

expenses and should be paid by respondent. The ALJ also found claimant was overpaid six weeks of temporary total disability benefits.

Respondent appeals and notes the following as issues in its Notice of Appeal: whether claimant met with personal injury by accident which arose out of and in the course of employment; the nature and extent of claimant's disability; and whether an order for braces or other care should be specifically ordered in the absence of evidence that the respondent was neglecting to provide any such care. Respondent denies claimant injured her upper extremities by accident arising out of and in the course of her employment. With regard to the right upper extremity, respondent argues there is no evidence of an aggravation.

Claimant requests the Board affirm the Award with regard to (1) the ALJ's finding that claimant's injuries arose out of and in the course of her employment and (2) expenses associated with thumb braces are authorized medical benefits. Additionally, claimant requests the Board modify the ALJ's Award to reflect that claimant sustained a 20% impairment to the left upper extremity at the level of the arm and a 15% impairment to the right upper extremity at the level of the arm. Claimant contends the ALJ did not err in finding claimant sustained a compensable injury arising out of and in the course of employment. Claimant argues her impairment ratings extend to her left and right upper extremities, consistent with Dr. Ketchum's findings. Claimant asserts the ALJ erred by finding respondent overpaid six weeks of temporary total disability benefits. Finally, claimant maintains the ALJ did not err in ordering respondent to incur the expense of thumb braces as authorized medical care.

The issues before the Board on this appeal are:

1. Did claimant sustain right and left upper extremity injuries arising out of and in the course of her employment with respondent?
2. What is the nature and extent of claimant's disability?
3. Did the ALJ err by ordering respondent to pay for claimant's braces and authorizing Dr. Ketchum to provide claimant with palliative care? Claimant asserts the braces were prescribed by an authorized medical care provider. Respondent contends this issue was first raised at the regular hearing and that in absence of evidence showing it neglected to provide proper-fitting thumb braces, the ALJ erred in awarding the braces.
4. Was there an overpayment of temporary total disability benefits (TTD) to claimant? The parties did not address this issue in their briefs to the Board. The ALJ

found claimant reached maximum medical improvement on September 18, 2009,¹ and determined that claimant had been overpaid six weeks of TTD. She then awarded claimant 85.57 weeks of TTD for each hand for a total of 171.14 weeks of TTD. Claimant alleges that during the six weeks from September 18, 2009, through October 31, 2009, she was available to work, but respondent neglected to return her to accommodated work. Therefore, she should receive TTD during that period. Respondent asserts that claimant should have received no TTD for her right hand injury, as that injury was not work related. If the Board determines the right hand injury is compensable, then respondent asks the Board to affirm there was a six-week overpayment. Respondent also asks the Board to reapportion the TTD according to the dates claimant reached MMI on the right and left hands.

5. Is claimant entitled to unauthorized and future medical compensation?

FINDINGS OF FACT

After reviewing the entire record and considering the parties' arguments, the Board finds:

Claimant began working for respondent at the Board of Indigent Defense Services, Appellate Division (BIDS) in 1999. Claimant's primary duty when she began working at BIDS was to copy records of cases that were on appeal. She would make approximately 250,000 to 300,000 copies a month. Many of the documents claimant copied were in bound volumes. In order to make copies of the bound volumes, claimant would place the page being copied onto the copier and push down with one hand on the bound part of the volume in order to ensure the entire page got copied. She would use the other hand to operate the copier. Claimant would make four copies this way each minute.

Two years after she became employed at BIDS, claimant was promoted to administrative assistant. She gave out case assignments to attorneys, pulled records for appeals, pulled files and matched up letters with files for attorneys. Claimant testified that as an administrative assistant, she continued to make a large number of photocopies through April 28, 2006.

Sometime prior to March 2006, both of claimant's hands began to ache. She began complaining on a weekly basis about her hands to respondent prior to March 2006, but does not recall when she began complaining. On March 21, 2006, claimant completed a form entitled "Injured Employee's Report of Injury."² On that report claimant indicated she

¹ It appears this date is in error, as Dr. Lynn D. Ketchum testified and a letter dated September 28, 2009, to claimant's attorney indicated that he released claimant to work on September 28, 2009, and not September 18, 2009.

² R.H. Trans., Resp. Ex. A.

told her supervisor, Joyce Black, about her pain on February 28 and March 13, 2006. The report stated claimant had a lump on her left wrist with pain radiating into her fingers.

