

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

<b>FRANCISCO GALDAMEZ</b>	)	
Claimant	)	
VS	)	
	)	
<b>IBP, INC.</b>	)	
Respondent	)	Docket Nos. 245,157;
Self-Insured	)	253,408
	)	
	)	

**ORDER**

Claimant seeks review of an Award entered on December 11, 2002 by Administrative Law Judge (ALJ) Brad E. Avery. The Appeals Board (Board) heard oral argument on June 3, 2003. Jeff K. Cooper was appointed Board Member Pro Tem to serve in place of Board Member Gary M. Korte who recused himself from this proceeding. Gary M. Peterson also was appointed and participated as Board Member Pro Tem.

**APPEARANCES**

Stanley R. Ausemus of Emporia, Kansas, appeared for the claimant. Gregory D. Worth of Roeland Park, Kansas, appeared on behalf of respondent.

**RECORD AND STIPULATIONS**

The Board has considered the record and adopted the stipulations listed in the Award. In addition, the Board considered the September 24, 2001 report of the court-ordered independent medical expert, Peter V. Bieri, M.D.,

### ISSUES

The Award grants claimant a 12 percent permanent partial general disability. The permanent disability award is based on the functional impairment rating by Dr. Bieri. On appeal, claimant argues the disability should be based on the 30 percent impairment opinion given by Dr. Lee R. Dorey. Respondent contends the ALJ's Award should be affirmed.

The nature and extent of claimant's disability, specifically the percent of functional impairment is the only issue raised for the Board's review. Claimant is not alleging a work disability.

### FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the arguments, the Board concludes the Award should be affirmed.

The Board agrees with and adopts as its own the findings and conclusions stated by the ALJ in the Award. Claimant suffered injury to his upper extremities and neck from a series of repetitive traumas through May 6, 1999. The 12 percent rating by Dr. Bieri is consistent with the physical findings of the other physicians and the objective testing. Furthermore, Dr. Bieri's rating is consistent with the *Fourth Edition of the AMA Guides to the Evaluation of Permanent Impairment*. The Board affirms the ALJ's finding of 12 percent permanent partial general disability.

### AWARD

**WHEREFORE**, it is the finding, decision and order of the Appeals Board that the Award entered by Administrative Law Judge Brad E. Avery dated December 11, 2002, should be, and is hereby, affirmed.

The Appeals Board adopts the orders set forth in the Award and, in addition, approves the claimant's contract of employment with his attorney.

**IT IS SO ORDERED.**

Dated this \_\_\_\_\_ June 2003.

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BOARD MEMBER

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BOARD MEMBER

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BOARD MEMBER

- c: Stanley R. Ausemus, Attorney for Claimant
- Gregory D. Worth, Attorney for Respondent and Insurance Carrier
- Brad E. Avery, Administrative Law Judge
- Paula S. Greathouse, Workers Compensation Director