BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

ALADIN FERRER,

Claimant,

vs.

HORSESHOE CASINO,

Employer,

and

CCMSI

Insurance Carrier,
Defendants.

File No. 5042175

ARBITRATION

DECISION

Head Note Nos.: 1402.40, 2502, 2907

STATEMENT OF THE CASE

Claimant, Aladin Ferrer, filed a petition in arbitration seeking workers' compensation benefits from defendants, Horseshoe Casino, as the employer and CCMSI, as the insurance carrier. Hearing was held on June 17, 2014 in Des Moines, Iowa. The case was considered fully submitted after counsel filed post-hearing briefs on August 6, 2014.

The evidentiary record in the case includes claimant's exhibits 1-13 and defendants' exhibits A-L. The parties' exhibits contain duplication of records. Therefore, my reference to exhibits in this decision will refer to the location at which I am most easily able to locate such evidence. I recognize that the exhibits I reference may be located at more than one location within the evidentiary record, but for efficiency sake, I will not attempt to identify and cite each copy of the duplicated exhibit within this decision.

Claimant was the only witness that testified at the hearing. Mr. Ferrer testified through a Filipino interpreter, Emma Aquino Nemecek.

The parties also submitted a hearing report on which the parties entered into certain stipulations. Those stipulations are accepted and relied upon in this decision without further comment or factual findings.

ISSUES

The parties submitted the following disputed issues for resolution:

1. Whether the April 21, 2011 work injury caused temporary disability or a healing period for which claimant is entitled to compensation.

2. Whether the April 21, 2011 work injury caused permanent disability and, if so, the nature and extent of claimant's entitlement to permanent disability benefits.

3. Whether claimant is entitled to an award of medical expenses.

4. Whether claimant is entitled to an award of alternate medical care, including an order for defendants to pay for a recommended low back surgery.

5. Whether claimant is entitled to the award of an independent medical evaluation pursuant to Iowa Code section 85.39.

6. Whether the parties' costs should be assessed.

FINDINGS OF FACT

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

Aladin Ferrer is a 57 year old man, who sustained a work injury at Horseshoe Casino in Council Bluffs, Iowa on April 21, 2011. (Hearing Report; Transcript, pages 17, 46, 48) On that date, Mr. Ferrer was attempting to throw a garbage bag into the back of a truck when he injured his low back. (Tr., p. 46) Mr. Ferrer reported his injury to his supervisor before the end of his shift. His supervisor took Mr. Ferrer to the casino's guard shack and the guard on duty arranged for transportation to take Mr. Ferrer to be evaluated by a physician, Arthur D. West, M.D. (Tr., pp. 52-53; Claimant's Exhibit 4-A)

Dr. West evaluated claimant on April 22, 2011 and recorded the April 21, 2011 mechanism of injury at Horseshoe Casino. At the time of his evaluation, Dr. West recorded full range of motion of claimant's lumbar spine and negative straight leg raise testing bilaterally. (Ex. 4-A, p. 1) Mr. Ferrer testified that he told Dr. West he was experiencing leg symptoms at this initial evaluation. (Tr., p. 54) Dr. West imposed light duty work restrictions at that time. (Ex. 4-A, p. 2)

On April 26, 2011, claimant returned to Dr. West's office for re-evaluation. On that date, Dr. West noted claimant's symptoms were improving, documented negative straight leg raise testing again, noted that claimant had no spasms in the lumbar spine area, but did note that claimant's lumbar range of motion had decreased. (Ex. 4-C; Ex. B, pp. 9-10) Claimant could not recall at trial whether he had told Dr. West he was

improving at any of his subsequent appointments. (Tr., pp. 113-114) Dr. West recommended return evaluation in a few days.

