

**Commonwealth of Kentucky
Workers' Compensation Board**

OPINION ENTERED: December 30, 2019

CLAIM NOs. 201801234 & 201575931

PAUL BLEVINS

PETITIONER

VS.

**APPEAL FROM HON. STEPHANIE L. KINNEY,
ADMINISTRATIVE LAW JUDGE**

REYNOLDS;
AND HON. STEPHANIE L. KINNEY,
ADMINISTRATIVE LAW JUDGE

RESPONDENTS

**OPINION
AFFIRMING IN PART, REVERSING IN PART,
AND REMANDING**

* * * * *

BEFORE: ALVEY, Chairman, STIVERS and RECHTER, Members.

RECHTER, Member. Paul Blevins appeals from the June 13, 2019 Opinion, Award and Order, and the July 8, 2019 Orders on Reconsideration rendered by Hon. Stephanie L. Kinney, Administrative Law Judge (“ALJ”). The ALJ awarded Blevins temporary total disability (“TTD”), permanent partial disability (“PPD”), and medical benefits for left elbow and low back injuries. On appeal, Blevins argues

the ALJ erred in concluding he is not permanently totally disabled, in her selection of impairment ratings, in limiting benefits pursuant to KRS 342.730(4), and in awarding a credit for benefits paid pursuant to KRS 342.730(1). For the reasons set forth herein, we affirm in part, reverse in part and remand.

Blevins alleged a work-related injury to his neck, upper back, left hand/fingers, left elbow, and left upper extremity occurring on June 7, 2015. He filed a second claim on August 20, 2018, alleging a low back injury occurring on August 15, 2017. At the time of both injuries, he was working as a machinist at Reynolds.

Blevins has a 12th grade education. His employment history consists of work as an order picker, emergency room technician, cabinet installer, saw operator, assembler, union employee, and millwright. He began working for Reynolds on January 17, 2007 as a machinist. His job duties include operating lathes, mills, grinders, relocating equipment, rigging, and working with sheet metal. The position requires frequent heavy lifting up to 100 pounds, and frequent pushing and pulling.

On June 7, 2015, Blevins was repairing a case packer when he slipped. He grabbed a rail with his left arm and hung on until he could get on his feet. He initially treated with Healthworks before being referred to Kleinert Kutz and Associates, where he treated with Dr. Michelle Palazzo. Dr. Palazzo had previously performed left carpal and cubital tunnel release procedures on Blevins in 2009. After the 2009 surgery, Blevins returned to work with no restrictions and required no further treatment.

Following the 2015 work incident, Dr. Palazzo determined Blevins had injured his ulnar nerve. A July 15, 2015 EMG showed moderate left ulnar neuropathy which had not been present in 2009. Additionally, Blevins was also referred to pain management for two thoracic facet injections, the second of which was unsuccessful.

Dr. Michael Moskal performed an independent medical evaluation (“IME”) on March 21, 2016. Dr. Moskal diagnosed posterior cord brachial plexus stretch nerve injury. He stated Blevins sustained an acute proximal neurological injury secondary to the work event. However, disagreeing with Dr. Palazzo’s opinion, Dr. Moskal opined the work event did not cause, aggravate, or exacerbate peripheral ulnar nerve function. Instead, he causally related the left elbow/arm complaints to residual ulnar nerve dysfunction, which did not improve after the 2009 surgery. He recommended a repeat neurophysiological evaluation.

In an April 29, 2016 addendum report, Dr. Moskal indicated he reviewed additional records, including neurological testing conducted April 15, 2016. Dr. Moskal diagnosed peripheral neuropathy with chronic dysfunction of the cervical and peripheral nerves. Again, Dr. Moskal opined, “The chronic cervical and peripheral nerve dysfunction was not caused, aggravated or exacerbated by the June 7, 2015 work event.” Instead, he believed the work event may have resulted in an isolated posterior cord plexus injury. Dr. Moskal felt Blevins could return to work without restrictions. He assessed a 3% whole person impairment, pursuant to the American Medical Association Guides to the Evaluation of Permanent Impairment, 5th Edition (“AMA Guides”).

