

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ANGIE PRATER and U.S. POSTAL SERVICE,
POST OFFICE, Seaman, OH

*Docket No. 01-104; Submitted on the Record;
Issued February 25, 2003*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issue is whether the Office of Workers' Compensation Programs abused its discretion by denying appellant's request for reimbursement of travel expenses for various periods between May 3, 1994 and December 12, 1997.

In May 1992 appellant, then a 46-year-old postmaster, filed an occupational disease claim, alleging that factors of employment caused a frozen left shoulder and radicular cervical pain. She stopped work on May 2, 1992, returned part time on August 15, 1992 and again ceased working on October 24, 1992. Appellant has not returned to work. By decision dated October 9, 1992, the Office denied the claim. Following appellant's timely request for a hearing, in a decision dated April 19, 1993, an Office hearing representative reversed the October 9, 1992 decision and accepted that appellant sustained employment-related adhesive capsulitis of the left shoulder. The Office later accepted that she sustained an employment-related chronic pain disorder with precipitation of major depression, severe, with psychotic features.¹ The record reflects that appellant frequently moved between the homes of her daughters, one of whom resided in Hamden, Ohio and the other in Allen, Kentucky.

In undated Office travel voucher forms stamped received by the Office on December 22, 1997, appellant requested reimbursement for travel expenses covering periods from 1991 to July 20, 1995. In undated forms stamped received by the Office on May 1, 1998, she requested reimbursement for travel expenses for periods from January 28, 1997 to April 17, 1998. In forms dated July 7, 1999, appellant resubmitted claims for reimbursement of travel expenses for the period between May 3, 1994 and December 12, 1997. Included with this submission was a claim for reimbursement for the period January 16 to December 17, 1996.

¹ Appellant received appropriate wage-loss compensation until she elected retirement benefits under the Office of Personnel Management (OPM) on February 8, 1994. On August 21, 1996 she elected to return to benefits under the Federal Employees' Compensation Act and on April 28, 1998 elected to return to OPM retirement benefits.

By decision dated March 16, 2000, the Office denied appellant's requests for reimbursement for travel incurred in 1994 through 1997 on the grounds that, pursuant to 20 C.F.R. § 10.336, she had not timely submitted the requests for reimbursement. The instant appeal follows.

The Board finds that, while the Office did not abuse its discretion in denying appellant's request for reimbursement of travel expenses for periods from 1994 through 1996 on the grounds that these requests were not timely filed, appellant is entitled to reimbursement for legitimate expenses for periods in 1997.

Section 8103(a) of the Act states in pertinent part: "The United States shall furnish to an employee who is injured while in the performance of duty, the services, appliances and supplies prescribed or recommended by a qualified physician, which the Secretary of Labor considers likely to cure, give relief, reduce the degree or the period of disability or aid in lessening the amount of the monthly compensation. The employee may initially select a physician to provide medical services, appliances and supplies, in accordance with such regulations and instructions as the Secretary considers necessary and may be furnished necessary and reasonable transportation and expenses incident to the securing of such services, appliances and supplies."² Section 8123(b) of the Act provides that an employee is entitled to be paid expenses incident to an examination required by the Secretary which in the opinion of the Secretary are necessary and reasonable, including transportation and loss of wages incurred in order to be examined.³

Section 10.336 of the implementing regulation states:⁴

"To be considered for payment, bills must be submitted by the end of the calendar year after the year when the expense was incurred or by the end of the calendar year after the year when [the Office] first accepted the claim as compensable, whichever is later."⁵

The Board, therefore, finds that, as appellant's earliest submission of claims for reimbursement of travel was on December 22, 1997, she would not be entitled to reimbursement for travel expenses for the periods 1991 through 1995.

The Board further notes that section 10.315 of the implementing regulation states:

"The employee is entitled to reimbursement of reasonable and necessary expenses, including transportation needed to obtain authorized medical services, appliances or supplies. To determine what is a reasonable distance to travel, [the

² 5 U.S.C. § 8103(a).

