U.S. Department of Labor

Benefits Review Board
200 Constitution Ave. NW
Washington, DC 20210-0001

BRB No. 18-0345

GUILLERMO MALDONADO	)	
	)	
Claimant-Respondent	)	
	)	
v.	)	
	)	DATE ISSUED: 03/13/2019
GULF COPPER DRY DOCK & RIG REPAIR	)	
	)	
	)	
and	)	
	)	
AMERICAN LONGSHORE MUTUAL ASSOCIATION, LIMITED	)	
	)	
	)	
Employer/Carrier-Petitioners	)	DECISION and ORDER

Appeal of the Decision and Order on Remand and the Decision and Order Denying Employer/Carrier's Motion for Reconsideration of Clement J. Kennington, Administrative Law Judge, United States Department of Labor.

William G. Pulkingham (Rendon & Associates), Houston, Texas, for claimant.

Kevin A. Marks and Scott R. Huete (Melchiode Marks King, LLC), New Orleans, Louisiana, for employer/carrier.

Before: BUZZARD, GILLIGAN and ROLFE, Administrative Appeals Judges.

PER CURIAM:

Employer appeals the Decision and Order and the Decision and Order Denying Employer/Carrier's Motion for Reconsideration (2015-LHC-00510) of Administrative Law Judge Clement J. Kennington 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). We must affirm the administrative law judge's findings of fact and conclusions of law if they are rational, supported by substantial evidence, and in accordance with law. 33 U.S.C. §921(b)(3); *O'Keeffe v. Smith, Hinchman & Grylls Associates, Inc.*, 380 U.S. 359 (1965).

This case is before the Board for the second time. Claimant injured his low back and knees on September 15, 2011, during the course of his employment with employer as a sandblaster/painter. Employer voluntarily paid compensation and provided medical benefits. Dr. Siller performed right knee surgery and released claimant to light-duty work on December 28, 2011. CX 6 at 16; EXs 6 at 18; 21 at 8. Employer terminated compensation payments on January 5, 2012. EX 17 at 7. Claimant did not respond to employer's January 30, 2012 offer of light-duty work in its office. EX 3 at 1. He received pain management treatment from Dr. Cardona, at Bodies in Balance, from May 25- to August 3, 2012, which employer declined to pay. CX 18; EX 21 at 9-12, 47.

Claimant filed a claim under the Act date-stamped by the Office of Workers' Compensation Programs (OWCP) on October 27, 2014. EX 17 at 50. He sought ongoing compensation for temporary total disability, 33 U.S.C. §908(b), from January 12, 2012, and medical expenses totaling $16,270 from Bodies in Balance. Employer challenged, inter alia, the timeliness of the claim and the compensability of Dr. Cardona's treatment at Bodies in Balance.

The administrative law judge found the claim was timely filed under Section 13 of the Act, 33 U.S.C. §913. Decision and Order at 11-12. He determined that claimant's degenerative arthritis of the back and knees are work-related injuries and that claimant needed bilateral knee replacements. *Id*. at 13. He found claimant's right knee condition reached maximum medical improvement 12 weeks after the surgery on November 9, 2011. *Id*. at 14. The administrative law judge rejected claimant's contention that he did not receive employer's January 30, 2012 offer of a light-duty job at its Galveston facility, and determined, based on this offer, that employer established the availability of suitable alternate employment. The administrative law judge ordered employer to pay claimant compensation for permanent total disability, 33 U.S.C. §908(a), from January 12 to January 30, 2012, and found that claimant did not have a loss in wage-earning capacity after this date. *Id*. He also determined that employer authorized necessary treatment with Dr.

Cardona at Bodies in Balance, which, therefore, is compensable under Section 7 of the Act, 33 U.S.C. §907. *Id*. at 15. Claimant appealed, and employer cross-appealed.

Relevant to the current appeal, the Board vacated the finding that the claim was timely filed and remanded the case for additional findings. *Maldonado v. Gulf Copper Dry Dock & Rig Repair*, BRB Nos. 16-0417/A, slip op. at 5-6 (Jun. 6, 2017). The Board additionally vacated the maximum medical improvement finding and remanded the case for further findings in view of all of claimant's work-related disabling conditions. *Id*., slip op. at 9. The Board also vacated the finding that employer's offer of a light-duty office job in Galveston, Texas, approximately 100 miles from claimant's primary residence in Cleveland, Texas, constituted suitable alternate employment and remanded for the administrative law judge to assess its suitability in light of its location and claimant's limited education. *Id*., slip op. at 9-11. The Board also directed the administrative law judge to address employer's labor market survey if he found the job unsuitable. *Id*., slip op. at 11.

