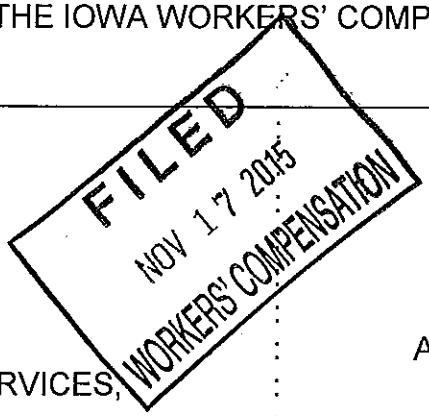
BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER



JAMA MUHUMED, Claimant, vs. ABM JANITORIAL SERVICES, Employer, and ESIS, Insurance Carrier, Defendants.	File No. 5046434 ARBITRATION DECISION Head Note Nos. 1108, 1801, 1803, 2500, 3001

STATEMENT OF THE CASE

Jama Muhumed filed a petition for arbitration seeking workers' compensation benefits from ABM Janitorial Services and ESIS.

The matter came on for hearing on December 17, 2014, before deputy workers' compensation commissioner Joseph L. Walsh in Des Moines, Iowa. The record in the case consists of claimant's exhibits 1 through 24; defense exhibits A through I; as well the sworn, testimony of claimant, Jama Muhumed and his former supervisor, Shonda Smith. Mr. Muhumed testified through qualified Somali interpreter, Khadija Nureini. Julie McCurnin was appointed to serve as the court reporter. The parties thoroughly briefed this case and the matter was fully submitted on January 12, 2015.

DISPUTED ISSUES

1. Whether the claimant is entitled to healing period benefits from December 8, 2012 through July 31, 2013 for the stipulated October 26, 2012, work injury.

2. Whether the stipulated October 26, 2012, work injury is a cause of any permanent partial disability, and if so, the nature and extent of such disability.

3. The commencement date for any permanency benefits is disputed.

4. The claimant's gross earnings used to compute the rate of compensation are

disputed.

5. Whether the claimant is entitled to medical expenses as outlined in Exhibit 24.

6. Whether the claimant is entitled to alternate medical care.

7. Whether the claimant is entitled to IME expenses in the amount of $1,740.00.

STIPULATIONS

Through the hearing report, the parties stipulated to the following:

1. The parties had an employer-employee relationship at the time of the alleged injury.

2. The parties agree that claimant suffered an injury which arose out of and in the course of his employment on October 26, 2012, and this injury caused some temporary disability for a period of recovery.

3. The parties agree that claimant was off work from December 8, 2012, through July 31, 2013.

4. If the claimant is entitled to any permanency benefits, his disability is to the body as a whole.

5. At the time of injury, the claimant was single with one exemption for income tax purposes.

6. Affirmative defenses have been waived.

7. There are no penalty issues.

8. Defendants are not claiming any credit.

FINDINGS OF FACT

Jama Muhumed is a 39-year-old Somali refugee. He was born in 1975. He lost his arm after being shot in Somalia as a small child. In 1992, Mr. Muhumed fled to Kenya. He described himself as a refugee. Notice is taken of the history of civil war in Somalia which began in the 1980's and the collapse of the Somalian government in the early 1990's. Mr. Muhumed was 17 years old when he left for Kenya. He remained in the Kenyan refugee camp until 2005, when he was relocated to the United States. He moved to Maryland in 2005, where he stayed for three months before moving to Rochester, Minnesota. He attempted to learn English in Rochester, but he found it to be too difficult. This testimony is believable and credible. Mr. Muhumed testified that he does understand a little English that he has picked up. He certainly cannot read or write in English.

