

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of SEBASTIAN HERNANDEZ and DEPARTMENT OF THE AIR FORCE,
KELLY AIR FORCE BASE, TX

*Docket No. 99-907; Submitted on the Record;
Issued July 27, 2000*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether the Office of Workers' Compensation Programs properly denied appellant's request for reimbursement of travel expenses incidental to medical treatment for the period August 22, 1972 to June 3, 1986.

In the present case, appellant submitted a letter dated November 24, 1997, requesting that the Office review his claim for reimbursement of travel expenses. By decision dated March 24, 1998, the Office determined that travel vouchers for the period August 22, 1972 to June 3, 1986 were not timely submitted.¹

The Board has reviewed the record and finds that the Office properly denied appellant's request for reimbursement of travel expenses.

On April 1, 1987 the Office issued regulations regarding reimbursement for medical expenses, transportation costs, loss of wages and incidental expenses. Section 10.413 of Title 20 of the Code of Federal Regulations provides:

“The Office will reimburse claimants and providers promptly for all bills received on an approved form and in a timely manner. However, no bill will be paid for expenses incurred if the bill is submitted more than one year beyond the calendar year in which the expense was incurred or the service or supply was provided, or more than one year beyond the calendar year in which the claim was first accepted as compensable by the Office, whichever is later.”²

¹ The Board notes that the case was previously before the Board with respect to appellant's request for reconsideration of an Office decision denying entitlement to a schedule award. Docket No. 95-1954 (issued August 5, 1997).

² 20 C.F.R. § 10.413; *see also* 5 U.S.C. § 8103(a).

In the present case, appellant filed a claim on March 14, 1958 for an injury on November 12, 1953. In addition, appellant filed a claim for a recurrence of disability on August 21, 1972.³ The record contains a summary of the case (Form CA-25) indicating that as of 1973 the Office had accepted a lumbosacral strain, cervical spondylosis and a laminectomy as employment related and had accepted a recurrence of disability on August 21, 1972. The Office issued payments for medical treatment commencing August 23, 1972.

The Board notes that this case involves a claim that was accepted by the Office prior to April 1, 1987, the effective date of section 10.413 and the expenses claimed were incurred prior to April 1, 1987. In *Truman Clayton Goings*,⁴ a similar situation was presented. In that case, appellant did not submit a travel expense voucher until October 1989 (for expenses incurred from 1983 to 1989) and the initial Office decision with respect to reimbursement was made in March 1990. Under these circumstances, the Board found that section 10.413 was applicable.⁵ In the instant case, appellant indicated he submitted travel vouchers to the employing establishment in May 1988 and the initial decision from the Office on this issue was March 24, 1998. Accordingly, the Board finds that section 10.413 is applicable to the claim for reimbursement of travel expenses in this case.

It is appellant's contention that the date "the claim was first accepted as compensable by the Office" is September 21, 1987 the date of a letter from the Office indicating that further development of the medical evidence had established that he continued to have an employment-related condition and could submit medical bills. This letter does not, however, represent the date the claim was first accepted by the Office as compensable. As noted above, the Office had accepted the claim as compensable by 1973 and continued to pay compensation benefits. The September 21, 1987 letter represents a reaffirmation that current medical evidence indicated entitlement to benefits; it does not represent the initial date of acceptance.⁶

Appellant states that he submitted the travel vouchers to the employing establishment as of May 12, 1988. This is more than one-calendar year beyond 1986, the last date in which the claimed travel expenses were incurred. Appellant did not submit bills for travel expenses within one year of the calendar year, in which the claim was first accepted as compensable, or within one year of the calendar year in which the expense was incurred or the service provided. Under 20 C.F.R. § 10.413, the travel vouchers were not timely submitted and are not reimbursable by the Office.

³ There is also a claim for a recurrence of disability commencing October 14, 1982.

⁴ 42 ECAB 267 (1990).

⁵ The claimant argued that the regulation was not applicable because the decision accepting his claim was issued prior to April 1, 1987. The Board found that the relevant date for application of the regulation was the date of the initial decision on reimbursement for travel expenses and since this occurred after the effective date of the regulations, section 10.413 was applicable.

⁶ The record indicates that the case file was closed in September 1983, but the case was reopened and medical bills continued to be paid in 1984. The Office continued to develop the medical evidence and the September 21, 1987 letter notified appellant that he remained entitled to benefits and could submit any bills previously returned. There is no indication that any travel vouchers had been submitted prior to this time.

The decision of the Office of Workers' Compensation Programs dated March 24, 1998 is affirmed.

Dated, Washington, D.C.
July 27, 2000

David S. Gerson
Member

Willie T.C. Thomas
Member

A. Peter Kanjorski
Alternate Member