

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of DENNIS A. THOMPSON and DEPARTMENT OF JUSTICE,  
BUREAU OF PRISONS, FEDERAL CORRECTIONAL INSTITUTE,  
Sandstone, MN

*Docket No. 02-1628; Submitted on the Record;  
Issued January 27, 2003*

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DECISION and ORDER

Before ALEC J. KOROMILAS, COLLEEN DUFFY KIKO,  
DAVID S. GERSON

The issue is whether the Office of Workers' Compensation Programs abused its discretion by denying appellant's request for reimbursement of travel expenses.

On December 9, 1994 appellant, then a 46-year-old cook foreman, sustained an employment-related herniated disc at L5-S1 when he injured his back while lifting supplies. He underwent corrective surgical procedures and retired from the employing establishment on December 3, 1998. In January 2002, appellant submitted Office forms requesting reimbursement for travel from Atlanta, Georgia to Duluth, Minnesota on December 13, 2001, two trips from Duluth to Minnetonka, Minnesota for medical examination and testing on December 17 and 19, 2001 and for return travel from Duluth to Atlanta on December 28, 2001. In a decision dated January 22, 2002, the Office informed appellant that travel expenses were payable from his address of record in Duluth, Minnesota to a medical facility and that he was not entitled to reimbursement for travel between Georgia and Minnesota. The Office informed appellant that if he spent the winters in Georgia, then he should arrange to be seen by a physician there.

On February 19, 2001 appellant submitted an additional reimbursement claim for travel between his home in Duluth to his doctor in Minnetonka. On April 6, 2002 he resubmitted his request for reimbursement for travel between Atlanta and Duluth on December 13, 2001, for travel between Duluth and Minnetonka on December 19, 2001 when he underwent magnetic resonance imaging (MRI) and for travel between Duluth and Atlanta on December 28, 2001. By decision dated May 2, 2002, the Office again found that he was not entitled to reimbursement for travel between Georgia and Minnesota. The instant appeal follows.

The Board finds that the Office did not abuse its discretion by denying appellant's request for reimbursement of travel expenses between Georgia and Minnesota.

On appeal, appellant contends that, because he spends his winters in Georgia since he retired, he should be reimbursed for travel expenses to see his physician of record in Minnesota.

Section 8103(a) of the Federal Employees' Compensation Act states in pertinent part:

"The United States shall furnish to an employee who is injured while in the performance of duty, the services, appliances and supplies prescribed or recommended by a qualified physician, which the Secretary of Labor considers likely to cure, give relief, reduce the degree or the period of disability or aid in lessening the amount of the monthly compensation. The employee may initially select a physician to provide medical services, appliances and supplies, in accordance with such regulations and instructions as the Secretary considers necessary and may be furnished necessary and reasonable transportation and expenses incident to the securing of such services, appliances and supplies."<sup>1</sup>

Section 8123(b) of the Act provides that an employee is entitled to be paid expenses incident to an examination required by the Secretary which in the opinion of the Secretary, are necessary and reasonable, including transportation and loss of wages incurred in order to be examined.<sup>2</sup> Section 10.315 of the implementing regulation states:

"The employee is entitled to reimbursement of reasonable and necessary expenses, including transportation needed to obtain authorized medical services, appliances or supplies. To determine what is a reasonable distance to travel, [the Office] will consider the availability of services, the employee's condition and the means of transportation. Generally, 25 miles from the place of injury, the work site or the employee's home, is considered a reasonable distance to travel. The standard form designated for federal employees to claim travel expenses should be used to seek reimbursement under this section."<sup>3</sup>

The issues of authorization of medical treatment and reimbursement of travel expense for medical treatment are separate and distinct. The Office may authorize medical treatment, but determine that the travel expense incurred for such authorized treatment was unnecessary or unreasonable.<sup>4</sup> As the only limitation on the Office's authority is reasonableness, abuse of discretion is generally shown through proof of manifest error, clearly unreasonable exercise of judgment or actions taken which are contrary to both logic and probable deductions from known facts.<sup>5</sup> The Board has long held that, in interpreting relevant sections of the Act, the Office has broad discretion in approving services provided under the Act.<sup>6</sup>

In the instant case, appellant claimed reimbursement for travel expenses incurred in December 2001, for traveling round-trip from his winter home in Georgia for the purpose of

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<sup>1</sup> 5 U.S.C. § 8103(a).

<sup>2</sup> 5 U.S.C. § 8123(b); *see Gaare R. Davis*, 48 ECAB 612 (1997).

<sup>3</sup> 20 C.F.R. § 10.315 (1999).

<sup>4</sup> *See Dr. Mira R. Adams*, 48 ECAB 504 (1997).

<sup>5</sup> *See Lecil E. Stevens*, 49 ECAB 673 (1998).

<sup>6</sup> *See Wanda L. Campbell*, 44 ECAB 633 (1993).

being examined by an Office referral physician in Minnesota. By decisions dated January 22 and May 2, 2002, the Office denied appellant's request for reimbursement of the travel expenses between his homes. The record indicates that appellant was reimbursed for travel from his home in Duluth, Minnesota to medical appointments on December 17 and 19, 2001 and February 18, 2002. In denying appellant's request for reimbursement for travel between his homes in Georgia and Minnesota, the Office noted that appellant's official residence was in Minnesota and that the Office would only be required to reimburse appellant for travel between his home there and medical appointments, which it appropriately did and indicated that if appellant spent his winters in Georgia, he should arrange to be seen by a physician there if treatment was needed.

The Board finds that the expenses appellant incurred for travel in December 2001 between his temporary home in Georgia and his home in Minnesota, must be considered personal to appellant and the Office's denial of appellant's request for reimbursement was reasonable.<sup>7</sup> There was no evidence establishing that this travel was reasonable and necessary in order to obtain medical treatment where there was no indication that competent and appropriate medical care was not available within the commuting area of appellant's winter home.<sup>8</sup> The evidence of record, therefore, does not indicate that the Office committed any act, which could be found to be an abuse of discretion in connection with its denial of appellant's request for reimbursement of the travel expenses in December 2001 between Atlanta, Georgia and Duluth, Minnesota.

The decisions of the Office of Workers' Compensation Programs dated May 2 and January 22, 2002 are hereby affirmed.

Dated, Washington, DC  
January 27, 2003

Alec J. Koromilas  
Chairman

Colleen Duffy Kiko  
Member

David S. Gerson  
Alternate Member

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<sup>7</sup> See *Lecil E. Stevens*, *supra* note 5.

<sup>8</sup> See *David Spearman*, 49 ECAB 445 (1998).