United States Department of Labor
Employees' Compensation Appeals Board

GAYLE L. JACKSON, Appellant	)	
and	)	**Docket No. 05-1685**
	)	**Issued: April 21, 2006**
U.S. POSTAL SERVICE, POST OFFICE, Corvallis, OR, Employer	)	

Appearances:
Gayle L. Jackson, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On August 8, 2005 appellant filed a timely appeal of a July 27, 2005 decision of the Office of Workers' Compensation Programs that denied payment of 4.36 hours out of 14.36 hours of compensation claimed while procuring medical services on May 19 and 26, 2005. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to review the merits of this decision.

ISSUE

The issue is whether the Office properly denied some of the hours of compensation appellant claimed while procuring medical services.

FACTUAL HISTORY

On February 22, 2001 appellant, then a 47-year-old letter carrier, filed a claim for compensation for an occupational disease of plantar fasciitis that she attributed to standing while casing mail and walking on her mail route. On July 17, 2001 the Office advised appellant that it had accepted that she sustained bilateral plantar fasciitis in the performance of duty. On May 21,

2002 she underwent surgery on her right foot, consisting of excision of a soft tissue lipoma, tarsal tunnel release, and partial fasciotomy.

Thereafter appellant claimed compensation for wage loss when she secured medical care in Salem and Portland, Oregon. Generally she claimed eight hours for an appointment in Portland and four hours or less for appointments in Salem. The Office paid compensation for wage loss as claimed on each occasion, with the exception of a claim for three and three-fourths hours of compensation for an orthotic fitting appointment in Portland on May 19, 2003, on the basis that this was a day off for appellant. On April 22, 2004 she claimed eight hours of compensation for an appointment for orthotics in Portland that day, which the Office paid.

On April 12, 2004 appellant accepted an offer of limited duty by the employing establishment, with work hours of 7:45 a.m. to 4:15 p.m. By decision dated June 16, 2004, the Office found that appellant's earnings in this position represented her wage-earning capacity, resulting in payment of compensation for partial disability. On January 27, 2005 she underwent surgery on her left foot, consisting of a tarsal tunnel release and plantar fascia release.

On June 1, 2005 appellant filed a claim for compensation for 8 hours of wage loss for orthotics fitting on May 19, 2005 and for 6.36 hours of wage loss to pick up her orthotics on May 26, 2005, both in Portland. In a June 1, 2005 letter, the Office requested that she provide evidence showing that she attended these appointments, and that she explain why her trip to pick up the orthotics took twice as long as the Mapquest estimate. In a June 9, 2005 letter, appellant stated that she was told by an employing establishment injury compensation specialist that it was acceptable to take the whole day off when she had to travel to Portland, that she took whole days off because she was never sure how long the appointments would be, and that the drive to Portland took one and a half to two hours each way, depending on traffic and the time of day of her appointment.

By decision dated July 27, 2005, the Office disallowed 4.36 hours of compensation for the reason that the evidence did not support that the trips to Portland for an orthotic fitting and pickup would have reasonably required 8 hours on May 19, 2005 and 6.36 hours on May 26, 2005. The Office allowed six hours for May 19, 2005 and four hours for May 26, 2005 stating that it did not seem reasonable that she could not have worked either before or after her appointments.

LEGAL PRECEDENT

Section 8103(a) of the Federal Employees' Compensation 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 be furnished necessary and reasonable transportation and expenses incident to the securing of such services, appliances, and supplies."[1] The Board has interpreted this section to authorize

[1] 5 U.S.C. § 8103(a).

payment for loss of wages incurred while obtaining medical services.[2] Compensation for wage loss may be authorized "while obtaining the medical services and for a reasonable time spent traveling to and from the provider's location."[3]

ANALYSIS

The Office found that appellant sustained bilateral plantar fasciitis in the performance of duty, and authorized medical care associated with this condition. There is no dispute that the medical services secured by appellant on May 19 and 26, 2005 were for treatment of the accepted condition, or that she lost wages to secure these medical services, as she had returned to full-time employment on April 12, 2004.

The only question at issue in this case is how many hours of wage loss the Office should pay appellant when she secured medical services on May 19 and 26, 2005. The Office ascertained that the trip from appellant's home to Portland, where the medical services were procured, takes one and a half hours, and appellant stated that it could take up to two hours, depending on the traffic and the time of day. The May 19, 2005 appointment was for fitting of orthotics, and appellant has not shown that this service, plus the travel time, took more than the 6.36 hours allowed by the Office. Similarly, appellant has not shown that the May 26, 2005 appointment to pick up the orthotics, with travel, took more than the four hours allowed by the Office. As the Office is only required to pay compensation for a reasonable amount of time in procuring medical services, it did not abuse its discretion by allowing 6.36 hours on May 19, 2005 and 4 hours on May 26, 2005. That the Office may have paid greater amounts of wage loss for similar services in the past does not obligate it to pay wage loss for more time than is reasonably required to obtain the services in question.

CONCLUSION

The Office properly denied some of the hours of compensation appellant claimed while procuring medical services on May 19 and 26, 2005.

[2] *Daniel Hollars*, 51 ECAB 355 (2000); *Dorothy J. Bell*, 47 ECAB 624 (1996); *Henry Hunt Searls, III*, 46 ECAB 192 (1994).

[3] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Computing Compensation*, Chapter 2.901.16a (December 1995).

ORDER

IT IS HEREBY ORDERED THAT the July 27, 2005 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 21, 2006
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board