STATE OF ILLINOIS)
) SS
COUNTY OF PEORIA)

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

TAMMY WILLIAMS,	)	
	)	
Petitioner,	)	
	)	
vs.	)	19 IWCC 0287
	)	12 WC 041030
PEORIA PUBLIC SCHOOL DISTRICT 150,	)	
	)	
Respondent.	)	

ORDER

This matter comes before the Commission on Respondent's Petition to Recall the Commission Order to Correct Clerical Error pursuant to Section 19(f) of the Act. The Commission having been fully advised in the premises finds the following:

The Commission finds that said Order should be recalled for the correction of a clerical/computational error.

IT IS THEREFORE ORDERED BY THE COMMISSION that the Commission Order dated June 11, 2019, is hereby recalled pursuant to Section 19(f) of the Act. The parties should return their original decisions to Commissioner Deborah L. Simpson.

IT IS FURTHER ORDERED BY THE COMMISSION that a Corrected Decision shall be issued simultaneously with this Order.

Deborah L. Simpson

Deborah L. Simpson

DATED: JUL 29 2019
DLS/mav
046

STATE OF ILLINOIS)
) SS.
COUNTY OF PEORIA)

☐ Affirm and adopt (no changes)	☐ Injured Workers' Benefit Fund (§4(d))
☐ Affirm with changes	☐ Rate Adjustment Fund (§8(g))
☐ Reverse	☐ Second Injury Fund (§8(e)18)
	☐ PTD/Fatal denied
☒ Modify Down	☒ None of the above

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

TAMMY WILLIAMS,

Petitioner,

vs. NO: 19 IWCC 0287
12 WC 041030

PEORIA PUBLIC SCHOOL DISTRICT 150,

Respondent.

CORRECTED DECISION AND OPINION ON REVIEW

Timely Petitions for Review having been filed by Respondent and Petitioner herein and notice given to all parties, the Commission, after considering the issues of temporary total disability, temporary total disability rate, medical expenses, and permanent disability and being advised of the facts and law, modifies the Decision of the Arbitrator as stated below and otherwise affirms and adopts the Decision of the Arbitrator, which is attached hereto and made a part hereof.

The Decision of the Arbitrator is modified only with respect to the temporary total disability rate and to the extent Petitioner is permanently disabled. The Decision of the Arbitrator is otherwise affirmed and adopted.

The Commission finds the Arbitrator erroneously determined Petitioner's temporary total disability rate exceeded the maximum temporary total disability rate that was in force as of the date of the accident, declaring Petitioner's temporary total disability rate to be $946.06 per week.

The parties stipulated Petitioner's average weekly wage was $1,602.10. Applying the formula as stipulated in Section 8(b) of the Act, Petitioner's temporary total disability rate is two-thirds of her average weekly wage, $1,068.10 per week. The maximum temporary total disability rate, as of the date of the accident, was $1,261.41 per week. Given that Petitioner's temporary total disability rate of $1,068.10 per week was less than the maximum temporary total disability rate, the Arbitrator should have found Petitioner's temporary total disability rate to be

$1,068.10 per week, not $946.06 per week. The Commission modifies the Decision of the Arbitrator accordingly.

The Commission further modifies the Decision of the Arbitrator with respect to permanent disability. The Commission agrees with the Arbitrator's analysis under Section 8.1(b) of the Act except the Commission concludes Petitioner's permanent disability to be slightly less impairing than did the Arbitrator and, therefore, finds Petitioner sustained a 35% loss of the right leg.

IT IS THEREFORE ORDERED BY THE COMMISSION that Respondent pay to Petitioner the sum of $1,068.10 per week for a period of 12-1/7weeks, that being the period of temporary total incapacity for work under §8(b) of the Act.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner the sum of $695.78 per week for a period of 75.25 weeks, as provided in §8(e) of the Act, for the reason that the injuries sustained caused the 35% loss of use of the right leg.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner the sum of $168,439.75 pursuant to the medical fee schedule or a PPO agreement, whichever is less as provided in §8(a) and §8.2 of the Act.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner interest under §19(n) of the Act, if any.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall have credit for all amounts paid, if any, to or on behalf of Petitioner on account of said accidental injury.

