United States Department of Labor
Employees' Compensation Appeals Board

W.M., Appellant	)	
and	)	**Docket No. 07-583**
	)	**Issued: October 15, 2007**
DEPARTMENT OF VETERANS AFFAIRS, VETERANS AFFAIRS MEDICAL CENTER, Jackson, MS, Employer	)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On December 27, 2006 appellant filed a timely appeal from a March 23, 2006 merit decision of the Office of Workers' Compensation Programs denying his request for reimbursement of travel expenses and a September 22, 2006 hearing representative's decision affirming the March 23, 2006 decision. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether the Office abused its discretion by denying appellant's request for reimbursement of travel expenses.

FACTUAL HISTORY

In April 1991 appellant, then a 39-year-old medical technician, filed an occupational disease claim alleging that he sustained dysfunction of the immune system and chemical hypersensitivity causally related to factors of his federal employment. He stopped work on

October 5, 1987 and did not return. The Office accepted the claim for a permanent aggravation of chemical hypersensitivity.

On February 21, 2006 the Office requested that appellant submit, within 30 days, a detailed medical report from his attending physician addressing his current condition and its relationship to his federal employment. The Office noted that the last medical report submitted was dated August 20, 1999.

On March 2, 2006 appellant requested additional time to submit medical information. He indicated that he had scheduled an appointment with his attending physician, Dr. William J. Rea, a Board-certified surgeon, located in Dallas, Texas. Appellant requested that the Office authorize testing by Dr. Rea and travel expenses to go to Dallas. He stated, "The roundtrip will be a minimum of 950 miles, plus local miles. I will be driving my own car. I need authorization stating your office will pay for lodging, meals, travel expenses, and testing, including blood work and other tests Dr. Rea feels are necessary."

By decision dated March 23, 2006, the Office denied appellant's request for travel expenses to Dallas, Texas to see Dr. Rea. The Office indicated that it was his burden to submit medical evidence to support continued disability and informed him that it would transfer his care to another physician if he did not provide current medical evidence.

On April 19, 2006 appellant requested a review of the written record. He contended that there was not a physician who specialized in multiple chemical sensitivity in his commuting area. Appellant noted that the Office had scheduled second opinion examinations with nine physicians from Hattiesburg, Mississippi, to Memphis, Tennessee, but that each physician declined to evaluate him. He asserted that Dr. Rea was the most qualified physician in the country to treat his condition and submitted Dr. Rea's *curriculum vitae*. Appellant also noted that the Office had approved travel and testing expenses when he went to see Dr. Rea in 1999. He submitted copies of letters from the Office scheduling him for a second opinion examination.

By decision dated September 22, 2006, the Office hearing representative affirmed the March 23, 2006 decision. He found that appellant lived only 40 to 45 miles from Jackson, Mississippi, which had numerous hospitals and a medical school. The hearing representative additionally found that Jackson had 232 Board-certified internists and 17 physicians Board-certified in allergy and immunology. He determined the fact that second opinion examiners refused to evaluate appellant did not show that he could not obtain treatment in the area. The hearing representative concluded that it was not reasonable and necessary for appellant to travel to Dallas for medical treatment and affirmed the denial of authorization of travel expenses.

LEGAL PRECEDENT

Section 8103 of the Federal Employees' Compensation Act[1] provides that 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 Office

[1] 5 U.S.C. §§ 8101-8193.

considers likely to cure, give relief, reduce the degree of the period of disability or aid in lessening the amount of monthly compensation.[2]

Section 10.315 of Title 20 of the Code of Federal Regulations provides, in relevant part:

> "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 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."[3]

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.[4] The Board has long held that the Office has broad discretion in approving services provided under the Act.[5]

ANALYSIS

The Office accepted that appellant sustained a permanent aggravation of chemical hypersensitivity due to factors of his federal employment. On February 21, 2006 the Office requested that he submit a current medical report addressing his condition and its relationship to federal employment. Appellant asked that the Office authorize payment of his travel expenses to Dallas, Texas, to see his attending physician, Dr. Rea. He also requested that the Office authorize medical testing by Dr. Rea. In decisions dated March 23 and September 22, 2006, the Office denied payment of travel expenses for appellant to attend an appointment with Dr. Rea in Dallas as it found that the distance from his residence to the physician's office was not reasonable.

While the Office authorized medical treatment by Dr. Rea and previously paid appellant's expenses incurred in securing medical treatment by the physician in 1999, the issues of authorization for medical treatment and reimbursement of travel expenses 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.[6]

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[2] 5 U.S.C. § 8103; *see Thomas W. Stevens*, 50 ECAB 288 (1999).

[3] 20 C.F.R. § 10.315.

[4] *See William B. Webb*, 56 ECAB ___ (Docket No. 04-1413, issued November 23, 2004); *Lecil E. Stevens*, 49 ECAB 673 (1998).

[5] *See Wanda L. Campbell*, 44 ECAB 633 (1993).

[6] *See Dr. Mira R. Adams*, 48 ECAB 504 (1997).

Appellant requested that the Office authorize payment of travel expenses for his trip to visit Dr. Rea, a drive of over 950 miles roundtrip. He is entitled to reimbursement for reasonable and necessary travel expenses as provided in section 10.315. The regulation provides that a reasonable distance to travel is generally 25 miles from the place of injury, the work site or the employee's home.[7] In determining what constitutes a reasonable travel distance, the Office must consider the availability of medical services in appellant's area, his condition and the means of transportation. The Office found that he did not reasonably need to seek medical treatment in Dallas given the number of adequate specialists for his condition closer to his commuting area of Jackson, Mississippi. The Office noted that 232 Board-certified internists and 17 physicians Board-certified in allergy and immunology worked in the Jackson metropolitan area. Appellant alleged that he was unable to obtain medical treatment in his area and submitted copies of letters from the Office attempting to refer him for a second opinion examination. This is insufficient, however, to establish that he is unable to obtain competent and appropriate medical care within his commuting area given the number of available specialists.[8]

The Office has broad discretion in considering whether to reimburse or authorize travel expenses. The Office properly considered the availability of services for appellant's condition in determining whether the distance was reasonable. 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 deduction from known facts.[9] The Office properly considered the factors enumerated in section 10.315 and denied appellant's request for authorization for travel expenses to see a physician in Dallas. The Board finds that the Office did not abuse its discretion by denying authorization of travel expenses.

CONCLUSION

The Board finds that the Office did not abuse its discretion by denying appellant's request for reimbursement of travel expenses.

[7] 20 C.F.R. § 10.315.

[8] *See Julia A. Strickland*, 54 ECAB 649 (2003).

[9] *See William B. Webb*, *supra* note 4.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs' hearing representative dated September 22, 2006 and the March 23, 2006 decision of the Office are affirmed.

Issued: October 15, 2007
Washington, DC

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

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

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board