After photocopying documents, claimant would squeeze her hands tight and sometimes sat on the right hand in an attempt to alleviate the aching. She would also go to the bathroom and run them under water so they would move. Claimant testified her hands would also swell. Photocopying the bound volumes caused her the most difficulty.

In March 2006, claimant's hands became so painful that she reported the problem to Ms. Black. Ms. Black sent claimant to the emergency room at St. Francis Hospital and Medical Center, Topeka, Kansas (St. Francis). Claimant endured a lengthy period of medical treatment which is set out below. Claimant remained off work until she returned to work for BIDS in the Conflicts Office, where she is employed in a position that does not require repetitive work with her hands. Claimant's TTD benefits ended on October 31, 2009, because she returned to work. Claimant also is provided assistance when performing some job tasks.

Claimant testified at the regular hearing that grasping with her hands bothers her and gripping small items is difficult. During the middle of the night pain will awaken her and a change in weather sometimes bothers her hands. She also testified, "It feels like there is a needle that goes through my hand and up to my elbow, sometimes into my shoulder, it just really hurts. Otherwise, it just aches. And that I've learned to live with."³

Joyce Black testified that on March 13, 2006, she completed an "Employer's Report of Accident." The report indicates claimant reported a lump on her left wrist. Ms. Black testified that although claimant only had a lump in her left hand, she would complain about pain in both hands. Claimant would first hold one hand, then another. Claimant told Ms. Black that the pain in her hands occurred immediately after copying records. Ms. Black testified that claimant was a good worker and truthful.

On March 16, 2006, claimant went to the emergency room at St. Francis where she saw Dr. Donald T. Mead. The report of Dr. Mead indicated that claimant complained of left wrist pain, but her right wrist is not mentioned in the report. Claimant testified she did not recall if she told Dr. Mead both her hands hurt. Dr. Mead ordered x-rays of the left hand which revealed degenerative changes. Dr. Mead referred claimant to Dr. Richard E. Polly, an orthopedic specialist.

Dr. Polly saw claimant on April 4, 2006. His impression was that claimant's underlying problem was osteoarthritis of the left thumb CMC joint. Claimant had a ganglion cyst which was related to the osteoarthritis and the pain she had was related to the

³ *Id.*, at 21.

“ . . . simple hard work on a person with osteoarthritis of the thumb.”⁴ On April 28, 2006, Dr. Polly performed a resection interposition arthroplasty of the left thumb. After surgery, claimant was prescribed occupational therapy. Dr. Polly’s reports do not contain any information about a right hand injury. Claimant testified that she told Dr. Polly about having problems with both her hands.

On August 17, 2006, claimant was seen by Dr. Ann M. Sachs. Claimant complained to Dr. Sachs of left wrist pain, but the report of Dr. Sachs does not mention a complaint about the right wrist. On September 5, 2006, claimant was seen by Dr. Vincent H. Key of KU MedWest. She complained to him of numbness in her left hand. His report does not indicate claimant made right hand complaints. Claimant next saw Dr. E. Bruce Toby on September 25, 2006. He saw claimant for her left wrist. Again, his report contains no complaints by claimant about her right wrist. Claimant testified she informed Drs. Key and Toby that both her hands hurt.

Claimant testified she was not happy with the services of Dr. Polly. Claimant was seen at the request of her attorney by Dr. Lynn D. Ketchum, a plastic surgeon and hand specialist, on July 31, 2007. His report from that visit indicated that claimant had problems with both thumbs, left worse than the right. She had pain over the beak ligament of the right thumb, but her main complaint was of pain on the dorsum of the metacarpal phalangeal joint with pinching. She attributed her problems to photocopying at work. Dr. Ketchum’s report states: “Her right thumb is bothering her, but she never had anything done to it because of the continued pain and weakness in the left thumb.”⁵

Dr. Ketchum took x-rays of both of claimant’s hands. He thought the pain on her left might be the result of nerves being tweaked and scar tissue from the surgery, with the scar tissue producing adhesions to some of the nerves. He indicated claimant had osteoarthritis of the left carpometacarpal (CMC) joint and stenosing tenosynovitis of the A1 pulley of the left thumb. On the right, Dr. Ketchum believed claimant had an exostosis (bony protrusion) of the CMC joint. He recommended claimant wear a Futuro thumb brace on both thumbs, but did not recommend surgery. Dr. Ketchum opined that within a reasonable degree of medical probability claimant’s symptoms were aggravated by her repetitive activities at work.