No county, city, town, township, incorporated village, school district, body politic or municipal corporation is required to file a bond to secure the payment of the award and the costs of the proceedings in the court to authorize the court to issue such summons. *820 ILCS 305/19(f)(2)*. Based upon the named Respondent herein, no bond is set by the Commission. The party commencing the proceedings for review in the Circuit Court shall file with the Commission a Notice of Intent to File for Review in Circuit Court.

DATED: JUL 29 2019
DLS/mav
O:04/09/19
46

Deborah L. Simpson

Deborah L. Simpson

Thomas J. Tyrrell

Thomas J. Tyrrell

Maria Elena Portela

Maria E. Portela

ILLINOIS WORKERS' COMPENSATION COMMISSION
NOTICE OF ARBITRATOR DECISION

WILLIAMS, TAMMY J
Employee/Petitioner

Case# **12WC041030**

PEORIA PUBLIC SCHOOL DISTRICT 150
Employer/Respondent

19IWCC0287

On 8/27/2018, an arbitration decision on this case was filed with the Illinois Workers' Compensation Commission in Chicago, a copy of which is enclosed.

If the Commission reviews this award, interest of 2.18% shall accrue from the date listed above to the day before the date of payment; however, if an employee's appeal results in either no change or a decrease in this award, interest shall not accrue.

A copy of this decision is mailed to the following parties:

1618 BENASSI & BENASSI PC
A LOU BENASSI
300 N E PERRY AVE
PEORIA, IL 61603

5354 STEPHEN P KELLY
ATTORNEY AT LAW
2710 N KNOXVILLE AVE
PEORIA, IL 61604

19IWCC0287

STATE OF ILLINOIS)
)SS.
COUNTY OF **Peoria**)

- [ ] Injured Workers' Benefit Fund (§4(d))
- [ ] Rate Adjustment Fund (§8(g))
- [ ] Second Injury Fund (§8(e)18)
- [x] None of the above

ILLINOIS WORKERS' COMPENSATION COMMISSION
ARBITRATION DECISION

Tammy J. Williams
Employee/Petitioner

v.

Peoria Public School District 150
Employer/Respondent

Case # **12** WC **41030**

Consolidated cases: _____

An *Application for Adjustment of Claim* was filed in this matter, and a *Notice of Hearing* was mailed to each party. The matter was heard by the Honorable **Douglas McCarthy**, Arbitrator of the Commission, in the city of **Peoria**, on **7/25/18**. After reviewing all of the evidence presented, the Arbitrator hereby makes findings on the disputed issues checked below, and attaches those findings to this document.

DISPUTED ISSUES

A. [ ] Was Respondent operating under and subject to the Illinois Workers' Compensation or Occupational Diseases Act?
B. [ ] Was there an employee-employer relationship?
C. [ ] Did an accident occur that arose out of and in the course of Petitioner's employment by Respondent?
D. [ ] What was the date of the accident?
E. [ ] Was timely notice of the accident given to Respondent?
F. [x] Is Petitioner's current condition of ill-being causally related to the injury?
G. [ ] What were Petitioner's earnings?
H. [ ] What was Petitioner's age at the time of the accident?
I. [ ] What was Petitioner's marital status at the time of the accident?
J. [x] Were the medical services that were provided to Petitioner reasonable and necessary? Has Respondent paid all appropriate charges for all reasonable and necessary medical services?
K. [x] What temporary benefits are in dispute?
[ ] TPD [ ] Maintenance [x] TTD
L. [x] What is the nature and extent of the injury?
M. [ ] Should penalties or fees be imposed upon Respondent?
N. [ ] Is Respondent due any credit?
O. [ ] Other _____

FINDINGS

On **10/12/11**, Respondent ***was*** operating under and subject to the provisions of the Act.

On this date, an employee-employer relationship ***did*** exist between Petitioner and Respondent.

On this date, Petitioner ***did*** sustain an accident that arose out of and in the course of employment.

