

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MARY M. HOLTZ and U.S. POSTAL SERVICE,
POST OFFICE, Federal Way, WA

*Docket No. 97-1914; Submitted on the Record;
Issued August 9, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether the Office of Workers' Compensation Programs properly denied appellant's request for mileage reimbursement of her commuting expenses.

On October 3, 1984 appellant, then a 50-year-old clerk, filed an occupational disease claim alleging that factors of her federal employment caused "slipped vertebrae." The Office assigned the case Office File Number A14-0199180, accepted the claim for aggravation of degenerative disc disease and authorized multiple back surgeries.

By letter dated December 27, 1994, the employing establishment offered appellant a full-time limited-duty position. In a letter dated January 11, 1995, the Office informed appellant that it had determined that the position was suitable. On January 21, 1995 appellant accepted the position but submitted medical evidence in support of her contention that the commuting time would be detrimental to her condition. By letter dated February 3, 1995, the Office informed appellant that the evidence submitted was insufficient to establish that the position was not suitable. Appellant returned to work on February 17, 1995.¹

By letter dated June 12, 1996, appellant, through her representative, requested reimbursement for mileage costs associated with her commute of 39.2 miles per day to the employing establishment from February 17 to July 28, 1995. Appellant argued that, prior to her return to work after her employment injury, she worked much closer to her home.

¹ On July 28, 1995 appellant sustained a traumatic injury to her back which the Office assigned File Number A14-0306195 and accepted for lumbar strain. After referring appellant for an impartial medical examination, by decision dated July 2, 1996, the Office terminated appellant's compensation benefits and medical authorization on the grounds that the medical evidence established that she had no further condition or disability causally related to the July 28, 1995 employment injury. Appellant has not requested review of this decision, and therefore the Board will not review this aspect of appellant's claim in the instant appeal under 20 C.F.R. § 501.2(c).

By decision dated January 31, 1997, the Office denied appellant's request for reimbursement for mileage expenses associated with her commute to the employing establishment.²

The Board finds that the Office properly denied appellant's request for mileage reimbursement.

Neither the Federal Employees' Compensation Act³ nor its implementing regulations⁴ contain any provision which authorizes payment of mileage expenses incurred by a claimant due to commuting to work with the employing establishment. Neither the Office nor the Board has the authority to enlarge the terms of the Act or make an award of benefits under any terms other than those specified in the statute. The Office, therefore, properly denied appellant's reimbursement for commuting expenses. Such expenses are of a personal nature and not covered under the Act as related to appellant's accepted injury.

The decision of the Office of Workers' Compensation Programs dated January 31, 1997 is hereby affirmed.

Dated, Washington, D.C.
August 9, 1999

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member

² The Office noted that appellant traveled an acceptable commuting distance of approximately 20 miles each way to and from work.

³ 5 U.S.C. §§ 8101-8193.

⁴ 20 C.F.R. § 10.1 *et seq.*