Dr. Jules Barefoot conducted an IME on September 7, 2016. He diagnosed left lower trunk brachial plexopathy; left ulnar nerve neuropathy, symptomatic; and bilateral median nerve neuropathy, asymptomatic. Dr. Barefoot opined Blevins is not able to operate machinery with the left arm or hand or safely work on ladders or scaffolding, and would have difficulty doing fine and gross manipulative activities with the left hand. He noted Blevins needs ongoing treatment for this condition, including a surgical procedure proposed by Dr. Palazzo. Dr. Barefoot assessed a 23% impairment rating pursuant to the AMA Guides related entirely to the June 7, 2015 work event.

Dr. Palazzo performed left cubital tunnel release and exploration of the left ulnar nerve on January 25, 2017. Blevins was off work through May 25, 2017, when he returned to full duty. In a May 22, 2017 addendum report, Dr. Barefoot stated the surgical procedure was reasonable, necessary and related to the June 7, 2015 work event. In concluding Blevins' current condition is work-related, Dr. Barefoot noted Blevins experienced no symptoms requiring treatment of the left upper extremity after the surgery in 2009 until the alleged work injury. Dr. Barefoot opined the preexisting left upper extremity condition was dormant and asymptomatic at the time of the June 7, 2015 work event, and was aroused into its current symptomatic disabling reality by the alleged workplace injury.

Dr. Moskal performed an additional IME on April 9, 2018, to again assess Blevins' left elbow and ulnar nerve condition. Dr. Moskal diagnosed active diabetic sensorimotor polyneuropathy. He assigned a 1% impairment rating for pain attributable to the 2015 injury pursuant to the AMA Guides. Dr. Moskal criticized

Dr. Barefoot, noting he did not follow the AMA Guides in assessing impairment. Dr. Moskal opined Blevins sustained an isolated brachial plexus stretch without any other injury, which had recovered completely and required no restrictions.

In June 2017, Blevins underwent unrelated cervical spine surgery by Dr. John E. Harpring. His diagnosis was cervical spondylosis with myelopathy and radiculopathy. He was off work until August 1, 2017, when he returned to full duty work. About two weeks after his return to work, Blevins was lying on his back to replace a motor. This involved reaching with his upper extremities for approximately 45 minutes to perform repairs. When he stood up, his low back and left leg were numb.

Blevins returned to Dr. Harpring and Amy Crush, APRN of Norton Healthcare following the work incident. On February 8, 2018, Dr. Harpring stated Blevins' primary condition is severe low back pain and bilateral lower extremity leg pain, weakness and numbness secondary to lumbar degeneration and stenosis. Dr. Harpring assigned restrictions of no lifting greater than ten or fifteen pounds, no repetitive lifting, and no bending, stooping, climbing or crawling. After an August 9, 2019 visit, Dr. Harpring stated Blevins could return to work with restrictions of no lifting over 10 pounds, no bending, no prolonged standing, and the use of a cane.

Dr. Barefoot evaluated Blevins again on November 29, 2018 following the 2017 work incident. Dr. Barefoot diagnosed ongoing lumbar radiculopathy. He directed Blevins to use a cane for balance and support while standing and walking. He also restricted Blevins from squatting, crawling, climbing, or crouching. Dr. Barefoot stated Blevins should not lift or carry more than five pounds. He assigned a

20% impairment rating pursuant to the AMA Guides for lumbar pain and gait derangement. He also opined Blevins had no active, impairment ratable condition in his lumbar spine prior to the work injury. Dr. Barefoot recommended pain management treatment and noted Blevins may require surgery for his ongoing symptomatology. Dr. Barefoot stated Blevins is presently unable to work.

In a December 21, 2018 supplemental report, Dr. Barefoot stated Blevins likely would not be able to find and maintain employment on a sustained and indefinite basis based upon his age, education, and vocational history. He opined Blevins is totally occupationally disabled, even if given accommodations.

Dr. Robert F. Sexton performed IMEs on November 20, 2018 and November 29, 2018. He diagnosed status post ACDF at C3-5, status post left ulnar nerve transposition, multilevel degenerative disc disease with loss of disc height at L3-L5, multiple level osteophyte formation, multilevel facet joint arthropathy, and multilevel spinal and foraminal stenosis. Dr. Sexton attributed the cause of these diagnoses to co-morbid conditions of diabetes mellitus, morbid exogenous obesity, and degenerative lumbar spondylosis with retrolisthesis L5-S1 to an age-inappropriate degree. Dr. Sexton did not believe Blevins sustained a work injury to his low back on August 15, 2017. Dr. Sexton noted there was no specific injury on that date and Blevins had been taking medication for back pain for two years prior to the alleged injury date. Further, Blevins' lumbar MRI revealed multi-levels of chronic lumbar degenerative spondylosis, and no evidence of a recent traumatic event. His co-morbid conditions represent competent causes for producing the age-inappropriate degree of degenerative bone and joint changes. Dr. Sexton assigned a

16% impairment pursuant to the AMA Guides unrelated to the work incident. He stated Blevins' subjective leg weakness cannot be validated by objective clinical examination at the present time. Dr. Sexton felt the proximate cause, if any, would be peripheral diabetic polyneuropathy.