Timely notice of this accident ***was*** given to Respondent.

Petitioner's current condition of ill-being ***is*** causally related to the accident.

In the year preceding the injury, Petitioner earned $**64,084.04**; the average weekly wage was $**1,602.10**.

On the date of accident, Petitioner was **52** years of age, ***single*** with **0** dependent children.

Petitioner ***has*** received all reasonable and necessary medical services.

Respondent ***has not*** paid all appropriate charges for all reasonable and necessary medical services.

Respondent is entitled to a credit of any benefits paid through group under Section 8(j) of the Act.

ORDER

Respondent shall pay reasonable and necessary medical services of **$168,439.75** pursuant to the medical fee schedule or a PPO agreement, whichever is less, as provided in Sections 8(a) and 8.2 of the Act and shown in Petitioner's Exhibit 15, Bates 569, 588-604, 609-617, and 619-626.

Respondent shall be given credit for medical benefits that have been paid through its group carrier and Respondent shall hold Petitioner harmless from any claims by any providers of the services for which Respondent is receiving this credit as provided in Section 8(j) of the Act.

Respondent shall pay Petitioner temporary total benefits of $946.06 (SAWW) per week for 12-1/7 weeks for the period of **May 20, 2014 to August 13, 2014**, for a total of **$11,487.87** as provided in Section 8(b) of the Act.

The arbitrator finds Petitioner was partially disabled to the extent of **40% of her right leg.**

Rules Regarding Appeals Unless a party files a *Petition for Review* within 30 days after receipt of this decision, and perfects a review in accordance with the Act and Rules, then this decision shall be entered as the decision of the Commission.

Statement of Interest Rate If the Commission reviews this award, interest at the rate set forth on the *Notice of Decision of Arbitrator* shall accrue from the date listed below to the day before the date of payment; however, if an employee's appeal results in either no change or a decrease in this award, interest shall not accrue.

D. Douglas McCarty

Signature of Arbitrator

Aug. 22, 2018
Date

ICArbDec p. 2

AUG 27 2018

Findings Of Fact

The Petitioner was a 52-year-old teacher who taught mentally and physically disabled children. In June of 2011 she had undergone a right knee replacement. She had previously been diagnosed with fibromyalgia and low back pain, for which she had undergone the implantation of a spinal stimulator.

On October 12, 2011, Petitioner was standing outside her classroom when one student pushed a second student who impacted with the left rear shoulder of the Petitioner. The Petitioner testified that the impact drove her body twisting around her right knee (Arb. Tr. 26). She heard a pop and felt instant severe pain in her right knee, which was worse in the back of her right knee. It felt like someone was stabbing her in the back of the right knee with a knife. As she started to fall to the floor, a man in the area caught her and prevented her from hitting the floor. She had such severe pain in her right knee afterwards that she could not stand on her right leg. The Petitioner testified that someone brought a chair with wheels on it and they wheeled her out to the principal's car (Arb. Tr. 27). The principal then drove her to IWIRC.

The Petitioner testified that the IWIRC doctor looked over her swollen right knee and said it looked like a sprain. He restricted Petitioner to sedentary duty and instructed her to elevate the knee, ice it up to 4 times a day, and take two different kinds of medication (Arb. Tr. 27-28).

The Petitioner testified that in addition to injuring her right knee, the twisting accident caused her fibromyalgia to flare up (Arb. Tr. 30).

The Petitioner went to see Dr. Gibbons on October 17, 2011 and explained the accident to him and told him she was having severe pain in the lateral part of her right knee. Dr. Gibbons noted the swelling in her right knee, the tenderness across her right knee, and the tenderness in the anterior portion of her right knee. He diagnosed her with having a right knee sprain and directed her to remain off work until further notice. Dr. Gibbons referred Petitioner to Midwest Orthopaedics for physical therapy, which she underwent for approximately 10 months (Pet. Ex. 3, Bates 131). In addition to sending her to physical therapy, Petitioner testified that Dr. Gibbons ordered various tests to determine the reason for her severe right knee pain (Arb. Tr. 30).