Mr. Muhumed's educational background and work history are both limited. He testified that he completed high school in Somalia, but it is unclear exactly what that means. He further testified that he had no work history to speak of before coming to the United States but that he did help out in the restaurant in the refugee camp in Kenya. He performed various cleaning activities. Based upon his testimony, it appears he was not paid for this. When he moved to Rochester he worked for a Somali-owned business doing some cleaning and driving for a few weeks. In 2008, Mr. Muhumed was deemed eligible for Supplemental Security Income (SSI), a means-tested form of Social Security benefits for individuals with disabilities. He receives $400.00 to $721.00 per month. The benefit amount varies based upon his income from work.

Mr. Muhumed testified that he began working for ABM Janitorial Services in November 2011. He worked the night shift. He picked up the trash, vacuumed and cleaned desks. He performed all this work one-handed. He also started working for Goodwill in the fall of 2012. He worked for both employers simultaneously for a period of time. On October 26, 2012, Mr. Muhumed tripped over a chair at work and fell. He testified that he had a great deal of pain in his back. He was taken to Mercy Hospital by ambulance after someone told his supervisor.

The medical records in evidence demonstrate that Mr. Muhumed had been treated for or at least mentioned low back pain in treatment records, prior to this work injury. In April 2012, he treated at Broadlawns for another condition and the following history was recorded. "He reports occasional abdominal pain, but feels it is mostly related to his back pain, that occurs from time to time. He denies any pains on examination today and reports that he is doing really well." (Defendants' Exhibit F, page 52) I interpret this to mean that Mr. Muhumed told the Broadlawns physician (internal medicine consultation) that, while he was not having any back pain at that moment, he did have back pain from time to time. In June 2012, he was treated at the Mercy Medical Center Emergency Room for low back pain. The notes indicate the admitting diagnosis was his "cough." (Def. Ex. E, p. 27) Under the history of present illness section, the following is handwritten: "37 yo male cough. Patient states he just keeps coughing. Can't stop because of cough. Also can't work tonight as he is coughing to [sic] much." (Def. Ex. E, p. 28) The record in question does mention "lower back pain" (in the review of systems section) and "cough/back pain" (in history section) but provides little context for this. (Def. Ex. E, pp. 27-28) It is unclear whether he has pain in his back related to the coughing or if he is describing general back pain. Whatever the case, it is apparent that he was not being treated for back pain at this visit.

On October 9, 2012, Mr. Muhumed was seen again at Mercy Emergency. On this occasion, he was treated for low back pain which radiated into his bilateral hips and legs. (Def. Ex. E, p. 37) He described the pain as a constant ache which was worse when he walked. (Def. Ex. E, p. 37) He was provided medications. Films were taken of the lumbar spine which demonstrated mild degenerative disc disease. (Def. Ex. E, p. 42)

On October 25, 2012, he went to the walk-in clinic at Broadlawns. The following

is documented from that visit.

> Pt c/o gen body aches and backaches. Says he works in housekeeping, doing janitorial work at Goodwill. says he developed the aches yesterday, andn [sic] missed work then and again today. Says tomorrow is a religious holiday, and wants no [sic] not have to return to work then. Wants a release to return next Tuesday. Says he feels "So tired" . . .

(Claimant's Ex. 7, p. 23)

The next day, October 26, 2012, is when the stipulated injury occurred. He essentially tripped over a chair while emptying trash and was taken to the hospital by ambulance on a backboard. In this record, Mr. Muhumed repeatedly denied having back pain or back issues prior to his October 26, 2012, work injury. At hearing, he stated, "Before my accident, I never had no back pain." (Transcript, p. 40) On cross examination, Mr. Muhumed was asked specifically about seeking medical treatment in February, June and October of 2012, prior to his work injury. Each time, Mr. Muhumed responded that he did not remember, but he maintained that he never had pain prior to the work injury. (Tr., pp. 41-48) He made similar assertions in his deposition and interrogatory answers.