Mr. Ferrer presented for follow-up evaluation at Dr. West's office on April 29, 2011. At that appointment, Dr. West noted, "He feels the pattern of symptoms is improving." (Ex. 4-D) Dr. West again noted negative straight leg testing and found a full range of motion in claimant's low back. (Ex. 4-D)

On May 4, 2011, Dr. West again noted, "He feels the pattern of symptoms is better with no pain." (Ex. 4-F) Dr. West noted that claimant had normal functional range of motion, no tenderness and released claimant from care. Dr. West opined that claimant was capable of returning to regular activity as of May 4, 2011. (Ex. 4-F) In his deposition, Dr. West indicated that claimant had "fully healed" from his work injuries by May 4, 2011. (Ex. B, p. 17) Mr. Ferrer denies that his back was any better by the May 4, 2011 appointment. (Tr., p. 58)

On June 7, 2011, Mr. Ferrer returned for his last appointment with Dr. West. On that date, claimant reported "recurrent lumbar pain over the past week." (Ex. 4-G) A specific mechanism of injury was not mentioned at that appointment. Mr. Ferrer testified that his symptoms had been ongoing since his April 21, 2011 injury. (Tr., pp. 57, 95-96) Mr. Ferrer testified that he was unable to obtain ongoing medical care because he did not have transportation to get to Dr. West's office. (Tr., pp. 56-60)

Dr. West is the physician that initially treated claimant, saw the initial improvement, and had the most opportunities to speak with and evaluate claimant. Claimant disputes the findings and opinions offered by Dr. West. However, I find Dr. West's opinions to be credible and accept them as accurate. I find that claimant's low back injury at Horseshoe Casino had "fully healed" by May 4, 2011.

Mr. Ferrer did not seek treatment for his low back between June 7, 2011 and August 30, 2012. On August 30, 2012, Mr. Ferrer presented to his personal physician, Mel F. Roca, M.D. Dr. Roca noted claimant had a history of chronic low back pain and referenced claimant's lifting activities with Horseshoe Casino. (Ex. 6-A, p. 8) Dr. Roca also noted that claimant had a positive straight leg raise test. (Ex. 6-A, p. 8) Dr. Roca referred claimant for physical therapy.

Claimant presented for physical therapy on September 4, 2012. The therapist reported the onset date for claimant's symptoms was August 30, 2012 after claimant worked a double shift. The therapist further noted that claimant had pain into both legs, a feeling of weakness and decreased range of motion in the lumbar spine. The therapist also noted positive bilateral straight leg testing. (Ex. 8-F, pp. 1-2)

On September 12, 2012, Mr. Ferrer returned to Dr. Roca's office for follow-up evaluation. Dr. Roca noted decreased range of motion in the lumbar spine and radicular pain and weakness into the left foot. (Ex. 6-A, p. 11) Dr. Roca referred claimant to a neurosurgeon, Wendy J. Spangler, M.D.

Dr. Spangler initially evaluated claimant on September 17, 2012. She recorded that "his pain has been going on for a few weeks to a few months." (Ex. 5-A, p. 1) Dr. Spangler does reference the work injury at Horseshoe in her initial history taken from claimant. Dr. Spangler's initial evaluation noted low back symptoms on the right side and bilateral lower extremity pain. (Ex. 5-A, p. 1) Dr. Spangler noted a positive straight leg raise test on the right, pain that shot down both legs into the feet with associated numbness and tingling. (Ex. 5-A, p. 1, 3) Dr. Spangler recommended a low back surgery (laminectomy) be performed given claimant's physical findings and subjective complaints. (Ex. 5-A, p. 4)

Dr. Spangler reported that Mr. Ferrer told her that he had to leave Horseshoe Casino because he was unable to perform the necessary work due to his injury. (Ex. 5-B) Dr. Spangler also reported that claimant told her that he had never had significant back symptoms or treatment prior to his work injury at Horseshoe Casino. (Ex. 5-C) In response to inquiry from claimant's attorney, Dr. Spangler opined that claimant condition in September 2012 and the need for the recommended surgery were the result of, or aggravated by, claimant's work injury in April 2011. (Ex. 5-C; Ex. 5-D)

Dr. Spangler gave her deposition on November 4, 2013. She testified that claimant reported he had not sustained any injuries after the 2011 injury at Horseshoe. In fact, claimant told Dr. Spangler that he had not worked anywhere since Horseshoe. (Ex. L, pp. 9) This is clearly an erroneous history provided by claimant.