Dr. Luca Conte performed a vocational evaluation on February 27, 2019, and prepared a report on March 26, 2019. Dr. Conte administered the Wide Range Achievement test. Blevins performed at the high school level on reading and math subtests, indicating average academic capacities. Dr. Conte stated Blevins is capable of reading most materials found in the labor market and generating written reports. He concluded Blevins has the ability to perform high school level math calculations such as handling cash transactions, making tabulations, or performing formulaic calculations. Additionally, Blevins is capable of learning new skills in formal academic or vocational technical training or through typical on-the-job training. He has no restrictions on driving activities. Dr. Conte opined Blevins retains the capacity to perform driving, marketing/sales, administrative support, service, or production/craft/operation occupations.

At the final hearing, Blevins testified he continues to experience leg numbness/tingling and has problems sitting/standing. He averages four hours of sleep per night. Blevins has numbness and tingling in his fingers. Blevins believes he cannot do his pre-injury work and feels he is permanently and totally disabled.

The ALJ entered the following findings relevant to this appeal:

This ALJ found Plaintiff sustained an injury to his left elbow and low back. After reviewing the evidence, this ALJ finds Plaintiff retains a 1% permanent impairment rating for his left elbow and 16% for his low back. In

making these findings, the ALJ relies on Drs. Moskal and Sexton's opinions.

This ALJ notes Plaintiff underwent a left cubital tunnel release, which was successful. Post-operatively, Plaintiff no longer experienced chronic left elbow pain. Considering Plaintiff's positive result following surgery, release to return to full-duty work, and minimal complaints of ongoing left elbow pain, this ALJ finds Dr. Moskal provided the most accurate assessment of impairment.

Plaintiff's lumbar MRI showed extensive degenerative changes at multiple levels. Thus, under the 5th Ed. AMA Guides, Plaintiff's rating should be assessed using the range of motion model. This ALJ considered Dr. Barefoot's assessment of impairment using gait derangement, but did not find it to be appropriate. As such, this ALJ finds Plaintiff retains 16% permanent impairment as a result of his low back injury, relying on Dr. Sexton.

The parties preserved capacity to return to work as an issue. This claim involves two injuries. Following Plaintiff's June 7, 2015 injury, Plaintiff returned to unrestricted work following left elbow surgery. Thus, this ALJ finds Plaintiff retains the physical capacity to perform his pre-injury work as it relates to the June 7, 2015 work injury.

Dr. Sexton indicated Plaintiff did not require any restrictions for the August 15, 2017 injury, primarily because he opined Plaintiff's lumbar condition was not work-related. Plaintiff's treating physician recommended significant work restrictions and opined Plaintiff was not capable of returning to work as a machinist. This ALJ finds Dr. Harpring, as Plaintiff's treating physician, provided the most accurate assessment of Plaintiff's physical restrictions and Plaintiff's ability to return to pre-injury work. Thus, this ALJ finds Plaintiff is entitled to benefits enhanced by the 3 multiplier.

KRS 342.0011(11)(c) defines permanent total disability as the condition of an employee who, due to an injury, has a permanent disability rating and has a complete and permanent inability to perform any type of work as

a result of an injury. KRS 342.0011(34) defines work as providing service to another in return for remuneration on a regular and sustained basis in a competitive economy. In determining whether a worker is totally disabled, an ALJ must consider several factors including the worker's age, education level, vocational skills, medical restrictions, and the likelihood that he can resume some type of "work" under normal employment conditions. Ira A. Watson Department Store v. Hamilton, Ky., 34 SW3d 48 (2000).

The ALJ is required to undertake a 5-step analysis in order determine whether a claimant is permanently and totally disabled. The ALJ must determine whether there has been a work-related injury, what Plaintiff's impairment rating is, and address permanent disability. Finally, the ALJ must determine whether Plaintiff can perform any type of work and that total disability is due to the work injury. Ashland v. Stumbo, 461 SW 3d 392 (Ky. 2015).