The emergency room records are not particularly insightful or helpful in determining the nature or severity of the injury. (Cl. Ex. 4, pp. 10-15) He had several x-rays taken, including his left hip, pelvis and lumbar spine. (Cl. Ex. 5) Mr. Muhumed began treating with Concentra shortly thereafter. Joann Harbert, ARNP, diagnosed him with lumbar strain, groin pain and a hip contusion. He was given naproxen and Skelaxin and told to follow-up in a week. (Cl. Ex. 9, pp. 29-30)

On November 6, 2012, he was evaluated by Terrance Kurtz, M.D., diagnosed with a lumbar strain and placed on extremely light duty (2 pounds lifting). (Cl. Ex. 9, p. 32) He continued to treat conservatively through Concentra, with restrictions, medications and physical therapy, until December 18, 2012, when Dr. Kurtz recommended an MRI. Dr. Kurtz kept him on a 10-pound lifting restriction.

Mr. Muhumed was terminated from employment on December 17, 2012. (Def. Ex. C, p. 24) The termination reports state that on December 12, 2012, he was "suspended for violation of the ABM Work Rule in regards to attendance and call in procedures." (Def. Ex. C, p. 24) It states generally that he has been counseled for this and that he continued to show disregard for the rules. For his part, Mr. Muhumed testified that he asked for time off work because he was in pain due to his injury. (Tr., pp. 62-63) Mr. Muhumed was on significant lifting restrictions leading up to his termination. ABM Supervisor, Shonda Smith testified very generally about Mr. Muhumed's course of discipline and termination. (Tr., pp. 74-81) Her testimony did not shed much light on the basis for the termination, and she had very little first-hand knowledge of the circumstances.

An MRI was performed on January 2, 2013. (Cl. Ex. 10) It showed disc bulges at L3-L4 and L4-L5. (Cl. Ex. 10) When he returned to Dr. Kurtz, he was released to full-duty without explanation. (Cl. Ex. 9, p. 41) There is not a clear medical explanation in the record why Dr. Kurtz did this. Concentra referred Mr. Muhumed to a specialist at approximately the same time. (Cl. Ex. 9, p. 42) On March 11, 2013, he saw Cassim Igram, M.D. Dr. Igram diagnosed the condition as a back strain and reviewed the MRI which he described as "most unimpressive." (Cl. Ex. 11, p. 46) He advised Mr. Muhumed to continue taking Aleve as needed and suggested he may benefit from a physical medicine or rehabilitation specialist referral. He did not recommend restrictions. I interpret Dr. Igram's evaluation to be an opinion that Mr. Muhumed has no functional disability.

Mr. Muhumed traveled to Africa from April 2013 to June 2013. (Cl. Ex. 16, p. 64) When he returned from Africa, he was evaluated by Donna Bahls, M.D. She diagnosed persistent low back pain and bilateral leg pain after thoroughly evaluating him. She opined that he had inflammation and prescribed a "prednisone blast" and cyclobenzaprine to use at bedtime. (Cl. Ex. 13, p. 53) Like all of the other physicians between January 18, 2013, and July 24, 2013, she did not recommend any work restrictions.

In approximately August 2013, Mr. Muhumed became employed with a temporary employment agency, Sedona Staffing. He was assigned as a "temporary line worker for two months". (Cl. Ex. 19, p. 78)

On November 6, 2013, Joseph Chen, M.D., evaluated Mr. Muhumed. The report notes that the referral was made by claimant's counsel. His opinion is set forth in detail.

> Jama A. Muhumed is a 38 y.o. man who has predominantly chronic mechanical and myofascial low back pain. He has had lumbar spine imaging which only reveals age-appropriate changes without any worrisome bony or neurological abnormalities. The majority of his pain is likely myofascial based upon it being quite easily reproduced on examination today with palpation, passive stretch of the piriformis, and activation of the gluteal attachment muscles. I showed him some additional stretching exercises, hip abductor strengthening exercises and encouraged him to resume his activities gradually and as soon as possible.
>
> He requested a refill of one of his medications as it had been helpful in the past. I told him that I would not refill his steroid dose pack and we discussed extensively whether he was requesting a refill of his cyclobenzaprine which he takes only once daily. I discussed that I would give him a prescription for cyclobenzaprine 10 mg qhs #90 and no refills. This should be covered through workers compensation. I discussed that after this prescription runs out, he should stop this medication as it hasn't been shown to be effective for chronic low back pain. He said he

understood via the phone interpreter.