On remand, the administrative law judge found the claim timely filed based on Dr. Cardona's attending physician's reports which were filed with the OWCP within a year of employer's last compensation payment. Decision and Order on Remand at 10-12. He determined that claimant's work injuries have not reached maximum medical improvement. *Id*. at 13-14. The administrative law judge found employer's offer of light-duty work not suitable given its distance from claimant's home, the location of his physical therapy, his inability to drive, his heart condition, and his lack of education. *Id*. at 15. The administrative law judge rejected the jobs identified in employer's labor market survey because they were not approved by Dr. Siller. *Id*. He found employer liable for medical treatment for claimant's L5-S1 disc protrusion, lumbar radiculitis, sciatica, chronic pain syndrome, depression, anxiety, and degenerative osteoarthritis of his knees. *Id*. at 16-17. Thus, the administrative law judge awarded claimant compensation for temporary total disability from January 12, 2012, and medical benefits. The administrative law judge denied employer's motion for reconsideration.

On appeal, employer challenges the findings that the claim was timely filed, that claimant's work injuries have not reached maximum medical improvement and require further medical treatment, and that it did not establish suitable alternate employment. Claimant responds, urging affirmance.

Section 13

The administrative law judge found claimant's LS-203, Claim for Compensation, filed on October 27, 2014, untimely with respect to employer's last voluntary compensation payment on January 5, 2012. Decision and Order on Remand at 11. The

administrative law judge determined, however, that several attending physician's reports in the OWCP administrative file "indicate the possibility of a continuing disability sufficient to satisfy the filing requirements of Section 13(a)," specifically, Dr. Cardona's reports of May 25, July 6, and August 3, 2012. *Id*. at 12; *see* CX 28 at 25, 29, 33. The administrative law judge noted that these reports describe claimant's complaints of low back and knee pain, that claimant was prescribed pain management medication and treatment, and that claimant was deemed totally disabled from July 6 to September 20, 2012. *Id*. The administrative law judge stated that, "it can be inferred from the attending physician's reports that Claimant intended to pursue a claim." *Id*.

Section 13(a) provides that the time for filing a claim is tolled until one year after the last voluntary payment of compensation, in this case January 5, 2012.[1] *Reed v. Bath Iron Works Corp.*, 38 BRBS 1 (2004); EX 16 at 1. Any writing filed with the OWCP produced by or on behalf of the claimant disclosing an intention to assert a right to compensation under the Act may suffice as a claim. *Avondale Industries, Inc. v. Alario*, 355 F.3d 848, 37 BRBS 116(CRT) (5th Cir. 2003); *Vodanovich v. Fishing Vessel Owners Marne Ways, Inc.*, 27 BRBS 286 (1994); *Bingham v. General Dynamics Corp.*, 14 BRBS 614 (1982); *see also Fireman's Fund Ins. Co. v. Bergeron*, 493 F.2d 545 (5th Cir. 1974). Attending physicians' reports indicating the possibility of continuing disability due to the work injury filed within a year after termination of voluntary payments satisfy Section 13(a). *Walker v. Rothschild Int'l Stevedoring Co.*, 526 F.2d 1137, 3 BRBS 6 (9th Cir. 1975); *Grant v. Interocean Stevedoring Co.*, 22 BRBS 294 (1989) (G. Lawrence, J.,

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[1] Section 13(a) provides:

> Except as otherwise provided in this section, the right to compensation for disability or death under this chapter shall be barred unless a claim therefore [sic] is filed within one year after the injury or death. *If payment of compensation has been made without an award on account of such injury or death, a claim may be filed within one year after the date of the last payment.* Such claim shall be filed with the deputy commissioner in the compensation district in which such injury or death occurred. The time for filing a claim shall not begin to run until the employee or beneficiary is aware, or by the exercise of reasonable diligence should have been aware, of the relationship between the injury or death and the employment.

33 U.S.C. §913(a) (italics added).

dissenting); *see generally Chong v. Todd Pacific Shipyards Corp.*, 22 BRBS 242 (1989), *aff'd mem. sub nom. Chong v. Director, OWCP*, 909 F.2d 1488 (9th Cir. 1990).

