

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JAJA K. ASARAMO and DEPARTMENT OF ENERGY,
ENVIRONMENTAL MEASUREMENTS LABORATORY, New York, N.Y.

*Docket No. 97-1442; Submitted on the Record;
Issued June 15, 1999*

DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether the Office of Workers' Compensation Programs properly denied appellant's request for reimbursement of travel expenses incidental to medical treatment for the period 1989 to 1994.

On August 8, 1989 appellant filed a claim alleging that he sustained a traumatic injury on May 15, 1989 in the performance of duty. On October 23, 1989 the Office accepted appellant's claim for low back strain and paraspinal muscle spasm. The Office placed appellant on the periodic rolls effective November 19, 1989.

By letter dated January 31, 1996, appellant requested reimbursement from the Office for travel expenses to his physician for treatment incurred from 1989 to the present. In a letter dated September 25, 1996, appellant indicated that he had not been informed either orally or in writing of his entitlement to reimbursement of travel expenses and did not know he could claim the expenses until the beginning of 1996. Accompanying his letter, appellant submitted travel vouchers and forms claiming expenses from 1989 to the present.

By decision dated January 8, 1997, the Office denied appellant's request for reimbursement of travel expenses from 1989 to 1994 as the bills for the expenses were not timely submitted under 20 C.F.R. § 10.413.¹

The Board finds that appellant is not entitled to reimbursement of travel expenses for the period 1989 to 1994.

On April 1, 1987 the Office issued a new regulation regarding reimbursement for medical expenses, transportation costs, loss of wages and incidental expenses. Section 10.413 of Title 20 of the Code of Federal Regulations provides:

¹ The Office noted that it had erroneously paid some travel expenses prior to 1995.

“The Office will reimburse claimants and providers promptly for all bills received on an approved form and in a timely manner. However, no bill will be paid for expenses incurred if the bill is submitted more than one year beyond the calendar year in which the expense was incurred or the service or supply was provided, or more than one year beyond the calendar year in which the claim was first accepted as compensable by the Office, whichever is later.”²

In the instant case, appellant did not request reimbursement of travel expenses until January 1996 and did not submit bills for reimbursement until September 1996. Appellant’s claim was accepted in 1989 and thus his request for reimbursement of expenses was not made within one calendar year beyond the date of the claim’s initial acceptance. One year beyond the calendar year in which the last of the travel expenses at issue were incurred was December 31, 1995. Appellant did not actually request reimbursement until 1996, which is untimely under the regulation. Appellant, therefore, is not entitled to reimbursement for those expenses.³

While appellant argued that he did not receive notice that he was entitled to reimbursement for necessary travel expenses, regulations published in the Code of Federal Regulations have the force and effect of law and all persons affected thereby are charged with legal notice of their provisions.⁴ As the regulation in question, 20 C.F.R. § 10.413 was published in the Code of Federal Regulations, appellant had legal notice of its provisions.

² 20 C.F.R. § 10.413; *see also* 5 U.S.C. § 8103(a).

³ *See Truman Clayton Goings*, 42 ECAB 267 (1990).

⁴ *See Moody V. United States*, 774 F.2d 150 (1985); *cert. denied* 479 U.S. 814 (1988).

The decision of the Office of Workers' Compensation Programs dated January 8, 1997 is hereby affirmed.

Dated, Washington, D.C.
June 15, 1999

George E. Rivers
Member

David S. Gerson
Member

A. Peter Kanjorski
Alternate Member