



Pursuant to its regulations, the Board considered the fee petition under the following criteria:

- (1) The usefulness of the Representative's services;<sup>4</sup>
- (2) The nature and complexity of the appeal;<sup>5</sup>
- (3) The capacity in which the Representative has appeared;<sup>6</sup>
- (4) The actual time spent in connection with the Board appeal;<sup>7</sup> and
- (5) Customary local charges for similar services.<sup>8</sup>

As required by the Board's regulations, appellant has been afforded written notice of the fee requested and provided an opportunity to comment on the fee petition. No response was received.<sup>9</sup> Included with counsel's fee petition, however, was a signed statement of service from appellant, indicating that the requested fee of \$1,446.00 was reasonable and appropriate.

The requested fees pertain to services performed before the Board in the above-referenced appeal. The Board notes that in its decision dated December 27, 2017, it affirmed a November 30, 2016 decision of the Office of Workers' Compensation Programs finding that appellant had not met her burden of proof to establish a traumatic injury in the performance of duty on June 5, 2015, as alleged. Counsel had submitted a four-page brief addressing the issues on appeal. He cited legal authority in support of his arguments and identified evidence challenging the denial of appellant's traumatic injury claim.

On February 12, 2018 counsel provided a fee petition requesting approval of fees totaling \$1,446.00. The fee petition requests approval of time from January 23, 2017 through January 10, 2018 and documents a total of 4.40 hours spent in connection with this appeal before the Board. This includes 2.1 hours at \$475.00 per hour for Daniel M. Goodkin, Esq., and 2.3 hours at

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<sup>4</sup> The Board's consideration of "usefulness" includes, but is not limited to, the frequency and quality of communication by the representative with the client, the factual evidence and legal argument offered and written pleadings filed in the case. The Board will also consider the usefulness of a representative's work as it aided the Board in its consideration and decision of the issue appealed.

<sup>5</sup> The Board's evaluation of the "nature and complexity" of an appeal includes, but is not limited to, whether the issue appealed is novel or required extensive or unusual factual evidence or legal argument. The Board recognizes that not all complex issues are cases of first impression. However, the representative must establish the complex or unusual nature of the appeal.

<sup>6</sup> The Board's consideration of the "capacity" in which a representative appears includes, but is not limited to, whether the representative obtained a written retainer and fee agreement was obtained.

<sup>7</sup> The Board's evaluation of an itemized statement of work and charges includes, but is not limited to, whether the statement is clear, detailed, and describes those aspects of the appeal which merit the fee claimed and whether the representative has personally affirmed the correctness of the fee. No stipulated or contingent fee will be approved by the Board. 20 C.F.R. § 501.9(e).

<sup>8</sup> The Board's consideration of customary, local fees recognizes that representatives often have clients in several states and that local custom must be balanced against national practice in the FECA appeals.

<sup>9</sup> The Board notes that included with the representative's fee petition was a signed statement from appellant indicating that she agreed with the requested fee for services rendered.

\$195.00 per hour for Paralegal Erika Bauer. The fee petition describes the specific services provided for the amount claimed.

The Board has reviewed the fee petition and finds that it satisfies the requirements of section 501.9(e) of the Board's implementing regulations. The Board concludes that the fee requested is reasonable.

The Board notes that under 20 C.F.R. § 501.9(e) "[n]o claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board." Under 18 U.S.C. § 292, collecting a fee without the approval of the Board may constitute a misdemeanor, subject to fine or imprisonment up to a year or both.

**IT IS HEREBY ORDERED THAT** the fee petition is granted in the amount of \$1,446.00.

Issued: January 16, 2020  
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge  
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge  
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board