Employer contends that the medical records relied upon by the administrative law judge law do not satisfy the Section 13(a) filing requirements because Dr. Cardona was not authorized as an attending or treating physician at the time they were submitted and, alternatively, because the content of those reports is insufficient to constitute a claim. Employer's contentions are without merit.

In our prior decision addressing employer's liability for medical benefits relating to Dr. Cardona's treatment of claimant at Bodies in Balance, we affirmed the administrative law judge's finding that employer approved a change of physician for claimant from Dr. Siller, an orthopedist, to Dr. Cardona, a psychiatrist, for pain management in May 2012. *Maldonado*, slip op. at 6-7. This constitutes the law of the case, and we decline to address employer's renewed contention. *See, e.g., Kirkpatrick v. B.B.I., Inc.*, 39 BRBS 69 (2005); *Gladney v. Ingalls Shipbuilding, Inc.*, 33 BRBS 103 (1999).

Moreover, substantial evidence supports the administrative law judge's finding that Dr. Cardona's reports indicate an intent to assert a right to compensation because they state that claimant was totally disabled by his work injury.[2] Decision and Order on Remand at 12. Dr. Cardona filed three "Attending Physician's Reports" on OWCP forms. The report dated May 25, 2012, states that claimant had complaints of low back pain and knee pain related to his work accident. He expected that there would be "permanent effects" as a result of this injury. CX 28 at 33. In his reports dated July 6 and August 3, 2012, Dr. Cardona stated claimant was totally disabled from July 6 through September 20, 2012. *Id.* at 25, 29; Decision and Order on Remand at 12. Dr. Cardona's reports, therefore, represent written statements from an attending physician filed with the OWCP indicating the possibility of a continuing work-related disability. *See Alario*, 355 F.3d 848, 37 BRBS 116(CRT); *Walker*, 526 F.2d 1137, 3 BRBS 6; *Grant*, 22 BRBS 294. As it is supported by substantial evidence and in accordance with law, we affirm the administrative law judge's finding that the claim was timely filed within one year of the last voluntary payment of compensation on January 5, 2012. *Walker*, 526 F.2d 1137, 3 BRBS 6. Moreover, a timely filed claim can be amended to include additional types and periods of disability. *Pool Co. v. Cooper*, 274 F.3d 173, 35 BRBS 109(CRT) (5th Cir. 2001).

[2] We need not address employer's contentions that evidence regarding the informal conference on April 17, 2013, in which claimant did not participate and was held solely for purposes of Dr. Cardona's seeking payment of his bill, does not support the administrative law judge's finding pursuant to Section 13(a), because the administrative law judge rationally relied on earlier evidence to find the claim timely filed before that date.

Maximum Medical Improvement

The administrative law judge found claimant's work-related knee injuries have not reached maximum medical improvement due to Dr. Howie's recommendation he undergo bilateral knee replacement surgery. Decision and Order on Remand at 13; CX 31. The administrative law judge also specifically found claimant's posterior central disc protrusion is not at maximum medical improvement because claimant has not received medical treatment for this condition. Decision and Order on Remand at 13. He concluded, "based on the nature of claimant's overall impairments," i.e., his right knee surgery, pain management and therapy, treatment for severe depression and anxiety, and acceleration of a bilateral osteoarthritic knee condition, that claimant's work-related knee injuries have not reached maximum medical improvement. *Id*. at 14.

A claimant has reached maximum medical improvement when he is no longer undergoing treatment with a view toward improving his condition or his condition is of lasting and indefinite duration and beyond a normal healing period. *See Gulf Best Electric, Inc. v. Methe*, 396 F.3d 601, 38 BRBS 99(CRT) (5th Cir. 2004); *Louisiana Ins. Guaranty Ass'n v. Abbott*, 40 F.3d 122, 29 BRBS 22(CRT) (5th Cir. 1994); *Watson v. Gulf Stevedore Corp.*, 400 F.2d 649 (5th Cir. 1968), *cert. denied*, 394 U.S. 976 (1969). If a physician believes further treatment should be undertaken, then a possibility of improvement exists, and even if, in retrospect, the treatment was unsuccessful, maximum medical improvement does not occur until the treatment is complete. *Methe*, 396 F.3d 601, 38 BRBS 99(CRT); *Abbott* 40 F.3d 122, 29 BRBS 22(CRT). If surgery is anticipated, maximum medical improvement has not been reached. *Victorian v. International-Matex Tank Terminals*, 52 BRBS 35 (2018).