Claimant again saw Dr. Ketchum on October 17, 2007. She had pain over the A1 pulley of the right thumb and pain in the left thumb over the beak ligament. Dr. Ketchum diagnosed claimant with stenosing tenosynovitis of the right thumb and recommended a triamcinolone injection. Dr. Ketchum also indicated claimant had no joint space where a Mitek anchor was inserted by Dr. Polly between the claimant’s left first metacarpal into the

⁴ Ketchum Depo., Ex. 4.

⁵ *Id.*, Ex. 2.

second metacarpal and the trapezoid. After first obtaining authorization, on January 30, 2008, Dr. Ketchum performed surgery on claimant's left first CMC joint to correct the aforementioned problem.

On March 24, 2008, claimant saw Dr. Ketchum concerning her right thumb. Dr. Ketchum recommended surgery to remove a large exostosis from the ulnar side of the metacarpal head. After obtaining authorization, Dr. Ketchum performed surgery on June 5, 2008, and removed two exostoses.

On August 26, 2008, after first obtaining authorization, Dr. Ketchum performed surgery on claimant's right hand. He performed surgery because claimant had developed adhesions to the extensor pollicis brevis, which was inhibiting motion. Dr. Ketchum saw claimant again on December 1, 2008, but claimant had not reached maximum medical improvement. Another follow-up visit took place on May 12, 2009, at which time claimant complained of pain at the base of the right thumb and over the A1 pulley on the left thumb. Dr. Ketchum injected claimant's left thumb. He also recommended Futuro braces for both thumbs.

On September 28, 2009, claimant saw Dr. Ketchum for her last regularly scheduled visit. Dr. Ketchum released claimant to work.⁶ However, he did not indicate claimant had reached maximum medical improvement (MMI). Dr. Ketchum was emphatic that claimant, when working, should wear a Futuro thumb brace on both hands. He stated claimant was not going to be able to type fast, that she cannot do any copying and must wear her braces or she would not be able to function. He stated in a September 28, 2009, letter to claimant's attorney, ". . . although I have given her a release to return to work today, it is with the condition that she wear those supporting braces at work."⁷ Claimant testified she did not return to work immediately after being released by Dr. Ketchum because ". . . it took them time to get me placed back to work."⁸

On June 8, 2010, Dr. Ketchum saw claimant for the purpose of determining what, if any, permanent impairment she had. Based on the *AMA Guides*,⁹ Dr. Ketchum opined claimant had a 15% permanent impairment to the right upper extremity and 20% to the left

⁶ *Id.*, at 16.

⁷ *Id.*, Ex. 2.

⁸ R.H. Trans. at 18.

⁹ American Medical Ass'n, *Guides to the Evaluation of Permanent Impairment* (4th ed.). All references are based upon the fourth edition of the *Guides* unless otherwise noted.

upper extremity. He also recommended that claimant receive Kenalog injections in both thumbs. Dr. Ketchum indicated claimant had reached MMI.¹⁰

Dr. Ketchum was questioned at length about the fact the medical reports of claimant's previous treating physicians did not contain any complaints about the right hand injury. Dr. Ketchum testified that it was possible claimant's right thumb was bothering her all along, but that she concentrated on having her left thumb treated first. Whenever she saw a doctor, they also focused on the left thumb. Claimant told Dr. Ketchum that she mentioned having problems with both thumbs to every doctor she saw.¹¹ Dr. Ketchum testified that claimant provided him with a credible history.

At respondent's request, claimant was seen by Dr. Brian J. Divelbiss on November 18, 2010. His impression was status post left revision thumb CMC interposition arthroplasty, stable, and status post right thumb MP joint procedure, stable. He indicated claimant had reached maximum medical improvement. On August 4, 2011, without seeing claimant again, he opined claimant had a 15% impairment to the left hand and a 15% impairment to the right hand.

When asked if claimant's right upper extremity complaints were caused by her employment Dr. Divelbiss testified, ". . . I have never been of the opinion that her job activities were the cause of those problems, but rather that those job activities were an aggravating factor in the presentation and continuation of her symptoms."¹² When asked if photocopying caused a change in the physical structure of claimant's right hand, Dr. Divelbiss replied that he could not answer with any certainty. He did not know if claimant's arthritis preexisted when she was photocopying in 2006.