The Petitioner testified that her fibromyalgia pain did not subside and she went to see Dr. Hanna (Arb. Tr. 30). When she saw Dr. Hanna, she complained of pain in her neck, right shoulder, low back and right knee. Dr. Hanna noted that her right knee was swollen and very painful and that additionally, she was suffering from a fibromyalgia flare-up, low back pain, neck pain, and shoulder pain. He directed that she continue with physical therapy and he injected the upper cervical and right shoulder area with multiple trigger point injections (Pet. Ex. 4, Bates 166-168).

The Petitioner treated with Dr. Gibbons for the 10-month period after the accident. He prescribed and she underwent multiple conservative treatment modalities, and he kept Petitioner off work (Pet. Ex. 3).

Petitioner testified that if she was on her feet moving around, the pain in her knee would increase substantially (Arb. Tr. 31). She used a walker extensively in her home and if she had to go

outside of her home, she used a cane or a walker. To get relief from her right knee pain, she had to sit and not move; however, the more she sat, the more her fibromyalgia flared up. The fibromyalgia was helped by activity and because she couldn't walk or move to any great extent without severe right knee pain, the fibromyalgia was very active and painful.

On March 21, 2012, the Respondent sent Petitioner to Springfield to see Dr. Ronald Romanelli for an IME opinion. Dr. Romanelli opined that the twisting injury to her right knee may have torn the posterior cruciate ligament and caused some post-lateral looseness in her right knee. He found this by putting her right knee into various positions and determining that there was an instability in her right knee. He also opined that it was pertinent that she had fibromyalgia, as this was probably contributing to the level of her pain, and he further opined that the fact she had a spinal cord stimulator and history of sciatic issues were all probably related to the amount of pain she was undergoing and the persistent discomfort in her right leg. In his IME, he provided suggestions for Dr. Gibbons to follow up on [Res. Ex. 2 (Dr. Romanelli Deposition Exhibit 2)].

Petitioner testified that she personally gave Dr. Gibbons the IME report from Dr. Romanelli and that he glanced through it and said he did not agree with Dr. Romanelli's suggestions as to the looseness and instability of her right knee and treatment options he could perform (Arb. Tr. 34). He did state that he agreed with Dr. Romanelli that her fibromyalgia could be a significant contributing factor (Pet. Ex. 3, Bates 93).

On May 16, 2012, Respondent sent Petitioner for another IME with Dr. Scott Sporer at Midwest Orthopedics at Rush. Dr. Sporer, after examining the medical records, examining the Petitioner, and Petitioner explaining how she suffered a twisting injury at school when she was struck by a student, opined that in his opinion the majority of her symptoms were related to insertional hamstring tendonitis. He recommended that she undergo continuing physical therapy (Res. Ex. 7).

Petitioner testified that her knee remained painful and she sold her home because she had to go up and down stairs to do laundry and up and down stairs to take the dogs out at her home (Arb. Tr. 45).

The Petitioner testified that after months of conservative treatment, the pain in her right knee and her fibromyalgia pain were reduced but neither ever went away and each flared up with any activity (Arb. Tr. 32). She requested of Dr. Gibbons that he release her from his care and allow her to return to work because nothing was providing her with permanent relief and she needed the additional income of her full salary. Dr. Gibbons released Petitioner from his care and allowed Petitioner to return to full duties for the 2012/2013 school year beginning in August of 2012 (Pet. Ex. 3, Bates 82).

Petitioner testified that at no point during the period from October 12, 2011 until she returned to work as a teacher in August of 2012 did she ever have a period of being pain-free in her right knee and from her fibromyalgia, but that the pain would decrease depending upon her activities during that period (Arb. Tr. 31-32).

Petitioner testified that she returned to her employment as a teacher in August of 2012. She testified that when she went back to work as a teacher, she was required to be up and down and walk a great deal. This caused her right knee to begin to swell again and the pain level in her right knee to go up significantly (Arb. Tr. 35-36).