> For workers compensation purposes, I told him that there is no further medical treatment for this type of myofascial pain that I would recommend. He requires no permanent work restrictions. He also has no ratable impairment ...

(Cl. Ex. 14, p. 57) I find the medical opinions of Dr. Chen to be credible and believable.

Robin Sassman, M.D. evaluated Mr. Muhumed on June 16, 2014, and prepared a report dated July 9, 2014. The review and examination was quite thorough. She diagnosed low back pain with radiculopathy after a fall and opined that the condition was related to the October 26, 2012, fall at work. (Cl. Ex. 16, p. 66) She noted that Mr. Muhumed denied any prior back pain and that there were not any records of prior symptoms, disability or pain. She assigned a 10 percent whole person impairment rating based upon "signs of radiculopathy" on exam. (Cl. Ex. 16, p. 67) She also recommended rather significant restrictions and a referral for pain management. (Cl. Ex. 16, pp. 67-68) After confronted with evidence of his prior medical visits, she amended her logic but not her conclusions. She opined that while he had previous back pain prior to the fall, the work accident was still "a substantial factor in his ongoing low back pain and the findings on the physical examination I performed on June 16, 2014." (Cl. Ex. 17, p. 71)

Mr. Muhumed received another assignment from Sedona in August 2014, placing stickers on boxes as they come down an assembly line. (Cl. Ex. 19, p. 78) He performs part-time work for $8.00 per hour, which is very light.

CONCLUSIONS OF LAW

The parties have stipulated that Jama Muhumed suffered a work-related injury on October 26, 2012, and that this injury was a cause of some temporary disability. Based upon the record before me, the injury itself was traumatic and required him to be transported by ambulance to the emergency room. The first question is whether Mr. Muhumed is entitled to any additional temporary disability or healing period benefits as a result of the stipulated work injury.

Section 85.33(1) provides that temporary total disability benefits are payable to an injured worker who has suffered a temporary work injury until: (1) the worker has returned to work; or (2) the worker medically is capable of returning to substantially similar employment.

Mr. Muhumed suffered the stipulated work injury on October 26, 2012. He was recuperating from the work injury with significant restrictions from the date of injury through December 7, 2012. On December 8, 2012, Mr. Muhumed was suspended pending investigation, and he was ultimately terminated on December 17, 2012, following a period of suspension without pay. (Def. Ex. C, p. 24) He remained under

these work restrictions continuously until January 18, 2013, when he was released without any restrictions whatsoever. (Cl. Ex. 9, pp. 37-41) Defendants have stipulated that claimant was off work during this period. (*See* Hearing Report)

Defendants have no defense for failing to pay healing period from December 8, 2012, through January 18, 2013. Claimant seeks to have healing period continue through July 2013. I find no medical evidence, however, that Mr. Muhumed was under any medical restrictions after January 18, 2013. After being fully released with no restrictions by Dr. Kurtz on January 18, 2013, Mr. Muhumed saw several other specialists, all of whom opined that the claimant should be working without restrictions. Dr. Igram (Cl. Ex. 11, p. 46), and Dr. Bahls (Cl. Ex. 13, p. 52), both indicated he needed no restrictions in this time period. This was also later confirmed by Dr. Chen. (Cl. Ex. 14, p. 57) Claimant argues that these opinions contradict the facts which demonstrate the claimant was still in pain and recuperating from the injury during this period. I find the claimant has failed to meet his burden of proof in this regard.

The next issue is whether the claimant has proven that he is entitled to permanent partial disability benefits. The defendants contend that the claimant has failed to prove his work injury was a cause of any permanency. Claimant contends he has a severe permanent disability.