Dr. Spangler clarified that Mr. Ferrer told her that his 2011 injury at Horseshoe Casino was the first time he had experienced back pain. Dr. Spangler clearly was not aware of the fact that claimant sought medical treatment for low back pain approximately five months before his 2011 injury at Horseshoe Casino. (Ex. L, pp. 21)

Dr. Spangler was similarly not aware of claimant's medical treatment for low back pain in 2010, when he reported back pain to his personal physician after carrying a child around the mall. (Ex. L, pp. 21-22) Nor was Dr. Spangler aware of medical treatment claimant received for low back complaints after a motor vehicle accident in 2009. (Ex. L, p. 22) Dr. Spangler acknowledged that an accurate medical causation opinion is dependent upon receipt of accurate information and medical history. (Ex. L, p. 32) She also acknowledged throughout her deposition that she was not provided prior medical records or an accurate history by Mr. Ferrer.

Claimant's former counsel certainly did not provide accurate information to Dr. Spangler. In correspondence dated September 22, 2012, claimant's former counsel informed Dr. Spangler that "Prior to this injury, Mr. Ferrer had no symptomatology referable to lower back pain or bilateral leg pain." (Ex. L-1, p. 1) In requesting a causation opinion, counsel similarly informed Dr. Spangler that "Mr. Ferrer has not worked nor has he sustained any additional traumatic event to his lower back." (Ex.L-1, p. 1) Neither statement contained in counsel's September 22, 2012 correspondence is accurate.

After being provided the additional medical and employment history during her deposition, Dr. Spangler indicated that she could not give an opinion within a reasonable degree of medical certainty on the issue of causation of claimant's current condition because she had not reviewed all of the new evidence brought to her attention during the deposition. (Ex. L, p. 36) However, when given information about the fact that Dr. West did not find radicular symptoms during his evaluations in 2011 and the subsequent development or recording of radicular symptoms, Dr. Spangler opined, "If Mr. Ferrer had new complaints, then I would assume that these are not related to the Horseshoe Casino incident." (Ex. L, p. 44) I specifically find that claimant developed radicular complaints after his treatment with Dr. West ended. Therefore, I also accept Dr. Spangler's opinion that the current symptoms are not related to the 2011 incident at Horseshoe Casino.

Claimant's counsel scheduled claimant to be evaluated by orthopaedic surgeon, Michael McGuire, M.D., on January 26, 2013. Dr. McGuire noted that claimant presented with similar physical findings as those documented by Dr. Spangler, though it is noted that Dr. McGuire found negative bilateral straight leg testing during his evaluation. Dr. McGuire diagnosed claimant with mechanical low back pain with radiation into both of his lower extremities.

Dr. McGuire opined that claimant was at maximum medical improvement without the surgery recommended by Dr. Spangler and assigned an eight percent permanent impairment rating to claimant's low back condition. (Ex. 7, p. 2) In his independent medical evaluation report, Dr. McGuire causally connected claimant's low back condition in January 2013 to the work injury at Horseshoe Casino in April 2011. (Ex. 7)

Mr. Ferrer testified at trial that he could not recall what he told Dr. McGuire about any prior injuries or his work history. (Tr., pp. 139-140) In his deposition, Dr. McGuire testified that claimant had denied any pre-existing back problems and that he was not aware of where claimant had worked between the end of his employment with Horseshoe Casino and September 2012. (Ex. K, pp. 16-17, 28) Dr. McGuire acknowledged during his deposition that the facts and information he received from Mr. Ferrer at the time of his independent medical evaluation were different than the facts presented to him during questioning at his deposition. (Ex. K, pp. 33-35) Dr. McGuire specifically agreed that he was not provided all of the relevant information to formulate his causation opinions at the time of his independent medical evaluation. (Ex. K, p. 36)