Petitioner testified that at that time she decided to seek another opinion from an orthopedic surgeon and went to see Dr. Piero Capecci at Great Plains Orthopedics (Arb. Tr. 34-35). Petitioner first saw Dr. Capecci on October 10, 2012 (Pet. Ex. 5, Bates 279-281). At the October 10, 2012 appointment, she explained to Dr. Capecci that she had had a total right knee replacement in June of 2011 but had injured her right knee and back when she was struck from behind by a student and twisted her right knee. He noted she had a fluid collection on the back side of her right knee that needed to be explored to determine its origin. In addition, he recommended that she undergo a CT scan and be referred to a spine specialist for an evaluation to first rule out a herniated disc (Pet. Ex. 5, Bates 279-281).

Shortly after Petitioner saw Dr. Capecci for her right knee, she was involved in another work incident where she fell into a crate on October 15, 2012. This incident and her injuries are described more fully in the opinion filed for that accident (12 WC 41031).

In order to find the reason for Petitioner's right knee pain, Dr. Capecci began referring Petitioner to other specialists to rule out other potential causes for the right knee pain. Dr. Capecci referred the Petitioner to Dr. Jianxun Zhou for an evaluation of her low back pain and whether or not that was contributing to her right knee pain. Dr. Zhou noted the Petitioner had increased back and right knee pain after a work-related injury where she twisted her knee one year before. Dr. Zhou recommended additional outpatient physical therapy and Petitioner was restricted to no running or jumping activities. He began a trial period of Gabapentin and told her to return if her symptoms persisted (Pet. Ex. 7, Bates 453-457).

At a later point, Dr. Zhou saw Petitioner for a follow up of her back pain and referred the Petitioner to see Dr. Daniel Fassett to see if he had any other suggestions for her back pain (Pet. Ex. 7, Bates 461-462).

On December 26, 2012, Petitioner saw Dr. Capecci and he noted that her right leg was buckling on her and she felt weak. He noted a palpable fluid collection on the back of her right knee (Pet. Ex. 5, Bates 273).

The Petitioner saw Dr. Daniel Fassett on January 17, 2013. She described the injury where she was struck by a student in October of 2011 and explained that she had injured her right knee and that she had developed severe pain in her low back and her right leg. Dr. Fassett noted that Petitioner was in obvious distress due to her pain. He further noted that she had motor deficits in her right leg in dorsiflexion, knee flexion, knee extension, and hip flexion. He recommended that she undergo an EMG study of her right leg to better differentiate the source of her right leg pain and weakness (Pet. Ex. 8, Bates 475-476).

Petitioner began physical therapy at IPMR, which continued for approximately six weeks thereafter (Pet. Ex. 9).

Dr. Capecci also referred Petitioner to the Illinois Regional Pain Institute where she saw Dr. Glen Feather and again described the accident of October 2011 where she twisted her right knee and the problems it was causing to her right knee and low back. She told him the pain was worse in the posterior of right knee and the right knee pain was present every day but it varied in intensity depending on the time of the day. Dr. Feather opined that Petitioner may have injured the tendon or some other type of ligament in the right knee. He recommended that she increase her Gabapentin and that she talk to the neurosurgeon about possible surgical options and consider turning her spinal stimulator back on to see if that helped (Pet. Ex. 10).

Petitioner testified that she continued to see Dr. Capecci for her right knee pain and Dr. Hicok for her chronic pain syndrome. Dr. Capecci referred Petitioner to Dr. Tracy at INI to have her dorsal column stimulator removed (Arb. Tr. 43).

Petitioner saw Dr. Tracy on June 13, 2013 to set up the removal of the spinal stimulator because she wanted to have an MRI done and the doctor would not do an MRI as long as she had the spinal stimulator in her back (Pet. Ex. 8, Bates 482-485). Dr. Tracy removed the spinal stimulator on June 17, 2013 (Pet. Ex. 8, Bates 482).