At the regular hearing, claimant requested the ALJ authorize payment for braces and that Dr. Ketchum be authorized to provide ongoing medical care for claimant. At the time of the regular hearing, claimant was seeing Dr. Ketchum on an occasional basis for palliative care including injections. Dr. Ketchum testified that claimant would need yearly injections if she is engaged in repetitive work. Claimant's attorney indicated a notice had been previously sent concerning the braces. After some discussion, respondent's counsel allowed claimant to present evidence concerning the braces. On June 10, 2009, Dr. Ketchum prescribed claimant braces to stabilize her thumbs. Claimant ordered braces, but the braces she ordered were too large. Claimant acknowledged that she never complained to respondent the braces were too large.

¹⁰ Ketchum Depo. at 18.

¹¹ Ketchum Depo. at 45.

¹² Divelbiss Depo. at 10-11.

The ALJ found claimant sustained right and left hand injuries by accident arising out of and in the course of her employment. The ALJ determined claimant sustained a 20% functional impairment to the left hand and a 15% functional impairment to the right hand. ALJ Sanders awarded claimant disability benefits based upon claimant's functional impairment ratings. Additionally, the ALJ ordered that Dr. Ketchum continued to be authorized to provide claimant with palliative care such as injections, prescriptions and braces and that any expenses incurred for braces are authorized medical expenses and should be paid by respondent. She awarded claimant 85.57 weeks of TTD for each hand for a total of 171.14 weeks of TTD, finding that claimant had been overpaid six weeks of TTD.

PRINCIPLES OF LAW

K.S.A. 2005 Supp. 44-501(a) states in part: "In proceedings under the workers compensation act, the burden of proof shall be on the claimant to establish the claimant's right to an award of compensation and to prove the various conditions on which the claimant's right depends."

K.S.A. 2005 Supp. 44-508(g) defines burden of proof as follows: "Burden of proof means the burden of a party to persuade the trier of facts by a preponderance of the credible evidence that such party's position on an issue is more probably true than not true on the basis of the whole record."

The burden of proof is upon the claimant to establish his or her right to an award for compensation by proving all the various conditions on which his or her right to a recovery depends. This must be established by a preponderance of the credible evidence.¹³

An employer is liable to pay compensation to an employee where the employee incurs personal injury by accident arising out of and in the course of employment.¹⁴ Whether an accident arises out of and in the course of the worker's employment depends upon the facts peculiar to the particular case.¹⁵ An accidental injury is compensable under the Workers Compensation Act even where the accident only serves to aggravate a preexisting condition.¹⁶ The test is not whether the accident causes the condition, but whether the accident aggravates or accelerates the condition.¹⁷

¹³ *Box v. Cessna Aircraft Company*, 236 Kan. 237, 689 P.2d 871 (1984).

¹⁴ K.S.A. 2005 Supp. 44-501(a).

¹⁵ *Kindel v. Ferco Rental, Inc.*, 258 Kan. 272, 278, 899 P.2d 1058 (1995).

¹⁶ *Odell v. Unified School District*, 206 Kan. 752, 758, 481 P.2d 974 (1971).

¹⁷ *Woodward v. Beech Aircraft Corp.*, 24 Kan. App. 2d 510, Syl. ¶ 2, 949 P.2d 1149 (1997).

K.S.A. 2005 Supp. 44-508(e) states:

(e) "Personal injury" and "injury" mean any lesion or change in the physical structure of the body, causing damage or harm thereto, so that it gives way under the stress of the worker's usual labor. It is not essential that such lesion or change be of such character as to present external or visible signs of its existence. An injury shall not be deemed to have been directly caused by the employment where it is shown that the employee suffers disability as a result of the natural aging process or by the normal activities of day-to-day living.

In *Bergstrom*,¹⁸ the Kansas Supreme court stated:

When a workers compensation statute is plain and unambiguous, the courts must give effect to its express language rather than determine what the law should or should not be. The court will not speculate on legislative intent and will not read the statute to add something not readily found in it. If the statutory language is clear, there is no need to resort to statutory construction.