After being presented with accurate information about claimant's work history, the potential subsequent injury at Bimbo Bakeries, and claimant's prior medical history, Dr. McGuire opined, "It seems more likely that the event of August 30th, 2012 may be the cause of his ongoing problems." (Ex. K, p. 36) In fact, Dr. McGuire testified that even if it is assumed that claimant's work injury caused symptoms through August 2011 that the most likely cause of his current symptoms and condition was the new incident on August 30, 2012. (Ex. K, pp. 53-54)

Given that Dr. McGuire's opinions changed in a similar way to those expressed by Dr. Spangler after receipt of additional employment and medical information during

his deposition, I find that the omitted information was particularly important in this case. Both Dr. Spangler and Dr. McGuire's initial causation opinions were based upon less than complete information. Once presented with accurate information, both Dr. Spangler and Dr. McGuire's causation opinions changed. I accept the revised opinions of Dr. Spangler and Dr. McGuire as accurate and find that claimant's current condition is not causally related to the injury at Horseshoe Casino.

Arguably, there remains a competing medical causation opinion within this record. On March 18, 2013, Dr. Roca signed a letter authored by claimant's former counsel. In that letter, Dr. Roca indicated that he agreed with the IME report drafted by Dr. McGuire. Dr. Roca also indicated in that correspondence that he agreed with Dr. Spangler's opinion that the recommended lumbar spine surgery is causally related to the work injury at Horseshoe Casino on April 21, 2011. (Ex. 6-G)

Dr. Roca was never asked to clarify his opinions after Dr. Spangler and Dr. McGuire modified their opinions via deposition. Therefore, it is arguable that Dr. Roca still believes that claimant's current condition and the need for surgery are causally related to the Horseshoe Casino injury. To the extent that this inference or conclusion could be drawn, I reject such an opinion. Dr. Roca is a primary care physician, who referred claimant to Dr. Spangler for neurosurgical evaluation and opinion. I find that Dr. Spangler's credentials are superior to Dr. Roca's with respect to the diagnosis, treatment, and ability to offer causation opinions pertaining to low back injuries. Moreover, I find that Dr. Spangler's ultimate opinions and conclusions are based upon a more complete medical and employment history and are convincing. Therefore, I accept the medical opinions of Dr. Spangler, Dr. McGuire, and Dr. West over those of Dr. Roca, should his March 18, 2013 opinions be read to still be his final opinions.

During his trial testimony, Mr. Ferrer disputed much of the evidence that I rely upon in my decision. For instance, Mr. Ferrer initially testified at hearing that he told Dr. West he had leg symptoms upon his initial evaluation. (Tr., p. 54) Mr. Ferrer testified that he told Dr. West his back was no better even the last time he saw Dr. West. (Tr., p. 58)

Although I recognize that claimant disputes this evidence, I did not find Mr. Ferrer's testimony to be credible or convincing. His testimony contradicted medical records prepared contemporaneous in time to the medical appointments. Mr. Ferrer clearly did not provide complete and accurate information to Dr. Spangler or Dr. McGuire.

At trial, Mr. Ferrer's demeanor and response to questioning changed during cross-examination. His memory seemed to fade when he was asked difficult questions by defense counsel. For instance, Mr. Ferrer was unable to recall what he told Dr. West, Dr. McGuire or his physical therapist about his medical history and symptoms. (Tr., pp. 113-114, 135-136, 139-140) He could not recall where the independent medical evaluation performed by Dr. McGuire occurred, though it had occurred in his attorney's office. (Tr., p. 139; Ex. K, p. 9)