Employer first contends the medical evidence shows that claimant has reached maximum medical improvement. Employer cites the administrative law judge's reliance in his initial decision on Dr. Vanderweide's opinion that claimant's right knee was at maximum medical improvement 12 weeks after undergoing arthroscopic surgery. Employer contends the Board did not overturn this finding and it should not have been subject to reconsideration on remand. We disagree.

The Board explicitly remanded for the administrative law judge to address maximum medical improvement because, inter alia, the administrative law judge did not consider in his initial decision his finding that claimant required bilateral knee replacement surgery. *Maldonado*, slip op. at 9. Accordingly, the administrative law judge had the discretion on remand to find that claimant's work-related conditions were not at maximum medical improvement based on his crediting of Dr. Howie's opinion that claimant requires

bilateral knee surgery.[3] *See generally Victorian*, 52 BRBS 35; *Monta v. Navy Exch. Serv. Command*, 39 BRBS 104 (2005).

Employer next contends that claimant abandoned pain management, therapy, and treatment for depression and anxiety once he stopped seeing Dr. Cardona. Therefore, it avers, claimant has reached maximum medical improvement with respect to these conditions because there is no evidence of continuing disability or need for further medical care. We disagree.

Employer controverted Dr. Cardona's treatment and refused to pay for it. In his initial decision, the administrative law judge found employer liable to reimburse Dr. Cardona $16,270 for his treatment in 2012, but he did not award claimant future medical benefits for these conditions. Decision and Order at 15-17. The Board remanded for the administrative law judge to address claimant's need for further treatment. *Maldonado*, slip op. at 8. Although there is no evidence that claimant sought treatment for these conditions at his own expense after he stopped treating with Dr. Cardona in August 2012, employer did not authorize treatment with Dr. Cardona, or anyone else, after claimant discontinued physical therapy at Omni in March 2012.

We thus reject employer's premise that these conditions reached maximum medical improvement because claimant refused to seek treatment at his own expense for compensable injuries. *See Abbott*, 40 F.3d 122, 29 BRBS 22(CRT) (claimant not at maximum medical improvement if physician believes further treatment should be undertaken). Dr. Cardona recommended pain management treatment and group and individual counseling as of the last report of record on August 3, 2012. CXs 20 at 14; 21 at 30-31. Claimant testified that employer would not authorize further treatment at Omni. Tr. at 16, 67-68. Accordingly, we affirm the administrative law judge's finding that these work injuries are not at maximum medical improvement as supported by substantial

[3] Employer also argues that claimant's knee complaints are unrelated to the work injury. However, employer did not appeal the administrative law judge's finding in his initial decision that claimant's pre-existing degenerative osteoarthritis was aggravated by the work injury. *See* Decision and Order at 13. Accordingly, employer may not raise this issue for the first time in its second appeal. *See generally Verderane v. Jacksonville Shipyards, Inc.*, 14 BRBS 220.15 (1981), *modified*, BRB No. 76-244 (Oct. 16, 1984), *aff'd on other grounds*, 772 F.2d 775, 17 BRBS 155(CRT) (11th Cir. 1985).

evidence. In addition, we affirm the award of medical benefits for these work injuries.[4] *See generally Mijangos v. Avondale Shipyards, Inc.*, 948 F.2d 941, 25 BRBS 78(CRT) (5th Cir. 1991).

Suitable Alternate Employment

Employer contends the administrative law judge erred in finding that claimant could not commute from his residence in Cleveland, Texas, to the light-duty position at its facility in Galveston, Texas, because, prior to his work injury, claimant made this commute and lived in Galveston during the week. We disagree.[5]

On remand, the administrative law judge found the job offer unsuitable because claimant's November 2011 knee surgery and use of a cane prevented him from driving and the location would require him to travel approximately 100 miles per day to attend physical therapy. Alternatively, the administrative law judge found claimant's lack of education rendered the job unsuitable. He also found that employer's labor market survey did not establish the availability of suitable alternate employment because the jobs were not approved by Dr. Siller, per his December 28, 2011 assessment.[6] *Id.*; *see* CX 22 at 1.

