

2004 Dr. Harry A. Doyle, a Board-certified psychiatrist and neurologist, diagnosed a major depressive disorder and a pain disorder causally related to residuals of her August 26, 2002 employment injury. The Office accepted major depressive disorder and chronic pain syndrome as work related. On September 21, 2004 Dr. Barbara H. Shonberg, an attending internist, stated that the employee was permanently disabled due to her left shoulder injury. The employee signed a residence and care agreement with an assisted living facility on September 30, 2005. She was no longer able to live independently due to repeated falls and other difficulties with daily living activities. Dr. Doyle and two other physicians opined that the employee required an assisted living facility because of residuals of her accepted medical conditions. The employee requested reimbursement for the cost of the assisted living facility.

After initially denying the employee's request for authorization for an assisted living facility, the Office approved reimbursement for the \$1,952.50 monthly cost of the assisted living facility on January 23, 2007 and advised her to submit a request for retroactive reimbursement from the date she entered the assisted living facility. The employee was instructed to submit a monthly request for reimbursement beginning with January 2007. The Office provided her with a copy of Form OWCP-915 (Claim for Medical Reimbursement) which specified that required documentation included proof of payment for medical services in the form of a cash receipt, canceled check or credit card slip. The employee submitted a claim for \$29,216.50 for medical reimbursement for the assisted living facility from November 1, 2005 to December 31, 2006.

On March 28, 2007 the employee's attorney advised the Office that she had passed away the previous day. On March 30, 2007 the Office advised appellant that the employee's last medical reimbursement covered the period ending March 17, 2007. A supplemental check would be issued covering March 18, 2007 through the date that the employee died, March 27, 2007.¹

On March 31, 2007 the employee's attorney asked whether the Office would reimburse the entrance fee paid to the assisted living facility.² On June 6, 2007 the Office responded that any deposit or up front fee paid by the employee to the assisted living facility was a matter between her estate and the facility. It advised that authorization had been approved for medical reimbursement only as to the monthly rent for the assisted living facility. Such authorization ended upon the death of the employee on March 27, 2007. On November 6, 2007 the employee's attorney requested a final decision on the issue of reimbursement for the assisted living facility entrance fee.

By decision dated November 20, 2007, the Office denied the employee's claim for reimbursement for the assisted living facility entrance fee on the grounds that there was no provision under the Federal Employees' Compensation Act or Office procedures for such an expense. On November 25, 2007 the employee's attorney requested a review of the written record.

¹ The Office had not completed processing the retroactive assisted living facility monthly services fee reimbursement at the time of the employee's death.

² The September 30, 2005 agreement between the employee and the assisted living facility provided for payment of an entrance fee in the amount of \$119,385.00.

By decision dated January 14, 2009, an Office hearing representative affirmed the November 20, 2007 denial of appellant's claim for reimbursement of the assisted living facility entrance fee.³ She found that appellant failed to meet the requirements for reimbursement of medical services specified in 20 C.F.R. § 10.801-802. Appellant did not provide a statement from the assisted living facility that it received payment from the employee and the amount of payment and acceptable evidence that payment was received, such as a signed statement from the medical services provider, a stamped receipt or a copy of a cancelled check or credit card slip.

LEGAL PRECEDENT

Section 8103 of the Act provides that an employee injured in the performance of duty shall be furnished with the services, appliances and supplies prescribed or recommended by a qualified physician which are likely to cure, give relief, reduce the degree or the period of disability or aid in lessening the amount of monthly compensation.⁴ To be entitled to reimbursement for medical expenses incurred, an employee must submit proper documentation in accordance with the requirements under Office regulations found at 20 C.F.R. § 10.802. Any request for reimbursement must be accompanied by evidence that the provider received payment for the service from the employee and a statement of the amount paid.⁵ Acceptable evidence that payment was received includes, but is not limited to, a signed statement by the medical services provider, a mechanical stamp or other device showing receipt of payment, a copy of the employee's canceled check (both front and back) or a copy of the employee's credit card receipt.⁶

ANALYSIS

Appellant requested reimbursement to the employee's estate of the entrance fee paid to the assisted living facility. However, she did not provide the required evidence establishing receipt of the entrance fee by the assisted living facility and the amount paid and that this amount represented payment for medical services. Appellant did not submit evidence such as a signed statement by the medical services provider, a stamped receipt, a copy of the employee's canceled check or a copy of the employee's credit card receipt. Therefore, the Office was within its discretion in denying appellant's request for reimbursement of the entrance fee.

On appeal, appellant states that the employee could no longer live independently as a result of her accepted medical conditions, sold her home and moved into the assisted living facility and that entrance fee paid to the facility was not refundable. The issue is whether the Office abused its discretion in denying reimbursement of the entrance fee. As appellant did not

³ Subsequent to the January 14, 2009 Office decision, additional evidence was associated with the file. The Board's jurisdiction is limited to the evidence that was before the Office at the time it issued its final decision. *See* 20 C.F.R. § 501.2(c). The Board may not consider this evidence for the first time on appeal.

⁴ 5 U.S.C. § 8103(a).

⁵ 20 C.F.R. § 10.802(b).

⁶ *Id.* at § 10.802(a)(2).

comply with the regulations regarding application for reimbursement for medical services, the Office properly denied the application.

CONCLUSION

The Board finds that the Office did not abuse its discretion in denying medical reimbursement for an entrance fee for an authorized assisted living facility.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated January 14, 2009 is affirmed.

Issued: January 7, 2010
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

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