

**United States Department of Labor
Employees' Compensation Appeals Board**

M.G., Appellant

and

**U.S. MARINE CORPS, AIR STATION,
Cherry Point, NC, Employer**

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**Docket No. 15-477
Issued: April 21, 2015**

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

CHRISTOPHER J. GODFREY, Chief Judge
COLLEEN DUFFY KIKO, Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On December 24, 2014 appellant filed a timely appeal from a September 10, 2014 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.²

ISSUE

The issue is whether OWCP properly denied appellant's request for travel reimbursement.

¹ 5 U.S.C. § 8101 *et seq.*

² On appeal, appellant states that he submitted a physician's report in September 2014. It is not clear to what specific report he is referring, and he does not discuss the travel reimbursement issue. The only decision over which the Board has jurisdiction on this appeal is the September 10, 2014 OWCP decision. The Board has jurisdiction to review final OWCP decisions issued within 180 days from the filing of the appeal. 20 C.F.R. § 501.3(e). The Board may review only evidence that was before OWCP at the time of the final decision on appeal. 20 C.F.R. § 501.2(c)(1).

FACTUAL HISTORY

The case was before the Board on a prior appeal. Appellant, a boiler plant operator, filed a traumatic injury claim for right knee injuries sustained in a slip and fall at work on March 5, 2009. OWCP accepted the claim for right knee medial meniscus tear, right knee internal derangement, and right leg joint derangement. The treating physician was Dr. Robert Creighton, a Board-certified orthopedic surgeon. Appellant returned to work at the employing establishment as a motor vehicle dispatcher on December 17, 2012. By decision dated April 17, 2013, OWCP found his actual earnings represented his wage-earning capacity and his compensation was reduced to reflect his wage-earning capacity. In a decision dated May 27, 2014, the Board found that appellant had not established that modification of the wage-earning capacity determination was warranted.³ The record also contains a February 12, 2014 OWCP decision again denying modification of the wage-earning capacity determination, and an April 17, 2014 decision denying merit review.

On May 22, 2014 appellant requested reimbursement for travel expenses to visit his treating physician on March 9, 2014.

By letter dated June 17, 2014, OWCP advised appellant that the evidence was not sufficient to authorize travel reimbursement for over 100 miles. It advised him of OWCP regulations regarding travel reimbursement.

In a letter dated June 25, 2014, appellant stated that he had attended an appointment with his doctor and it was 335 miles round trip. He stated that he had been going to the physician for three years and his prior travel reimbursement requests had been approved. Appellant alleged that he had been treated in an unpleasant manner by OWCP regarding his travel reimbursement.

By decision dated September 10, 2014, OWCP denied appellant's claims for travel reimbursement on May 9, 2014. It found the evidence was not sufficient to establish the need to travel 335 miles for medical care.

LEGAL PRECEDENT

Section 8103(a) of FECA provides for the furnishing of services, appliances, and supplies prescribed or recommended by a qualified physician which OWCP, under authority delegated by the Secretary, considers likely to cure, give relief, reduce the degree or the period of disability, or aid in lessening the amount of monthly compensation.⁴ In interpreting section 8103(a), the Board has recognized that OWCP has broad discretion in approving services provided under FECA to ensure that an employee recovers from his or her injury to the fullest extent possible in

³ Docket No. 14-386 (issued May 27, 2014).

⁴ 5 U.S.C. § 8103(a).

the shortest amount of time.⁵ OWCP has administrative discretion in choosing the means to achieve this goal and the only limitation on OWCP's authority is that of reasonableness.⁶

OWCP regulations provide that the employee is entitled to reimbursement of reasonable and necessary expenses, including transportation needed to obtain authorized medical services, appliances, or supplies.⁷ To determine a reasonable distance, OWCP will consider the availability of services, the employee's condition, and the means of transportation. Effective August 29, 2011, the most recent regulations provide that a round-trip distance of up to 100 miles is considered a reasonable distance to travel.⁸ If round-trip travel of more than 100 miles is contemplated, or air transportation or overnight accommodations will be needed, the employee must submit a written request to OWCP for prior authorization with information describing the circumstances and necessity for such travel expenses. Requests for travel expenses that are often approved include those resulting from referrals to a specialist for further medical treatment, and those involving air transportation of an employee who lives in a remote geographic area with limited local medical services.⁹

Pursuant to FECA Bulletin No. 14-02, issued January 29, 2014, when a claimant submits a travel reimbursement in excess of 100 miles for a single date of service, the bill will automatically be suspended and the Central Bill Processing (CBP) provider will send notification to OWCP claims examiner. FECA Bulletin No. 14-02 notes that in some limited circumstances it may be necessary for a claimant to travel more than 100 miles on a regular basis, such as when the claimant lives in a remote area.

ANALYSIS

In the present case, appellant submitted a request for a travel reimbursement of approximately 335 miles for a trip to see his attending physician. OWCP regulations provide that generally a round trip of up to 100 miles is a reasonable distance to travel. There may be circumstances where travel reimbursement of more than 100 miles is appropriate. An example of those circumstances might be an appellant who lived in a remote area with limited medical services and physicians of an appropriate specialty.

To establish that a travel reimbursement of more than 100 miles is warranted, OWCP regulations noted above indicate that the claimant must provide information describing the circumstances and necessity for such travel expenses. In this case, appellant did not provide any evidence with respect to the necessity of travel for 335 miles. There was no evidence that he lived in a remote area with limited access to medical services or providers. Although OWCP had

⁵ *Dale E. Jones*, 48 ECAB 648, 649 (1997).

⁶ *Daniel J. Perea*, 42 ECAB 214, 221 (1990) (holding that abuse of discretion by OWCP is generally shown through proof of manifest error, clearly unreasonable exercise of judgment or administrative actions which are contrary to both logic and probable deductions from established facts).

⁷ 20 C.F.R. § 10.315(a).

⁸ *Id.*

⁹ *Id.* at § 10.315(b).

authorized travel expenses to this physician in the past, this past practice does not establish a right to continuing authorization.¹⁰ As indicated above, FECA Bulletin No. 14-02 was issued on January 29, 2014 and any travel reimbursement request of more than 100 miles needed to be reviewed by an OWCP claims examiner.

The Board finds that OWCP properly denied the travel reimbursement request in this case. No probative evidence was presented with respect to the necessity of travel over the 100-mile standard set forth in OWCP regulations. OWCP has administrative discretion with respect to authorization of travel reimbursement.¹¹ The Board finds that OWCP did not abuse its discretion in this case.

Based on the evidence of record as of September 10, 2014, the Board finds that OWCP properly denied the March 9, 2014 requested travel reimbursement.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that OWCP properly denied appellant's request for travel reimbursement.

¹⁰ See, e.g., *W.H.*, Docket No. 14-1662 (issued February 3, 2015).

¹¹ *Supra* note 6.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated September 10, 2014 is affirmed.

Issued: April 21, 2015
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board