ANALYSIS

Respondent asserts that claimant did not suffer a "personal injury" to either hand, as there was no medical evidence that claimant's job task of making photocopies caused a lesion or change in the physical structure of her body. Respondent argues that *Bergstrom* requires K.S.A. 2005 Supp. 44-508(e) to be read literally. Dr. Divelbiss testified that claimant had preexisting degenerative arthritis and that her job activities were an aggravating factor in the presentation and continuation of her symptoms. However, he did not know if her arthritis preexisted the photocopying she did in 2006. Claimant was asymptomatic before she worked for respondent. Respondent contends that becoming symptomatic does not constitute a lesion or change in the structure of the body.

Respondent chooses to focus on the first sentence of K.S.A. 2005 Supp. 44-508(e). It ignores that part of K.S.A. 2005 Supp. 44-508(e) that states: "It is not essential that such lesion or change be of such character as to present external or visible signs of its existence." Many types of injuries, including work-related mental health conditions and headaches, have no visible signs of existence, yet are deemed a personal injury. MRIs, CT scans and x-rays will not show pain, yet the patient may be experiencing severe pain. Claimant's injuries were so severe that they required her to have four surgeries, each of which caused a change to the structure of her body. The Board finds that claimant suffered a personal injury by accident to her left and right upper extremities.

¹⁸ *Bergstrom v. Spears Manufacturing Co.*, 289 Kan. 605, Syl. ¶ 1, 214 P.3d 676 (2009).

The first medical report that indicated claimant complained of a right hand injury was on July 31, 2007, when claimant first saw Dr. Ketchum. Respondent asserts this is proof that claimant's right upper extremity injury did not arise out of and in the course of her employment with respondent. Claimant testified both of her hands hurt and went numb from making photocopies at work. Claimant indicated she told all of the doctors she was having problems with both hands. Claimant's supervisor, Ms. Black, testified she observed claimant having problems at work with both hands and that claimant complained of problems in both hands. Dr. Ketchum testified when claimant saw doctors prior to seeing him, she likely focused on her left hand because she had significant left thumb problems. Simply put, claimant met her burden of proof that she sustained bilateral upper extremity injuries by accident arising out of and in the course of her employment with respondent.

Drs. Polly and Ketchum operated on claimant's left wrist, which was acknowledged by Dr. Divelbiss. Dr. Polly performed a resection interposition arthroplasty on claimant's left CMC joint. Dr. Ketchum also performed surgery on claimant's left CMC joint. Claimant testified that pain radiated into both forearms. Claimant has met her burden of proof that she has a 20% functional impairment to the left forearm.

There is limited medical evidence in the record indicating involvement of the right wrist. The two surgeries claimant endured on her right upper extremity were limited to her right hand. Therefore, the Board affirms the ALJ's finding that claimant's permanent functional impairment of the right upper extremity is limited to the level of the hand.

*Mitchell*¹⁹ provides that multiple-level scheduled injuries should not be combined into one scheduled injury. For example, where an injured worker is given a permanent impairment to the left wrist and another permanent impairment to the left elbow, those permanent impairments should not be combined to create a permanent impairment to the left upper extremity. In the present claim, Dr. Ketchum has given permanent impairments to claimant's upper extremities, while Dr. Divelbiss limited the permanent impairments he assigned to claimant's hands. In making its findings as to what level of claimant's upper extremities suffered a permanent impairment, the Board looked at all the pertinent facts and concluded claimant's functional impairment was to the level of her left forearm and right hand.

Both Drs. Divelbiss and Ketchum rendered opinions as to claimant's permanent functional impairment. However, Dr. Divelbiss saw claimant only once. Dr. Ketchum rendered his opinions on the same day he saw claimant, while Dr. Divelbiss gave his opinions nearly nine months after he saw claimant. Dr. Ketchum was claimant's treating physician and saw her numerous times. Therefore, the Board finds Dr. Ketchum's opinions more credible. The Board concludes claimant has a 20% functional impairment to the left forearm and a 15% functional impairment to the right hand.

¹⁹ *Mitchell v. Petsmart, Inc.*, 291 Kan. 153, 239 P.3d 51 (2010).

The ALJ ordered Dr. Ketchum be authorized to provide claimant with continuing palliative care such as injections, prescriptions and braces and that any expenses incurred for braces are authorized medical expenses to be paid by respondent. Respondent objected that this issue was raised for the first time at regular hearing. This argument is without merit, as respondent's attorney agreed to allow claimant to present evidence at the regular hearing about the braces. Claimant needs braces that fit in order to perform her job duties. The Board affirms the ALJ's finding concerning the braces and authorizing Dr. Ketchum to provide palliative care.