After considering Plaintiff's age, educational level, vocational skills, medical restrictions, and the likelihood Plaintiff can resume some type of work under normal employment conditions, this ALJ finds Plaintiff is not permanently and totally disabled. Plaintiff's age is possibly the strongest factor in favor of an award of permanent total disability benefits. However, it is not enough to carry the day. Plaintiff has a 12th grade education and does not possess a below average educational capacity. Based upon Dr. Conte's testing, Plaintiff possesses average reading and mathematical abilities. Thus, Plaintiff's educational level does not support an award of permanent total disability. This ALJ has thoughtfully considered Plaintiff's vocational skills in tandem with his work restrictions. This ALJ feels Plaintiff can obtain and perform work within Dr. Harpring's restrictions in occupations outlined in Dr. Conte's report. As such, this ALJ determines Plaintiff is not permanently and totally disabled.

Blevins filed a petition for reconsideration arguing he is entitled to TTD benefits following the left elbow surgery. Blevins also contested the ALJ's

selection of impairment ratings, failure to find permanent total disability, and limitation of award pursuant to KRS 342.730(4). Reynolds filed a petition for reconsideration arguing its entitlement to a credit for PPD paid against TTD owed for overlapping periods during which Blevins is entitled to PPD benefits for the 2015 injury and TTD benefits for the August 2017 injury.

In the July 8, 2019 Order on Reconsideration, the ALJ awarded TTD benefits from January 24, 2017 through May 25, 2017, the period following Blevins' left elbow surgery. The ALJ overruled Blevins' petition in all other respects. In a separate Order, also rendered on July 8, 2019, the ALJ sustained Reynolds' petition, granting a credit of \$3.77 per week against Blevins' TTD benefits. This credit reflected Blevins' simultaneous award of PPD benefits for the 2015 injury.

On appeal, Blevins first argues he is permanently totally disabled. As the ALJ accurately noted, permanent total disability is the condition of an employee who, due to an injury, has a permanent disability rating and has a complete and permanent inability to perform any type of work as a result of an injury. KRS 342.0011(11)(c). Work is the act providing service to another in return for remuneration on a regular and sustained basis in a competitive economy. KRS 342.0011(34). In determining whether a claimant is totally disabled, an ALJ must consider several factors including the worker's age, education level, vocational skills, medical restrictions, and the likelihood that he can resume some type of "work" under normal employment conditions. Ira A. Watson Department Store v. Hamilton, 34 S.W.3d 48 (Ky. 2000).

Blevins does not allege the ALJ applied the law incorrectly. His argument on appeal challenges her consideration of the relevant factors. Blevins notes he is 63 years old with limited transferable skills due to his extensive physical restrictions and limitations. He contends he is medically disqualified from returning to prior work in machine maintenance, his pre-work duties as a machine mechanic, or any position he has previously held in his career.

As the claimant in a workers' compensation proceeding, Blevins had the burden of proving each of the essential elements of his cause of action, including the extent of his disability. Snawder v. Stice, 576 S.W.2d 276 (Ky. App. 1979). Because he was unsuccessful in proving a greater impairment rating or disability, the question on appeal is whether the evidence compels a different result. Wolf Creek Collieries v. Crum, 673 S.W.2d 735 (Ky. App. 1984). "Compelling evidence" is defined as evidence that is so overwhelming, no reasonable person could reach the same conclusion as the ALJ. REO Mechanical v. Barnes, 691 S.W.2d 224 (Ky. App. 1985) *superseded by statute on other grounds as stated in* Haddock v. Hopkinsville Coating Corp., 62 S.W.3d 387 (Ky. 2001).

The evidence does not compel a finding of permanent total disability. While Blevins has significant physical restrictions, the vocational report of Dr. Conte identified work he is capable of performing within the restrictions assigned by Dr. Harpring. The ALJ considered Blevins' age, noting that factor weighed in favor of permanent total disability. However, other factors, including Blevins' math and reading abilities and his job skills weighed in favor of a finding that he is capable of performing work on a sustained basis in a competitive economy. The ALJ

determined Blevins is capable of performing work within Dr. Harpring's restrictions in occupations outlined in Dr. Conte's report.