Mr. Ferrer was unable to recall anything of significance about two motor vehicle accidents he was involved in prior to the 2011 work injury. (Tr., p. 108) He was unable to recall treatment for back pain seven months before his injury at Horseshoe Casino. (Tr., p. 109) Claimant also proclaimed no recollection of back pain and treatment only five months before the work injury after carrying a child through the mall. (Tr., p. 110)

Claimant has offered inconsistencies or inaccuracies during his deposition testimony. For instance, during his deposition, Mr. Ferrer testified that he told Sara Lee a/k/a Bimbo Bakeries that he had worked at Horseshoe Casino. (Ex. H, p. 12) He also testified that he told Sara Lee that he had been terminated by Horseshoe Casino. (Ex. H, p. 12) Defendants convincingly proved that neither of these sworn statements were accurate. (Ex. I, pp., 7, 13; Tr., p. 130)

In his deposition, Mr. Ferrer testified that he did not work anywhere between the time of his termination from Horseshoe Casino and his employment with Sara Lee. (Ex. H, p. 16) Yet, claimant conceded at trial that he did work a job transporting children to daycare and school during that time frame. (Tr., pp. 123-125; Ex. I-2, p. 1; Ex. I-4, p. 3) Claimant's resume also disclosed that he worked as a custodian after the date of injury at Horseshoe Casino. (Ex. I-2, p. 1; Ex. I-3, p. 1)

At trial, Mr. Ferrer testified that he did not tell Sara Lee about his back injury at Horseshoe Casino but he proclaimed that he never lied to Sara Lee about other things. (Tr., p. 123) However, Mr. Ferrer provided inaccurate information to Sara Lee by providing an incomplete, or misleading, resume. In fact, claimant's resume did not include reference to his Horseshoe Casino employment after his employment was terminated by this employer. (Tr., p. 125)

Mr. Ferrer told Sara Lee that he left his prior employment to take care of family matters in his home country. (Ex. I-5, p.2) That statement was inaccurate given that claimant was clearly terminated by Horseshoe Casino. (Ex. G)

As noted above, Mr. Ferrer clearly provided misleading information, or omitted information, when relaying his history to Dr. Spangler and Dr. McGuire. When Mr. Ferrer's testimony is considered as a whole and compared with other available evidence, I find that Mr. Ferrer's testimony lacks credibility and is not convincing.

Therefore, I find that Mr. Ferrer's April 21, 2011 work injury resolved by May 4, 2011. I find that claimant failed to prove that his symptoms and medical treatment occurring after May 4, 2011 were causally related to the April 21, 2011 work injury. I find that claimant has not proven any of his time off work is causally related to the April 21, 2011 work injury. I find that claimant has not proven any permanent disability that is causally related to the April 21, 2011 work injury.

CONCLUSIONS OF LAW

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).

Having found that claimant's April 21, 2011 injuries resolved by the date of Dr. West's May 4, 2011 evaluation and having found that claimant's condition and symptoms after that date are not causally related to the April 21, 2011 work injury, I conclude that claimant failed to carry his burden of proof to establish entitlement to temporary total disability, healing period, or permanent disability benefits.

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).

Of course, an employer is only obligated to provide medical care for conditions that are causally related to the work injury upon which the worker's compensation claim is based. Claimant bears the burden to establish the causal connection between the April 21, 2011 work injury and the claimed medical expenses. Iowa R. App. P. 6.14(6). Having found that claimant did not establish a causal connection between the April 21, 2011 work injury and the claimed medical expenses, I conclude that claimant failed to carry his burden of proof and his claim for medical expenses fails.

Mr. Ferrer also seeks an order directing defendants to provide alternate medical care. Specifically, Mr. Ferrer seeks an order directing defendants to authorize and pay for the low back surgery recommended by Dr. Spangler. Having found that claimant's

current low back condition is not causally related to the April 21, 2011 work injury, I conclude that defendants are not obligated to provide ongoing medical care. Claimant's request for alternate medical care is, therefore, denied.

