

BRB Nos. 08-0811
and 09-0261

D.C.)
)
 Claimant-Petitioner)
)
 v.)
)
 STEVEDORING SERVICES OF AMERICA) DATE ISSUED: 08/28/2009
)
 and)
)
 HOMEPORt INSURANCE COMPANY)
)
 Employer/Carrier-) ORDER on
 Respondents) RECONSIDERATION

Claimant has filed a timely motion for reconsideration of the Board's Decision and Order in the captioned case, *D.C. v. Stevedoring Services of America*, BRB Nos. 08-0811, 09-0261 (April 29, 2008) (unpub.). 33 U.S.C. §921(b)(5); 20 C.F.R. §802.407. Employer has filed a response brief, urging rejection of claimant's motion.

Relevant to claimant's motion for reconsideration, the Board rejected claimant's contention that the administrative law judge erred in disallowing .5 hours of attorney time and .25 hours of legal assistant time for correspondence with and telephone calls to Kaiser regarding its potential claim for reimbursement of medical expenses. The Board stated that the administrative law judge reasonably found because counsel did not represent Kaiser in its reimbursement claim against employer, employer did not have to bear the expense of counsel's correspondence with Kaiser. *D.C.*, slip op. at 4.

In his motion for reconsideration, claimant renews his contention of error in this regard, maintaining that the services are compensable as he was legally obligated to communicate with Kaiser on matters concerning claimant's medical benefits. We reject this contention, as claimant failed to establish an abuse of the administrative law judge's discretion. The administrative law judge found that the services related to counsel's advice to Kaiser that it needed to intervene in the claim if it wished to seek payment of medical benefits and that it could hire counsel as its attorney or seek other counsel to do so. The administrative law judge rationally found that these services did not relate to

claimant's claim against employer as counsel did not represent Kaiser, and thus are not compensable. *See generally Tahara v. Matson Terminals, Inc.*, 511 F.3d 95, 41 BRBS 53(CRT) (9th Cir. 2007).

Accordingly, claimant's motion for reconsideration is denied and the Board's decision is affirmed. 20 C.F.R. §802.409.

SO ORDERED.

REGINA C. McGRANERY
Administrative Appeals Judge

BETTY JEAN HALL
Administrative Appeals Judge

JUDITH S. BOGGS
Administrative Appeals Judge