The Petitioner testified that the statement in the medical records of INI for June 13, 2013, that she was involved in a motor vehicle accident, was totally incorrect and she does not understand where that came from (Arb. Tr. 84). She testified she was not involved in a motor vehicle accident (Arb. Tr. 85). The arbitrator notes that this reference to a motor vehicle accident does not appear in any other medical records provided by Petitioner or Respondent. Respondent has introduced no evidence to contradict Petitioner's sworn testimony other than the reference in Dr. Tracy's notes. Petitioner was referred to Dr. Tracy for the purpose of the removal of her DCS so she could have an MRI done. The arbitrator finds the Petitioner to be creditable in her denial of being in a motor vehicle accident.

On June 28, 2013, an MRI was done of Petitioner's right knee, but the exam was limited because of the metallic artifact from the Petitioner's total knee prosthesis (Pet. Ex. 5, Bates 330).

On July 26, 2013, Dr. Capecci noted that the MRI had been of limited use because of the metal artifact in her knee and further noted that she had a soft tissue mass posterolaterally that was yet to be identified (Pet. Ex. 5, Bates 259).

Respondent sent Petitioner to Dr. Ronald Romanelli for a second IME on September 28, 2013. After examining the records and the Petitioner a second time, he opined that the incident where Petitioner fell into the crate on October 10, 2012 did not aggravate or exacerbate anything regarding her right knee (Res. Ex. 2, pp. 40-41). He further opined that she probably strained her low back when this incident occurred. Petitioner noted to Dr. Romanelli at the time of the IME that she had a giving away sensation in her right knee and that she did not feel her right knee was stable. She noted to him that she could only walk on level ground and that any type of twisting aggravated her condition with her right knee. After examining her right knee, he noted that there was instability in her right knee at complete extension as well as at 30 degrees flexion. He further noted that her lateral joint line gapped during the test and that this laxity was more than one

~~would expect and that it was uncommon and something he had never seen before [Res. Ex. 2~~ (Dr. Romanelli Deposition Exhibit 3)].

In his deposition, Dr. Romanelli opined that if the Petitioner did not miss a lot of work prior to October 12, 2011, but missed a significant amount of work after that date, then in his opinion the tearing of the ligaments in the back of her right knee had happened on October 12, 2011 (Res. Ex. 2, p. 47). Petitioner testified that she missed 2 days' work after having to climb the stairs multiple times a day when she returned to work after her first right knee replacement (Arb. Tr. 25), and 10 months' work after the October 12, 2011 twisting accident where she twisted her right knee (Arb. Tr. 29).

Dr. Romanelli opined in his deposition that if the cruciate ligament had gotten stretched or torn in the work injury where she twisted her right knee, then Petitioner would need a revision and he believes that is what happened in this case. He further opined that Petitioner had a total right knee instability that required a revision (Res. Ex. 2, pp. 25 and 29).

Dr. Capecci noted in his records that he spoke to Dr. Romanelli on September 25, 2013. At that point, according to Dr. Capecci's records, Dr. Romanelli told Dr. Capecci that there could be a posterolateral corner tear of the ligament and that this could be the result of the trauma she sustained when she was struck by the student. Dr. Capecci noted that both he and Dr. Romanelli agreed that bracing would be beneficial to the Petitioner to see how she responded to the bracing before any further surgery was considered (Pet. Ex. 5, Bates 253).

Petitioner testified that Dr. Capecci ordered a new brace for her, which was very beneficial for her, and that wearing the brace dramatically reduced the pain she was having in her right knee (Arb. Tr. 46).

Dr. Capecci noted when he saw the Petitioner on February 12, 2014, that the brace was helping but she still had knee pain that was the result of lateral ligamentous insufficiency and that this was caused by the injury she sustained at work after she had had an initial right knee replacement (Pet. Ex. 5, Bates 248-249).

On May 20, 2014, Dr. Capecci replaced the Petitioner's right artificial knee. He noted in the surgical records, "there was noted to be gross instability both anteriorly and posteriorly due to posterior cruciate insufficiency as well as mediolateral instability in flexion and extension" (Pet. Ex. 5, Bates 287). Dr. Capecci opined that Petitioner was doing very well with her original right knee replacement until she had the injury at work, which ultimately led to her right knee being revised (Pet. Ex. 5, Bates 243).