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

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

Based upon the foregoing legal standards, I find that the claimant has failed to meet his burden of proof that the work injury is causally connected to any permanent disability. The biggest deficiency in claimant's argument is his medical history. The

claimant is a remarkably poor historian. The claimant was seen for low back pain on October 9, 2012, just over two weeks prior to the work injury, and October 25, 2012, the day before the work injury. On both occasions, the purpose of the visit was low back pain. He has other medical records which demonstrate that he complained of some low back problems in February 2012 and June 2012. While not as significant, these records bolster the inconsistency and further tend to prove that Mr. Muhumed has had ongoing issues with his low back prior to his work injury. Because of his preexisting low back symptoms and his extraordinarily poor memory regarding the same, it is very difficult for the claimant to prove the required causal connection between the work injury and any permanent condition in his low back.

Of course, under Iowa law, a work injury need not be the sole or primary cause of disability. The injury only needs to be a substantial or aggravating factor. Mr. Muhumed, however, has no recollection whatsoever of any prior low back pain or discomfort prior to his work injury. This severely impacts his credibility and makes it nearly impossible to sort out whether any of his ongoing low back complaints are actually related to the work injury. It is the claimant's burden to prove medical causation by a preponderance of evidence. He has failed to do so.

Furthermore, I find the expert opinion of Dr. Chen to be the most credible expert opinion in the record. He evaluated the claimant upon a referral from claimant's counsel, performed a thorough evaluation and reviewed the MRI. He opined that the claimant needed no restrictions and had no ratable permanent functional disability. The diagnosis was mechanical or myofascial low back pain. His opinion is free of bias and is entirely consistent with the previous opinions of Dr. Bahls and Dr. Igram, which also do not support permanency. The best evidence in the record does not support a finding of medical causation.

Since I have determined that the claimant failed to meet his burden of proof with regard to medical causation, it is unnecessary to address the commencement date for permanency benefits. The claimant is not entitled to permanent partial disability benefits.

The next issue is the claimant's gross earnings.

Section 85.36 states the basis of compensation is the weekly earnings of the employee at the time of the injury. The section defines weekly earnings as the gross salary, wages, or earnings to which an employee would have been entitled had the employee worked the customary hours for the full pay period in which injured as the employer regularly required for the work or employment. The various subsections of section 85.36 set forth methods of computing weekly earnings depending upon the type of earnings and employment.

I find that the best evidence in the record on this issue is the claimant's testimony. He testified he worked 8 hours per day, 5 days per week prior to the injury. This testimony is logical and consistent with the work hours customarily worked in his

field. It is agreed he earned $8.00 per hour. Ms. Smith testified that he worked between 35 and 40 hours per week or 7 to 8 hours each day, 5 days a week. (Tr., pp. 82-83) In other words, while she testified he sometimes worked less than 40, she conceded that he does work 40, at least some of the time. The defendants possess the wage records in question, and if claimant was not working 40, defendants could have easily produced the records at hearing. I give no deference to the defendants' rate calculation which was used to pay benefits and not produced for hearing. I find, more likely than not, claimant's gross average weekly wages to be $320.00 per week which produces a weekly rate of compensation of $216.47 per week.

The next issue is the claimant's entitlement to medical expenses set forth in claimant's Exhibit 24.

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).

Evidence in administrative proceedings is governed by section 17A.14. The agency's experience, technical competence, and specialized knowledge may be utilized in the evaluation of evidence. The rules of evidence followed in the courts are not controlling. Findings are to be based upon the kind of evidence on which reasonably prudent persons customarily rely in the conduct of serious affairs. Health care is a serious affair.

Prudent persons customarily rely upon their physician's recommendation for medical care without expressly asking the physician if that care is reasonable. Proof of reasonableness and necessity of the treatment can be based on the injured person's testimony. Sister M. Benedict v. St. Mary's Corp., 255 Iowa 847, 124 N.W.2d 548 (1963).