Once, as here, claimant establishes that he is unable to perform his usual work due to his work injury, the burden shifts to employer to demonstrate the availability of realistic job opportunities within the geographic area where claimant resides, which claimant, by virtue of his age, education, work experience, and physical restrictions, is capable of performing.[7] *New Orleans (Gulfwide) Stevedores v. Turner*, 661 F.2d 1031, 14 BRBS 156

[4] We note that Dr. Howie's March 31 and June 15, 2015 reports are substantial evidence that claimant requires further treatment for his knees. CX 31; EX 25 at 12, 42-45.

[5] We reject employer's contention that the administrative law judge improperly addressed the suitability of its light-duty job offer on remand because claimant raised this contention for the first time in the initial appeal. Claimant was entitled to raise this adverse finding in his appeal, and the Board, in its prior decision, explicitly remanded the case for the administrative law judge to consider the suitability of employer's light-duty job offer in light of claimant's residence in Cleveland.

[6] Employer does not challenge the administrative law judge's rejection of its labor market survey.

[7] We reject employer's contention that there is no evidence of continuing temporary total disability. As we noted in our prior decision, the administrative law judge found that employer did not contest claimant's inability to perform his usual work due to his work

(5th Cir. 1981). Employer can meet its burden of establishing the availability of suitable alternate employment by offering claimant a suitable job in its facility, provided that it is necessary work. *Darby v. Ingalls Shipbuilding, Inc.*, 99 F.3d 685, 30 BRBS 93(CRT) (5th Cir. 1996).

The administrative law judge is afforded considerable discretion in determining the relevant labor market in evaluating whether employer has established the availability of suitable alternate employment. *Wood v. U.S. Dep't of Labor*, 112 F.3d 592, 31 BRBS 43(CRT) (1st Cir. 1997); *See v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 28 BRBS 96(CRT) (4th Cir. 1994). The proper community or geographic area in which an employer must identify suitable jobs is based on the facts of each case. *See, e.g., Patterson v. Omniplex World Services*, 36 BRBS 149 (2003); *Holder v. Texas Eastern Products Pipeline, Inc.*, 35 BRBS 23 (2001). Typically, the relevant community is where the claimant resides or where he resided at the time of his injury. *See Beumer v. Navy Personnel Command/MWR*, 39 BRBS 98 (2005); *Wilson v. Crowley Maritime*, 30 BRBS 199 (1996).

In this case, Dr. Siller prescribed physical therapy at Omni in Cleveland on November 17, 2011, and reiterated this course of treatment at claimant's last office visit on December 28, 2011. CX 5 at 9, 14. Claimant attended therapy there three times a week from November 23, 2011 to March 8, 2012.[8] CX 9. We thus affirm the administrative law judge's finding that the job offer did not establish the availability of suitable alternate employment due to the job's location and claimant's need to attend physical therapy.[9] *See*

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injury. *Maldonado*, slip op. at 9; Decision and Order at 14. As claimant established a prima facie case that he is totally disabled, the relevant inquiry on remand was whether employer met its burden to establish the availability of suitable alternate employment, not whether claimant reestablished an inability to return to his former job.

[8] The records from Omni indicate that claimant missed physical therapy from January 12 to January 24, 2012, due to his non-work-related heart condition. CX 9 at 11. Therefore, we reject employer's contention that claimant was not attending physical therapy at the time of its job offer on January 30, 2012.

[9] We agree with employer that the administrative law judge erred by relying on claimant's non-work-related heart condition to find the position unsuitable, as this is a post-injury medical condition which is not a relevant factor in determining whether employer established the availability of suitable alternate employment. *See generally J.T. [Tracy] v. Global Int'l Offshore, Ltd.*, 43 BRBS 92 (2009), *aff'd sub nom. Keller Found./Case Found. v. Tracy*, 696 F.3d 835, 46 BRBS 69(CRT) (9th Cir. 2012), *cert. denied*, 570 U.S. 904 (2013). This error is harmless, however, in view of the finding that claimant could not

generally Holder 35 BRBS 23. Accordingly, we affirm the award of ongoing compensation for temporary total disability.

Attorney's Fee

We next address claimant's counsel's request for an attorney's fee for work performed before the Board in the prior appeal in this case, BRB Nos. 16-0417/A (Jun. 6, 2017). On April 4, 2018, claimant's counsel's filed an amended itemized petition for an attorney's fee.[10] Claimant's counsel is entitled to an attorney's fee payable by employer for successfully prosecuting the claim in BRB No. 16-0417 and defending employer's cross-appeal in BRB No. 16-0417A. By virtue of the Board's disposition in the current appeal, claimant is entitled to an ongoing award of temporary total disability compensation and medical benefits.