Petitioner testified that the pain level in her right knee went down dramatically after the second knee replacement (Arb. Tr. 49) and that after her right knee replacement on May 20, 2014, she was off work for part of May, June, July, and part of August. She testified she was not paid workers' compensation for this period (Arb. Tr. 47).

Dr. Capecci referred Petitioner to physical therapy which she attended from June 9, 2014 to July 3, 2014 (Pet. Ex. 5, Bates 388-406).

Dr. Capecci released Petitioner to return to work on August 13, 2014 (Pet. Ex. 5, Bates 237).

Petitioner testified that after a period of time, she developed a clicking in her right knee (Arb. Tr. 51). Dr. Capecci did a right knee arthroscopy on December 30, 2014 (Pet. Ex. 5, Bates 289 - 290). Petitioner testified that the arthroscopic surgery alleviated the clicking (Arb. Tr. 51).

Dr. Capecci released Petitioner to return to work following the arthroscopic surgery on January 12, 2015 with restrictions (Pet. Ex. 5, Bates 296).

On August 26, 2015, Dr. Romanelli wrote a report based upon a review of his previous IMEs and additional records provided to him by the Respondent. He opined that Petitioner was doing well with the June, 2011 right knee replacement done by Dr. Gibbons until the accident which aggravated the right knee replacement [Res. Ex. 2 (Romanelli Deposition Exhibit 4)].

He opined to a reasonable degree of medical certainty that the Petitioner developed right knee instability from the accident where she was struck by a student and twisted her right knee which required revision arthroplasty from Dr. Capecci on May 20, 2014. [Res. Ex. 2 (Romanelli Deposition Exhibit 4)].

He further opined that Petitioner's right knee replacement by Dr. Capecci should correct the problem that he diagnosed in Petitioner in March 2012 [Res. Ex. 2 (Romanelli Deposition Exhibit 4)]. In his March 21, 2012 IME letter, Dr. Romanelli noted Petitioner stated her right knee injury occurred when she was at school when she was bumped by a student causing her to fall and twist her right knee.

Respondent also sent the Petitioner to Dr. O'Leary, an orthopedic specialist, for a Section 12 examination on September 18, 2014. The doctor testified by way of deposition, and his opinions were limited to the Petitioner's lower back and fibromyalgia conditions. (RX 1) He opined that the accident could have aggravated her conditions. (Id at 36) He said that the injuries could have caused temporary low back pain. (Id at 24, 25)

Petitioner testified that the pain level in her knee was down, but she could not walk or swim as far as she could before the injury and had to be careful going down stairs (Arb. Tr. 61). She also said that her lower back and fibromyalgia conditions were stable.

Conclusions

In support of the arbitrator's decision relating to F, "is Petitioner's current condition of ill being causally related to the injury," the arbitrator finds and concludes as follows:

> The Petitioner testified that she had gone back to baseline with regards to the pain in her knee, the flare-up of her fibromyalgia, and her back pain and was doing well. On October 12, 2011, she was struck on the left rear by a student which caused her to twist around her right knee (Arb. Tr. 74). This caused her right knee

to become very painful, swollen, and difficult for the Petitioner to walk. She had the surgery to replace her right knee on May 20, 2014. The arbitrator finds that the Petitioner's injury sustained to her right knee necessitated the right knee replacement she underwent on May 20, 2014 and the subsequent arthroscopic repair to her right knee which was done on December 30, 2014. The Petitioner testified that even after replacement of her right knee and the arthroscopic surgery to her right knee, she still cannot walk as far as she did before the injury, she cannot swim as far as she did before the injury, and she has to be careful going up and down stairs. She testified that her knee is much better since the revision and arthroscopic surgery, but it is not the same as it was before the injury (Arb. Tr. 94-95). With respect to the lower back and fibromyalgia, the Arbitrator relies upon the opinions of Dr. O'Leary, findings the accident caused a temporary aggravation of those conditions.