The ALJ found claimant was overpaid six weeks of TTD, from September 18, 2009, through October 31, 2009. In a letter dated September 28, 2009, Dr. Ketchum released claimant to work, but did not specify dates claimant reached MMI for her left forearm and right hand injuries. The Board assumes the ALJ made a typographical error when she found claimant's TTD should have been terminated on September 18, 2009, instead of September 28, 2009.

Claimant argues she should be paid TTD until October 31, 2009, as Dr. Ketchum released her contingent upon her obtaining appropriate braces. Dr. Ketchum's letter dated September 28, 2009, stated that he was releasing claimant to work upon the condition she wear braces while performing her job duties and that she does not perform copying. Dr. Ketchum testified he released claimant to work with restrictions on September 28, 2009, and that claimant reached MMI on June 8, 2010. Claimant testified it took some time for respondent to return her to work. Respondent provided no explanation as to what caused the delay in returning claimant to work. Nothing in the record indicates claimant was unwilling to return to work within the restrictions placed upon her by Dr. Ketchum, or the delay in returning to work was her fault. The Board finds respondent did not overpay TTD to claimant.

Dr. Ketchum testified claimant reached MMI on June 8, 2010. He did not indicate claimant reached MMI for her left forearm on a different date than her right hand. Consequently, the Board finds the ALJ correctly assigned one-half of the TTD to each of claimant's injuries.

Respondent asserts claimant is not entitled to unauthorized and/or future medical treatment because claimant did not meet with personal injury by accident arising out of her employment. The Board has determined claimant's injuries were work related and, therefore, claimant is entitled to unauthorized medical expenses, if appropriate, and future medical benefits upon proper application to the Director.

CONCLUSION

1. Claimant suffered left forearm and right hand injuries by accident arising out of and in the course of her employment with respondent.

2. Claimant has a 20% permanent functional impairment to the left forearm and a 15% permanent functional impairment to the right hand.

3. The Board affirms the ALJ's ruling that respondent provide braces to claimant and the ruling authorizing Dr. Ketchum to provide treatment to claimant.

4. The Board reverses the ALJ's finding that there was an overpayment of six weeks of TTD to claimant. Claimant is entitled to 88.57 weeks of TTD at the rate of \$255.21 per week in the amount of \$22,603.95 for her right hand and 88.57 weeks of TTD at the rate of \$255.21 per week in the amount of \$22,603.95 for her left forearm.

5. Claimant is entitled to be reimbursed for unauthorized medical, if any, up to \$500.00 and future medical benefits upon proper application to the Director.

As required by the Workers Compensation Act, all five members of the Board have considered the evidence and issues presented in this appeal.²⁰ Accordingly, the findings and conclusions set forth above reflect the majority's decision and the signatures below attest that this decision is that of the majority.

AWARD

WHEREFORE, the Board modifies the October 24, 2011, Award entered by ALJ Sanders as follows:

Right hand

Susan C. Johnson is granted compensation from the State of Kansas and its insurance fund for an April 28, 2006, accident and resulting disability. Based upon an average weekly wage of \$382.80, Ms. Johnson is entitled to receive 88.57 weeks of temporary total disability benefits at \$255.21 per week, or \$22,603.95, plus 9.21 weeks of permanent partial disability benefits at \$255.21 per week, or \$2,350.48, for a 15% permanent partial disability of the right hand, making a total award of \$24,954.43, which is all due and owing less any amounts previously paid.

Left forearm

Susan C. Johnson is granted compensation from the State of Kansas and its insurance fund for an April 28, 2006, accident and resulting disability. Based upon an average weekly wage of \$382.80, Ms. Johnson is entitled to receive 88.57 weeks of temporary total disability benefits at \$255.21 per week, or \$22,603.95, plus 22.29 weeks of permanent partial disability benefits at \$255.21 per week, or \$5,688.63, for a 20%

²⁰ K.S.A. 2010 Supp. 44-555c(k).

permanent partial disability of the left forearm, making a total award of \$28,292.58, which is all due and owing less any amounts previously paid.

The ALJ's Award is affirmed in all other respects.

IT IS SO ORDERED.

Dated this ____ day of March, 2012.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

- c: Michael J. Unrein, Attorney for Claimant
- Bryce D. Benedict, Attorney for Respondent and its Insurance Fund
- Rebecca A. Sanders, Administrative Law Judge