Claimant's counsel seeks a fee of $19,451.25, representing 70.50 hours of attorney services at $275 per hour, and .85 of an hour of legal assistant work at $75 per hour. These services were performed between May 12, 2016 and March 12, 2018. Employer has filed objections to the fee request. Claimant filed a brief in reply to employer's objections.

We reject employer's contention that the fee petition should have accounted for attorney time expended on a tenth of an hour basis. Claimant's counsel's amended petition, which used an eighth of an hour basis, is in accordance with the decision of the United States Court of Appeals for the Fifth Circuit in *Ingalls Shipbuilding, Inc. v. Director (OWCP) [Biggs]*, No. 94-40066 (5th Cir. Jan. 12, 1995) (unpublished). *See Conoco, Inc. v. Director, OWCP*, 194 F.3d 684, 33 BRBS 187(CRT) (5th Cir. 1999).

Employer challenges as vague entries for "Review of file" totaling 4.5 hours. Contrary to employer's contention, "Review of file" is descriptive of the task performed and, in the context of the fee petition as a whole, employer has not shown that the time expended for this task was unreasonable or unnecessary. 20 C.F.R. §802.203(e).

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commute to the job at employer's facility. In addition, we need not address employer's contention that the administrative law judge erred in finding the job was not educationally suitable for claimant.

[10] Claimant's counsel's initial fee petition employed quarter-hour billing increments, to which employer objected, contending that claimant should use tenth of an hour increments. Claimant's counsel filed an amended fee petition that reduced 10 quarter-hour entries to an eighth of an hour.

Employer contends that claimant's counsel cannot recover $63.75 for work performed by his legal assistant as it was clerical in nature and should be construed as office overhead. Counsel's fee petition states that the time expended at the lower hourly rate of $75 was for phone calls to claimant. In his reply brief, counsel explains that his assistant speaks Spanish, which he does not, claimant is Spanish-speaking, and her assistance, therefore, was not clerical in nature. Under these circumstances, employer has not shown that the requested time is clerical work that should be construed as office overhead. *See generally Quintana v. Crescent Wharf & Warehouse Co.*, 18 BRBS 254 (1986).

Employer further avers that claimant's counsel expended excessive hours in completing the following tasks: 7.5 hours for legal research; 29 hours on the petition for review; 21 hours responding to employer's cross-petition and submitting a reply brief to employer's response to claimant's petition; and, two hours on the attorney fee petition.

Claimant's appeal in this case was very successful. He prevailed on remand on the issues he raised in his initial appeal of entitlement to future medical care, maximum medical improvement, and suitable alternate employment. Regarding time expended responding to employer's cross-appeal, claimant's counsel successfully defended the compensability of Dr. Cardona's treatment and his designation by the administrative law judge as claimant's authorized treating physician. Claimant's counsel's petition for review, reply brief, and response brief are concise and reflect well on his competency, as do the results achieved. Accordingly, we reject employer's contention that the hours requested are excessive for the work performed. 20 C.F.R. §802.203(e); *Smith v. Alter Barge Line, Inc.*, 30 BRBS 87 (1996); *see generally Hensley v. Eckerhart*, 461 U.S. 424 (1983). We also reject employer's contention that two hours requested for preparing the fee petition is excessive. We note that counsel did not charge a fee for time expended submitting an amended petition, or for his reply to employer's objections. 20 C.F.R. §802.203(e); *see generally Bogden v. Consolidation Coal Co.*, 44 BRBS 121 (2011) (en banc). Moreover, we find the requested hourly rate of $275 reasonable for the geographic area where the work was performed. 20 C.F.R. §802.203(d)(4). Accordingly, we award claimant's counsel the requested fee of $19,451.25.

Accordingly, the administrative law judge's Decision and Order on Remand and Decision and Order Denying Employer/Carrier's Motion for Reconsideration are affirmed. Claimant's counsel is awarded a fee of $19,451.25, payable directly to counsel by employer, for work performed before the Board in BRB Nos. 16-0417/A.

SO ORDERED.

GREG J. BUZZARD
Administrative Appeals Judge

RYAN GILLIGAN
Administrative Appeals Judge

JONATHAN ROLFE
Administrative Appeals Judge