In support of the arbitrator's decision relating to J, "were the medical services that were provided to Petitioner reasonable and necessary," the arbitrator finds and concludes as follows:

> Based on the foregoing findings of fact, the arbitrator finds that the medical services that were provided to Petitioner were reasonable and necessary to treat Petitioner for the injuries she received on October 12, 2011 and the subsequent issues arising therefrom.

In support of the arbitrator's decision relating to J, "has Respondent paid all appropriate charges for all reasonable and necessary medical services," the arbitrator finds and concludes as follows:

> Based on the foregoing findings of fact and the exhibits provided by Petitioner, the arbitrator finds that Respondent has not paid all appropriate charges for all reasonable and necessary medical services. The Petitioner incurred $168,439.75 in charges for reasonable and necessary medical services after Respondent stopped paying the charges for Petitioner in August of 2012. Of the $168,439.75, $3,192.00 remains outstanding, and Petitioner has paid $3,145.88.
>
> The Respondent shall pay reasonable and necessary medical services of $168,439.75 pursuant to the medical fee schedule or PPO agreement, whichever is less, as provided in Sections 8(a) and 8.2 of the Act and shown in Pet. Ex. 15, Bates 569, 588-604, 609-617, and 619-626. Of the $168,439.75, Respondent shall pay directly to Petitioner $3,145.88.
>
> Respondent should be given a credit of $86,052.38 for medical benefits that have been paid and Respondent shall hold Petitioner harmless from any claims by any providers of services for which Respondent is receiving this credit as provided in Section 8(j) of the Act.
>
> The outstanding medical is as follows:
>
> IPMR $2,550.00

OSFMG, INI	204.00
OSFMG, INI	124.00
OSFMG, INI	314.00
	$3,192.00

In support of the arbitrator's decision relating to K, "what temporary benefits are in dispute, TTD," the Arbitrator finds and concludes as follows:

> Based upon the evidence presented and the foregoing findings of fact, the arbitrator finds the Respondent shall pay Petitioner temporary total benefits of $946.06 (SAWW) per week for 12-1/7 weeks for the period of May 20, 2014 to August 13, 2014, for a total of $11,487.87 as provided in Section 8(b) of the Act.
>
> Based upon the evidence presented, the arbitrator finds Petitioner underwent surgery on May 20, 2014 for a total right knee replacement which the Arbitrator previously found was causally related to the October 12, 2011 accident. Petitioner was not released to return to work until August 13, 2014 for a total of 12-1/7 weeks of lost time.

Pursuant to the Rules of the Commission and the Illinois Civil Practice Act, the arbitrator amends the Arbitrator's Exhibit 2 to conform to the evidence presented. Arbitrator's Exhibit 2 shall be modified to show a lost time of 12-1/7 weeks and Arbitrator's Exhibit 2 shall further be modified to show Respondent disputes same (see *Bartosik v. Home Depot, 8 IWCC 1411).*

In support of the arbitrator's decision relating to L, "what is the nature and extent of the injury," the arbitrator finds and concludes as follows:

> Based upon the evidence presented and the foregoing findings of fact, the arbitrator finds that the Petitioner underwent a total knee replacement and arthroscopic surgery to her right knee.
>
> No AMA report was offered into evidence, so the Arbitrator deems the parties to have waived consideration of that factor.
>
> The Petitioner does have a physical job in that she teaches learning and emotionally disabled students. She was 52 years old at the time of her accident, so the Arbitrator places moderate weight on those factors. There was no showing of any future wage loss.
>
> Dr. Capecci told the Petitioner on September 9, 2015 that she should permanent restrict herself from some of the offending activities that she encountered on her job. (PX 5 at 214) Dr. Romanelli testified on February 17, 2016 that she should permanent restrict herself from running, stooping or squatting, as well as limiting her lifting from 50 to 100 pounds. He said that she could do medium level but not heavy duty work. (RX 2 at 48) Both doctors based their opinions on her examination findings after her final knee surgery of December 17, 2014.

Based upon the above, the Arbitrator finds the Petitioner to have sustained permanency to the extent of 40 % of the right leg.