

⁴ 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 by the representative 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.

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

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.⁹ On February 24, 2025 appellant filed a response questioning counsel's billing practices, arguing that counsel had engaged in duplicate efforts to inflate legal fees.

The requested fees pertain to services performed before the Board in the above-referenced appeal. The Board issued its decision on December 30, 2022, setting aside the Office of Workers' Compensation Programs' (OWCP) April 7, 2020 decision finding that it failed to fully develop the factual evidence from the employing establishment in denying appellant's emotional condition claim and remanding the claim for further development and a *de novo* decision.

On appeal counsel submitted a six-page brief addressing the issues on appeal. He cited legal authorities in support of his arguments and identified and argued evidence to challenge OWCP's decision denying appellant's emotional condition claim.

On April 16, 2024 counsel provided a fee petition requesting approval of fees totaling \$4,235.00 addressing the exact amounts that were being claimed for work before the Board. He provided a time and expense statement which specifically addressed the hourly rates charged by him and his associates during his representation.

OWCP's decision on appeal was dated April 7, 2020 and the appeal was filed with the Board on July 13, 2020. The fee petition requests approval of time from June 4, 2020 through January 23, 2023 and documents 19.70 hours spent in connection with this appeal before the Board. The fee petition documents the fees as 1.40 hours at \$490.00 per hour for Daniel M.

⁵ 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.

⁶ 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.

⁷ The Board's evaluation of a representative's 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 counsel 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).

⁸ 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 Federal Employees' Compensation Act appeals.

⁹ 20 C.F.R. § 501.9(e).

Goodkin, 14.20 hours at \$195.00 per hour for J. Spencer Adams, and 4.00 hours at \$195.00 per hour for E.B. The fee petition described the specific services for the amount claimed.

The Board has reviewed the fee petition and based upon the evidence of record finds that it satisfies the requirements of section 501.9(e) of the Board's implementing regulations.

IT IS HEREBY ORDERED THAT the fee petition is granted in the amount of \$4,235.00.

Issued: March 31, 2025
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board