It is said that "actions speak louder than words." When a licensed physician prescribes and actually provides a course of treatment, doing so manifests the physician's opinion that the treatment being provided is reasonable. A physician practices medicine under standards of professional competence and ethics. Knowingly providing unreasonable care would likely violate those standards. Actually providing care is a nonverbal manifestation that the physician considers the care actually provided to be reasonable. A verbal expression of that professional opinion is not legally mandated in a workers' compensation proceeding to support a finding that the care provided was reasonable. The success, or lack thereof, of the care provided is evidence that can be considered when deciding the issue of reasonableness of the care. A treating physician's conduct in actually providing care is a manifestation of the

physician's opinion that the care provided is reasonable and creates an inference that can support a finding of reasonableness. Jones v. United Gypsum, File 1254118 (App. May 2002); Kleinman v. BMS Contract Services, Ltd., File No. 1019099 (App. September 1995); McClellon v. Iowa Southern Utilities, File No. 894090 (App. January 1992). This inference also applies to the reasonableness of the fees actually charged for that treatment.

I find that the medical expenses in claimant's Exhibit 24 were reasonable and necessary and causally connected to the claimant's stipulated temporary disability.

Claimant is entitled to an order of reimbursement only if he has paid treatment costs; otherwise, to an order directing the responsible defendants to make payments directly to the provider. *See* Krohn v. State, 420 N.W.2d 463 (Iowa 1988). Defendants should also pay any lawful late payment fees imposed by providers. Laughlin v. IBP, Inc., File No. 1020226 (App. February 27, 1995).

The next issue is claimant's entitlement to reimbursement of IME expenses under Iowa Code section 85.39.

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 defendants generally contend claimant has not met his statutory burden and point out that his first "rating" [of no ratable impairment] was from Dr. Chen. The record from Dr. Chen notes that he was referred by claimant's counsel. This, however, is not the standard. The statute allows the claimant to obtain an IME when there has been "an evaluation of permanent disability" by "a physician retained by the employer". Iowa Code section 85.39 (2015). I find that several physicians evaluated Mr. Muhumed for the purposes of determining issues of permanency, including Dr. Igram, Dr. Bahls and Dr. Chen. Importantly, Dr. Igram was clearly retained by the defendants. (Cl. Ex. 11, p. 42) He clearly opined that claimant needed no permanent restrictions and essentially had a minor temporary injury which required no orthopedic followup. (Cl. Ex. 11, p. 46) This was, in fact, an evaluation of permanent disability which entitled claimant to a second opinion.

The final issue is the claimant's need for alternate medical care.

By challenging the employer's choice of treatment – and seeking alternate care – claimant assumes the burden of proving the authorized care is unreasonable. See Long v. Roberts Dairy Co., 528 N.W.2d 122 (Iowa 1995). Determining what care is reasonable under the statute is a question of fact. Id. The employer's obligation turns on the question of reasonable necessity, not desirability. Id.; Harned v. Farmland Foods, Inc., 331 N.W.2d 98 (Iowa 1983).

Since I have determined the claimant has not met his burden of proof on medical causation for a permanent condition, this issue is moot.

ORDER

THEREFORE IT IS ORDERED:

Defendants shall pay the claimant temporary total disability benefits beginning on December 8, 2012, and continuing through January 18, 2013, at the rate of two hundred sixteen and 47/100 dollars ($216.47).

Defendants shall pay accrued weekly benefits in a lump sum.

Defendants shall pay interest on unpaid weekly benefits awarded herein as set forth in Iowa Code section 85.30.

Defendants shall be given credit for benefits previously paid.

Defendants shall pay the medical expenses as outlined in claimant's Exhibit 24.

Defendants shall pay the IME expenses as outlined in claimant's Exhibit 23.

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

Costs are taxed to defendants.

Signed and filed this 17th day of November, 2015.

JOSEPH L. WALSH
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

Copies to:

Martin Ozga
Attorney at Law
1441 – 29th St., Ste. 111
West Des Moines, IA 50266
mozga@nbolawfirm.com

Mark A. King
Attorney at Law
505 - 5th Ave., Ste. 729
Des Moines, IA 50309
mking@pattersonfirm.com

JLW/sam

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.