

BRB No. 92-0915

WILLIAM J. HARRIS )  
 )  
 Claimant-Respondent )  
 )  
 v. )  
 )  
 INGALLS SHIPBUILDING, ) DATE ISSUED:  
 INCORPORATED )  
 )  
 Self-Insured )  
 Employer-Petitioner ) DECISION and ORDER

Appeal of the Compensation Order - Award of Attorney's Fee of N. Sandra Ramsey, District Director, United States Department of Labor.

John F. Dillon (Maples and Lomax, P.A.), Pascagoula, Mississippi, for claimant.

Paul M. Franke, Jr. (Franke, Rainey & Salloum), Gulfport, Mississippi, for employer.

Before: HALL, Chief Administrative Appeals Judge, SMITH and DOLDER, Administrative Appeals Judges.

PER CURIAM:

Employer appeals the Compensation Order - Award of Attorney's Fee (Case No. 6-100536) of District Director N. Sandra Ramsey rendered on a claim filed pursuant to the provisions of the Longshore and Harbor Workers' Compensation Act, as amended, 33 U.S.C. §901 *et seq.* (the Act). The amount of an attorney's fee award is discretionary and may be set aside only if the challenging party shows it to be arbitrary, capricious, an abuse of discretion, or not in accordance with law. *See, e.g., Muscella v. Sun Shipbuilding & Dry Dock Co.*, 12 BRBS 272 (1980).

Claimant's counsel sought an attorney's fee of \$983.75, representing 9.25 hours at \$100 per hour and \$58.75 in expenses, for work performed before the district director in connection with claimant's hearing loss claim. The district director awarded counsel a fee of \$975, representing 9.25 hours at an hourly rate of \$100, plus expenses of \$50. Finding that employer is not liable for any charges prior to its receipt of formal notice of the claim on May 18, 1988, the district director ordered employer to pay \$587.50 to counsel and ordered a lien on claimant's compensation in the remaining amount of \$387.50. Employer appeals the district director's fee award, incorporating by reference the arguments it made below into its appellate brief. Claimant responds, urging affirmance

of the fee award.

Employer's objections to the number of hours and hourly rate awarded are rejected, as it has not shown that the district director abused her discretion in this regard. *See Ross v. Ingalls Shipbuilding, Inc.*, 29 BRBS 42 (1995); *Maddon v. Western Asbestos Co.*, 23 BRBS 55 (1989); *Cabral v. General Dynamics Corp.*, 13 BRBS 97 (1981). Employer's specific objection to counsel's method of billing in minimum increments of one-quarter hour also is rejected, as the fee petition and the district director's award conform to the criteria set forth in the decisions of the United States Court of Appeals for the Fifth Circuit in *Ingalls Shipbuilding, Inc. v. Director, OWCP [Fairley]*, No. 89-4459 (5th Cir. July 25, 1990) (unpublished) and *Ingalls Shipbuilding, Inc. v. Director, OWCP [Biggs]*, 46 F.3d 66 (5th Cir. 1995)(table).

We reject employer's contention that the time claimed after the case was referred to the administrative law judge should be disallowed. As these services were performed after the administrative law judge's decision was issued and relate to the oversight of medical care and to the "wrap-up" of the claim, the district director did not abuse her discretion in awarding fees for these services. *See generally Nelson v. Stevedoring Services of America*, 29 BRBS 90 (1995); *Anderson v. Todd Shipyards Corp.*, 22 BRBS 20 (1989).

Employer's contentions that were not raised below will not be addressed for the first time on appeal. *Bullock v. Ingalls Shipbuilding, Inc.*, 27 BRBS 90 (1993)(*en banc*)(Brown and McGranery, JJ., concurring and dissenting), *modified on other grounds on recon. en banc*, 28 BRBS 102 (1994), *aff'd mem. sub nom. Ingalls Shipbuilding, Inc. v. Director, OWCP [Biggs]*, 46 F.3d 66 (5th Cir. 1995); *Clophus v. Amoco Production Co.*, 21 BRBS 261 (1988).

Accordingly, the Compensation Order of the district director is affirmed.

SO ORDERED.

BETTY JEAN HALL, Chief  
Administrative Appeals Judge

ROY P. SMITH  
Administrative Appeals Judge

NANCY S. DOLDER  
Administrative Appeals Judge