

W.A. )  
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 Claimant-Petitioner )  
 )  
 v. )  
 )  
 MARINE REPAIR SERVICE, )  
 INCORPORATED )  
 ) DATE ISSUED: 06/10/2008  
 and )  
 )  
 SIGNAL MUTUAL INDEMNITY )  
 ASSOCIATION, LIMITED )  
 )  
 Employer/Carrier- ) ORDER on  
 Respondents ) RECONSIDERATION

Claimant has filed a timely motion for reconsideration of the Board's decision in this case. *W.A. v. Marine Repair Service, Inc.*, BRB No. 07-0294 (Nov. 23, 2007)(unpub.); 33 U.S.C. §921(b)(5); 20 C.F.R. §802.407. In his motion for reconsideration, claimant's counsel argues that in affirming the administrative law judge's denial of the request for travel expenses in the amount of \$181.29, the Board failed to address the substance of his supplemental brief filed November 15, 2007.<sup>1</sup>

In this brief, and in his motion for reconsideration, claimant asserts that as employer did not object to the request for \$181.29 in travel costs, the administrative law judge erred in *sua sponte* disallowing the charge. Claimant contends that this action violated his right to due process of law.

We reject this contention. Claimant's fee petition should be a self-sufficient document from which the administrative law judge can assess the reasonableness of the request for fees and costs and whether the services for which counsel seeks recompense were necessary for the prosecution of the claim. The regulation at 20 C.F.R. §702.132(a)

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<sup>1</sup> Claimant filed his Petition for Review and brief on February 5, 2007, and a supplemental brief on March 5, 2007. He filed his third brief on November 15, 2007.

states that the “application shall be supported by a complete statement of the extent and character of the necessary work done, described with particularity...” In counsel’s fee petition he listed his costs as “09/07/06 \$181.29 Travel Expenses.” The administrative law judge was aware that counsel practices in Norfolk, Virginia and that claimant lives in Savannah, Georgia. He found, however, that the claimed expense lacked specificity such that he could not assess its reasonableness, and he therefore denied the reimbursement claim. This *sua sponte* action did not violate claimant’s due process rights, as the burden was always on counsel to submit a sufficiently documented fee application. See *Richardson v. Continental Grain Co.*, 336 F.3d 1103, 37 BRBS 80(CRT) (9<sup>th</sup> Cir. 2003) (claimant bears the burden of showing entitlement to an attorney’s fee); see also *Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983) (where documentation is inadequate, the fee award may be reduced). As claimant did not establish that the administrative law judge abused his discretion in denying reimbursement of the travel expenses, his motion for reconsideration is denied.

Accordingly, claimant’s motion for reconsideration is denied. The Board’s decision is affirmed. 20 C.F.R §§801.301(c), 802.409.

SO ORDERED.

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ROY P. SMITH  
Administrative Appeals Judge

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BETTY JEAN HALL  
Administrative Appeals Judge

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JUDITH S. BOGGS  
Administrative Appeals Judge