The ALJ considered the factors enunciated in Watson. She articulated her consideration of these factors, and based her conclusions on evidence in the record. While Blevins has identified evidence supporting a different conclusion, there was substantial evidence presented to the contrary. As such, the ALJ acted within her discretion to determine which evidence to rely upon, and it cannot be said the ALJ's conclusions are so unreasonable as to compel a different result. Ira A. Watson Department Store v. Hamilton, 34 S.W.3d 48 (Ky. 2000).

Next, Blevins argues the ALJ erred in relying upon the impairment ratings assigned by Drs. Sexton and Moskal. Blevins contends the ALJ did not provide an adequate analysis pursuant to the AMA Guides of the assigned permanent partial impairment rating. Blevins contends the opinions of Dr. Barefoot are more specific, appropriate, consistent, and supported by the entirety of the medical evidence.

Here, the ALJ was faced with conflicting medical opinions as to Blevins' impairment rating. Dr. Barefoot assigned his impairment rating based upon gait derangement. Dr. Sexton stated the range of motion method was appropriate because of the multiple levels of involvement. There is no allegation either rating was assessed in contravention to the AMA Guides. In Kentucky River Enterprises, Inc. v. Elkins, 107 S.W.3d 206 (Ky. 2003), the Kentucky Supreme Court held the proper interpretation of the AMA Guides is a medical question solely within the province of the medical experts. Where opinions from medical experts conflict

regarding the appropriate percentage, it is the ALJ's function as fact-finder to weigh the evidence and select the rating upon which permanent disability benefits, if any, will be awarded. Knott County Nursing Home v. Wallen, 74 S.W.3d 706 (Ky. 2002).

In George Humfleet Mobile Homes v. Christman, 125 S.W.3d 288 (Ky. 2004), the Court further held that, while an ALJ is not authorized to independently interpret the AMA Guides, as fact-finder she may consult them in the process of assigning weight and credibility to evidence. Although assigning a permanent impairment rating is a matter for medical experts, determining the weight and character of medical testimony and drawing reasonable inferences therefrom are matters for the ALJ. Wallen, *id.* The ALJ is not required to engage in a detailed analysis under the AMA Guides, nor is she required to engage in a detailed explanation of the minutia of her reasoning in reaching a particular result. Shields v. Pittsburgh and Midway Coal Mining Co., 634 S.W.2d 440 (Ky. App. 1982); Big Sandy Community Action Program v. Chaffins, 502 S.W.2d 526 (Ky. 1973).

Here, the ALJ provided a sufficient explanation of her reasons for accepting the ratings of Dr. Moskal and Dr. Sexton. As articulated by the ALJ, Dr. Moskal was the only physician to address Blevins' impairment after the surgery performed by Dr. Palazzo. The ALJ could reasonably conclude Dr. Moskal's opinion was the most comprehensive and persuasive concerning the elbow condition. Dr. Sexton clearly explained the methodology he used in his assessment and directives of the AMA Guides applicable to Blevins' low back condition. The

opinions of Dr. Moskal and Dr. Sexton are substantial evidence supporting the ALJ's determination of Blevins' impairment ratings.

Blevins urges this Board that Dr. Barefoot's impairment ratings are more comprehensive and reliable, but does not identify any specific deficiency in the opinions of Drs. Moskal and Sexton. The fact Dr. Barefoot assessed different impairment ratings is insufficient to render their opinions unreliable or otherwise insufficient. The ALJ exercised her discretion in selecting the impairment ratings upon which to rely, and it is not the function of this Board to disturb her conclusions.

Additionally, Blevins argues the ALJ erred in limiting benefits pursuant to KRS 342.730(4) as amended in 2018. Blevins notes House Bill 2 contained retroactive provisions, but Holcim v. Swinford, 581 S.W.3d 37 (Ky. 2019), did not address the constitutionality of the retroactive provision. We note House Bill 2, effective July 14, 2018 and codified at KRS 342.730(4), mandates as follows:

All income benefits payable pursuant to this chapter shall terminate as of the date upon which the employee reaches the age of seventy (70), or four (4) years after the employee's injury or last exposure, whichever last occurs. In like manner all income benefits payable pursuant to this chapter to spouses and dependents shall terminate as of the date upon which the employee would have reached age seventy (70) or four (4) years after the employee's date of injury or date of last exposure, whichever last occurs.