³ 5 U.S.C. § 8123(b); *see Gaare R. Davis*, 48 ECAB 612 (1997).

⁴ The Board notes that the regulation in effect in 1997, when appellant initially filed her claim for reimbursement of travel expenses, 20 C.F.R. § 10.413, contains essentially the same language as the current regulation, 20 C.F.R. § 10.336.

⁵ 20 C.F.R. § 10.336 (1999).

Office] will consider the availability of services, the employee's condition and the means of transportation. Generally, 25 miles from the place of injury, the work site or the employee's home, is considered a reasonable distance to travel. The standard form designated for [f]ederal employees to claim travel expenses should be used to seek reimbursement under this section."⁶

The issues of authorization of medical treatment and reimbursement of travel expense for medical treatment are separate and distinct. The Office may authorize medical treatment, but, determine that the travel expense incurred for such authorized treatment was unnecessary or unreasonable.⁷ As the only limitation on the Office's authority is reasonableness, abuse of discretion is generally shown through proof of manifest error, clearly unreasonable exercise of judgment or actions taken which are contrary to both logic and probable deductions from known facts.⁸ The Board has long held that, in interpreting relevant sections of the Act, the Office has broad discretion in approving services provided under the Act.⁹

In the instant case, appellant timely submitted a claim for reimbursement of travel expenses for the year 1997.¹⁰ The record indicates that, while she advised the Office that she traveled between the homes of her daughters' in Hamden, Ohio and Allen, Kentucky, by letters dated September 3, 1996 and January 30, 1997, appellant advised the Office that her address of record was Hamden, Ohio.¹¹ She claimed reimbursement for travel expenses incurred on January 28, February 25, March 25, April 22, May 27 and June 24, 1997 for round-trip travel between her home in Hamden, Ohio to Martin, Kentucky for the purpose of being examined by her treating physician, Dr. Ray DeGuzman.¹² She also claimed reimbursement for travel between Allen, Kentucky and Martin, Kentucky, for visits to Dr. DeGuzman on July 24, August 26, September 26, October 31, November 18 and December 18, 1997.

The Board notes that the record does not contain evidence that appellant was seen by Dr. DeGuzman on the dates of March 25 and December 18, 1997. Regarding the mileage claimed for travel between Hamden, Ohio and Dr. DeGuzman's office in Martin, Kentucky on January 28, February 25, April 22, May 27 and June 24, 1997, while appellant's official residence was in Ohio, the Office would only be required to reimburse appellant for travel between her home there and medical appointments at a reasonable distance, as provided in section 10.366, delineated above. Appellant, therefore, would not be entitled to reimbursement for travel to Kentucky that she claimed for those dates. She, however, has also claimed

⁶ 20 C.F.R. § 10.315 (1999).

⁷ See *Dr. Mira R. Adams*, 48 ECAB 504 (1997).

⁸ See *Lecil E. Stevens*, 49 ECAB 673 (1998).

⁹ See *Wanda L. Campbell*, 44 ECAB 633 (1993).

¹⁰ The record does not contain a claim for travel expenses for any period in 1996.

¹¹ By letter dated April 28, 1998, after the period covered by the March 16, 2000 Office decision, appellant advised the Office that her permanent address had changed to Allen, Kentucky.

¹² Dr. DeGuzman's credentials are unknown.

reimbursement for travel between her daughter's home in Allen, Kentucky and Dr. DeGuzman's office in Martin, Kentucky for the dates July 24, August 26, September 26 and October 31 and November 18, 1997 and the record supports that appellant was seen by Dr. DeGuzman on those dates. The Board finds that it was appropriate for her to be seen by a physician in that area, as Dr. DeGuzman is. Appellant, therefore, would be entitled to reimbursement for travel to visit Dr. DeGuzman on those dates. On remand, the Office should further consider appellant's request for these dates.

The decision of the Office of Workers' Compensation Programs dated March 16, 2000 is hereby affirmed, in part, and set aside, in part, and the case is remanded to the Office for proceedings consistent with this decision.

Dated, Washington, DC
February 25, 2003

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member