasonable basis for denial of the claim because the injury could happen to anyone at any time and was not caused by work. I find that when defendant denied this claim, they relied an incorrect legal standard. The only basis for the denial that defendant ever conveyed to claimant was that the injury could have happened at any time to anyone. Defendant is essentially arguing that the increased risk doctrine applies. In 2007 the Iowa Supreme Court stated that the increased-risk rule had been discarded. See Lakeside Casino, 743 at 177. The defendant's denial was not based on a factual dispute; rather, defendants applied the incorrect legal standard.

In their brief, defendant also argues that claimant was merely bending over, without anything in his hands, at the time of the injury and therefore his injury was idiopathic or unexplained. However, this explanation was never provided to claimant or his attorney. On August 4, 2017, claimant's counsel sent a missive to defendant asking for clarification or an explanation as to why they did not consider Mr. Reuter's injury to be work-related. The record is void of any evidence of a response by the defendant. I find that defendant failed to comply with section 86.13 of the Code of Iowa.

Defendant did not prove that it contemporaneously conveyed its bases for its ongoing denial of benefits to claimant. Iowa Code section 86.13 (4)(c)(3). Defendant bore the burden to establish a reasonable basis, or excuse, and to prove the contemporaneous conveyance of those bases to the claimant. Defendant failed to carry its burden of proof on the penalty issues, and a penalty award is appropriate. Iowa Code section 86.13.

The purpose of Iowa Code section 86.13 is both punishment for unreasonable conduct but also deterrence for future cases. Id. at 237. In this regard, the Commission is given discretion to determine the amount of the penalty imposed with a maximum penalty of 50 percent of the amount of the delayed, or denied, benefits. Christensen v. Snap-On Tools Corp., 554 N.W.2d 254, 261 (Iowa 1996).

In exercising its discretion, the agency must consider factors such as the length of the delays, the number of delays, the information available to the employer regarding the employee's injury and wages, and the employer's past record of penalties. Meyers v. Holiday Express Corp., 557 N.W.2d 502, 505 (Iowa 1996). In this case, the employer demonstrated no evidence that it attempted to analyze the applicable law, or that it attempted to convey its basis for denial to claimant after claimant's counsel inquired on August 4, 2017. I conclude that the employer did not have a reasonable basis for the denial of the claim and that defendant failed to comply with the contemporary conveying requirements of section 86.13. The employer has failed to assert facts upon which the undersigned could reasonably find that the claim was "fairly debatable." I find that an award of penalty benefits is appropriate in this case.

Having considered the relevant factors, including the defendant's history of prior penalty awards, and the purposes of the penalty statute, I conclude that a section 86.13 penalty in the amount of $6,000.00 is appropriate in this case. I found that such an amount is appropriate to punish the employer for its unreasonable denial of the claim and its failure to contemporaneously convey the basis of the denial and should serve as a deterrent against future conduct. However, the facts of this case are not of such an egregious nature that an additional penalty is warranted.

ORDER

THEREFORE, IT IS ORDERED:

All weekly benefits shall be paid at the stipulated rate of six hundred fifty-eight and 31/100 dollars ($658.31).

Defendant shall pay claimant healing period benefits from March 14, 2017 through December 21, 2017.

Defendant shall pay one hundred (100) weeks of permanent partial disability benefits commencing on the stipulated commencement date of December 22, 2017.

Defendant shall be entitled to credit for all weekly benefits paid to date.

Defendant shall be entitled to credit under Iowa Code section 85.38(2) for payment of sick pay/disability income in the amount of eighteen thousand six hundred twenty-six and 96/100 dollars ($18,626.96). (Hearing Report)

Defendant 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 Deciga Sanchez v. Tyson Fresh Meats, Inc., File No. 5052008 (App. Apr. 23, 2018) (Ruling on Defendants' Motion to Enlarge, Reconsider or Amend Appeal Decision re: Interest Rate Issue).

Defendant is responsible for the out-of-pocket medical expenses and medical mileage as set forth above.

Defendant shall pay claimant penalty benefits in the amount of six thousand and no/100 dollars ($6,000.00).

Defendant shall reimburse claimant costs as set forth above.

Defendant 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 5th day of February, 2020.

ERIN Q. PALS
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

The parties have been served, as follows:

James Kalkhoff (via WCES)
Benjamin Roth (via WCES)

Right to Appeal: This decision shall become final unless you or another interested party appeals within 20 days from the date above, pursuant to rule 876-4.27 (17A, 86) of the Iowa Administrative Code. The notice of appeal must be filed via Workers' Compensation Electronic System (WCES) unless the filing party has been granted permission by the Division of Workers' Compensation to file documents in paper form. If such permission has been granted, the notice of appeal must be filed at the following address: Workers' Compensation Commissioner, Iowa Division of Workers' Compensation, 150 Des Moines Street, Des Moines, Iowa 50309-1836. The notice of appeal must be received by the Division of Workers' Compensation within 20 days from the date of the decision. The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or legal holiday.