Section 85.39 permits an employee to be reimbursed for subsequent examination by a physician of the employee's choice where an employer-retained physician has previously evaluated "permanent disability" and the employee believes that the initial evaluation is too low. The section also permits reimbursement for reasonably necessary transportation expenses incurred and for any wage loss occasioned by the employee attending the subsequent examination.

Defendants are responsible only for reasonable fees associated with claimant's independent medical examination. Claimant has the burden of proving the reasonableness of the expenses incurred for the examination. See Schintgen v. Economy Fire & Casualty Co., File No. 855298 (App. April 26, 1991). Claimant need not ultimately prove the injury arose out of and in the course of employment to qualify for reimbursement under section 85.39. See Dodd v. Fleetguard, Inc., 759 N.W.2d 133, 140 (Iowa App. 2008).

The issue of claimant's independent medical evaluation expense is somewhat complicated. Neither party's post-hearing brief addresses the issue.

Claimant must establish that a physician selected by defendants made an evaluation of claimant's permanent disability before the provisions of Iowa Code section 85.39 require defendants to pay for an evaluation with a physician of claimant's choosing. The only physician that defendants selected was Dr. West. Therefore, claimant presumably argues that Dr. West made an evaluation of permanent disability when he concluded on May 4, 2011 that claimant's symptoms were better with no pain and that claimant was released from care at that time. Yet, when arguing the issue of permanent disability, claimant asserts that Dr. West's medical opinions do not establish that claimant's condition was fully resolved by May 4, 2011. Claimant appears to be advancing contradictory interpretations and arguments about the significance of Dr. West's opinion depending on which claim he asserts.

Ultimately, I found that claimant's low back injury at Horseshoe resolved by the May 4, 2011 visit to Dr. West. In that sense, I ultimately found that Dr. West was releasing claimant at maximum medical improvement and concluding that claimant was not permanently disabled. Having made that finding of fact, I conclude that Dr. West was a physician selected by defendants and that Dr. West at least implicitly made an evaluation of claimant's permanent disability. Therefore, the provisions of Iowa Code section 85.39 were made applicable and claimant is entitled to reimbursement for Dr. McGuire's IME charges.

Dr. McGuire testified that his IME charges total $750.00, which I find to be reasonable. Therefore, pursuant to Iowa Code section 85.39, I conclude that claimant

has proven entitlement to reimbursement of Dr. McGuire's IME charges in the amount of $750.00.

The parties also seek an assessment of costs associated with this case. (Ex. 8) Claimant has submitted a specific list of costs being sought, which is attached to the hearing report. Assessment of costs is a discretionary function of this agency. Iowa Code section 86.40.

In this case, defendants prevailed on the major issues in dispute. Claimant has already been awarded his independent medical examination fees. He prevailed on no other issues. Therefore, I conclude that none of claimant's litigation costs should be assessed.

At the time of hearing, I ordered defendants to bear the initial cost for the transcription of the hearing transcript. I utilized that hearing transcript in the preparation of this decision. I conclude that the cost of the hearing transcript should be assessed against claimant. Therefore, claimant will be ordered to reimburse defendants for the cost of the hearing transcript pursuant to 876 IAC 4.33(2).

ORDER

THEREFORE IT IS ORDERED:

Claimant shall take nothing with respect to his claim for temporary total disability, healing period, permanent partial disability, or medical benefits.

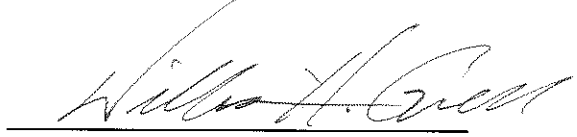
Claimant's request for alternate medical care is denied.

Defendants shall reimburse claimant's independent medical evaluation fees with Dr. McGuire totaling seven hundred fifty and no/100 dollars ($750.00).

Claimant shall reimburse defendants for the cost of the hearing transcript.

The parties shall bear their own costs in all other respects.

Signed and filed this 30th day of September, 2014.



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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.