In Holcim v. Swinford, the Kentucky Supreme Court determined the amended version of KRS 342.730(4) regarding the termination of benefits at age seventy has retroactive applicability. Because the Kentucky Supreme Court determined the newly enacted amendment applies retroactively, we affirm the ALJ's application of the amended version of KRS 342.730(4). Blevins is correct in noting

Holcim v. Swinford does not address the constitutionality of the amended version of KRS 342.730(4). However, this Board, as an administrative tribunal, has no jurisdiction to determine the constitutionality of a statute. Blue Diamond Coal Company v. Cornett, 300 Ky. 647, 189 S.W.2d 963 (1945). We are therefore compelled to affirm.

Finally, Blevins argues the ALJ erred in awarding a credit for benefits paid pursuant to KRS 342.730(1). KRS 342.730(1)(a) provides that a claimant's TTD or permanent total disability benefits shall not exceed 110% of the state average weekly wage. The ALJ awarded Reynolds a credit for those weeks during which Blevins received TTD benefits for the 2017 injury and PPD benefits for the 2015 injury, and the combination of these two awards exceeded 110% of the state average weekly wage. Blevins argues this is an incorrect application of KRS 342.730(1). He notes that, although there are suspensions of the weeks of PPD by the weeks of TTD, there is no authority to provide the credits awarded by the ALJ. We agree.

In Bowling Green Health Care Center v. Wanda Murrell, 91-SC-635-WC (Ky. 1992), the Supreme Court held PPD benefits do not duplicate TTD benefits for a subsequent injury, stating as follows:

There is no argument that both injuries involved claimant's back. However, Bowling Green ignores the fact that before benefits are reduced, KRS 342.730(2) requires not only that the injuries involve the same member, but also that the subsequent benefits duplicate, in whole or in part, the benefits paid on account of the preexisting disability. The ALJ attributed the period of temporary, total disability entirely to the 1986 injury. Before that injury, claimant was able to earn \$97.03 per week. But for that injury, she would have been able to continue to earn \$97.03 per week. Therefore, the benefits which accrued in 1986 were for a temporary and total loss of whatever earning capacity claimant retained

after the 1981 injury. They do not duplicate the benefits received for the preexisting disability.

Slip Op. at 3.

Similarly, in G & J Pepsi Cola Bottlers, Inc. v. William T. Davidson, 93-CA- 0372-WC (Ky. App. 1994), the Court of Appeals addressed whether PPD payments should be offset by the award of TTD for a subsequent, distinct injury. The employer argued that without an offset, the claimant would receive benefits exceeding 100% disability compensation. The Court of Appeals affirmed the Board's reversal of an offset, explaining as follows:

The disability period upon which Davidson's lump sum settlement was based overlaps the period of Davidson's total temporary benefits. In cases involving overlapping permanent disability benefit periods, the Court has allowed an offsetting for the previous award to avoid a cumulative award exceeding total disability. *See Matney*, 849 S.W.2d 526 and *Peabody Coal*, 818 S.W.2d 622. However, in this case, we are not faced with overlapping permanent disability awards. Here a permanent partial and a total temporary disability award overlap. These are two different awards. A permanent award, total or partial, seeks to compensate an injured worker for the permanent reduction in productive capacity caused by the injury. The total temporary award serves a very different purpose. It does not represent the reduction in productive capacity. Rather, it replaces, temporarily, the injured worker's wages until the worker can return to work or has reached maximum medical improvement at which time a permanent disability benefit may be awarded if the claimant is found to be permanently disabled. Total temporary benefits replace lost wages during a time of recuperation. The total temporary benefits awarded by the ALJ do not duplicate the settlement Davidson previously received for his partial permanent disability: they simply replaced the wages Davidson lost after his second injury.

Slip Op. at 8.

Blevins' overlapping awards of TTD and PPD benefits are for distinct injuries to different body parts. Therefore, as explained above, the limitations set forth in KRS 342.730(1) are not implicated. Thus, we reverse the credit awarded for PPD benefits against the TTD benefits awarded for the subsequent injury.

Accordingly, the June 13, 2019 Opinion, Award and Order and the July 8, 2019 Orders rendered by Hon. Stephanie L. Kinney, Administrative Law Judge, are hereby **AFFIRMED IN PART and REVERSED IN PART**. This claim is hereby **REMANDED** for entry of an amended opinion removing the credit for PPD benefits from the 2015 injury against the award of TTD benefits for the 2017 injury.

ALL CONCUR.

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