



## **FACTUAL HISTORY**

The Office accepted that on August 26, 1991 appellant, then a 44-year-old electronics technician, sustained lumbosacral sprain, herniated disc at L3-4, aggravation of anxiety disorder and fracture of the left hallux proximal phalanx due to his federal employment.

On June 30, 2009 appellant filed a claim for wage-loss compensation (Form CA-7) for nine hours of leave without pay to attend a medical appointment on June 30, 2009 with Dr. John W. Skubic, an attending Board-certified orthopedic surgeon. On July 9, 2009 the Office paid him appropriate compensation for the claimed hours.

In a July 15, 2009 letter, the Office advised appellant that he had received compensation for a June 30, 2009 medical appointment outside his commuting area. It noted that he did not live in a remote area and requested that he find a physician within 50 miles of his residence. The Office advised appellant that, if he continued to travel out of the area for medical treatment related to his accepted employment-related injuries, then he would receive no more than four hours of compensation for medical appointments.

On July 23 and 24, 2009 appellant advised the Office that he lived in the middle of the Mojave Desert. The nearest physician's office was located in Bakersfield, California, 100 miles from his residence in Ridgecrest, California. Appellant's attending physician was located 120 miles from his home in Redlands, California. It took appellant a whole day to travel to his physician's office no matter what day he traveled. He stated that travel from Ridgecrest to Bakersfield was only a few minutes closer than from Ridgecrest to Redlands because the roads were not direct.

On September 22, 2009 appellant filed a Form CA-7 claim for wage-loss compensation on September 22, 2009. A Form CA-7a time analysis form dated September 22, 2009 indicated that appellant claimed nine hours of leave without pay for a medical appointment on September 22, 2009. In medical reports dated September 22, 2009, Dr. Skubic indicated that appellant was evaluated on that date. He advised that his work status was permanent and stationary. Dr. Skubic recommended that appellant continue daily walks to a gym exercise program for low back fitness.

By letter dated September 23, 2009, the Office referenced its July 15, 2009 letter and advised appellant that he was only entitled to four hours of compensation for medical appointments. It addressed the requirements for changing his attending physician if he wished to do so.

On September 24, 2009 the Office paid appellant four hours of compensation for his September 22, 2009 appointment with Dr. Skubic.

In an October 2, 2009 decision, the Office denied appellant's claim for an additional five hours of compensation for his September 22, 2009 medical appointment. It found that he was not entitled to no more than four hours of compensation for a medical appointment as his travel to the appointment exceeded the reasonable 25-mile distance specified under 20 C.F.R. § 10.135.

The Office found that appellant did not live in a remote area and orthopedic surgeons were located in his hometown.

By letter dated October 21, 2009, appellant requested reconsideration. He stated that his job was located in China Lake, California in the Mojave Desert and three hours north of Los Angeles, California. The closest town, Mojave, was located 50 miles away. Appellant stated that Dr. Skubic, who had been his treating physician for 18 years, worked in Redlands, a three-hour drive, half of which was on a dangerous highway. He stated there were a limited number of medical facilities in Ridgecrest and the few physicians in the city were unfamiliar with his case. The physicians regularly left Ridgecrest to work in better locations and refused to take workers' compensation cases. Appellant was unwilling to change his skilled orthopedic physician who was familiar with his case to a new physician, even one in Ridgecrest. He noted that Dr. Brooks, the most skilled physician in Ridgecrest, retired years ago. As a result, appellant contended that he was forced to travel to the greater Los Angeles area for medical care which commonly occurred among Ridgecrest residents. He had to use one day of leave to attend his medical appointment and should be reimbursed accordingly.

In a June 9, 2010 decision, the Office denied modification of the October 2, 2009 decision.

### **LEGAL PRECEDENT**

Medical expenses, along with transportation and other expenses incidental to securing medical care, are covered by section 8103 of FECA. This section 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 Secretary of Labor considers likely to cure, give relief, reduce the degree of the period of any disability or aid in lessening the amount of any monthly compensation. These services, appliances and supplies shall be furnished by or on the order of the United States medical officers and hospital or at the employee's option, by or on the order of physicians and hospitals designated or approved by the Secretary.<sup>2</sup> The Office may apply a test of cost-effectiveness to appliances and supplies.<sup>3</sup>

The employee may be furnished necessary and reasonable transportation and expenses incident to the securing of such services, appliances and supplies.<sup>4</sup> To determine what a reasonable distance to travel is, 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.<sup>5</sup>

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<sup>2</sup> 5 U.S.C. § 8103(a).

<sup>3</sup> 20 C.F.R. § 10.310(b).

<sup>4</sup> 5 U.S.C. § 8103(a).

<sup>5</sup> 20 C.F.R. § 10.315.

The Office has broad discretionary authority in the administration of the Act and must exercise that discretion to achieve the objectives of section 8103.<sup>6</sup>

### ANALYSIS

Appellant submitted CA-7 and CA-7a forms for nine hours of wage loss on September 22, 2009 to attend a medical appointment with Dr. Skubic. The Office paid him wage-loss compensation for four hours claimed on this date. However, it denied compensation for any additional hours finding that appellant was entitled to no more than four hours of compensation for medical appointments. It is noted that, while the Office's procedural manual provides that no more than four hours of compensation should be allowed for routine medical appointments, longer periods of time may be allowed when required by the nature of the medical procedure and/or the need to travel a substantial distance to obtain the medical care.<sup>7</sup>

The distance for travel from appellant's residence in Ridgecrest, California to Dr. Skubic's office in Redlands, California was much greater than the 25 miles (50 miles roundtrip) that is generally considered reasonable under Office regulations. The Office considered appellant's accepted conditions and the availability of medical services in Ridgecrest. The Board finds that the Office gave due regard to these relevant factors and did not abuse its discretion when it denied wage-loss compensation for an additional five hours to attend a medical appointment in Redlands on September 22, 2009. 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.<sup>8</sup> Appellant's contention that he did not feel comfortable with the physicians in Ridgecrest as they were not familiar with his case and would not accept workers' compensation cases are not sufficient reasons to establish that traveling to Redlands for treatment of his accepted medical conditions was both reasonable and necessary.<sup>9</sup>

### CONCLUSION

The Board finds that appellant has failed to establish that he was entitled to an additional five hours of compensation for wage loss on September 22, 2009 causally related to his accepted employment-related injuries.

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<sup>6</sup> *Marjorie S. Geer*, 39 ECAB 1099 (1988).

<sup>7</sup> Federal (FECA) Procedure Manual, Part 3 -- Medical, *Administrative Matters*, Chapter 3.900.8 (June 1999).

<sup>8</sup> *Gayle L. Jackson*, 57 ECAB 546 (2006).

<sup>9</sup> *A.O.*, Docket No. 08-580 (issued January 28, 2009).

**ORDER**

**IT IS HEREBY ORDERED THAT** the June 9, 2010 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 16, 2011  
Washington, DC

Alec J. Koromilas, Judge  
Employees' Compensation Appeals Board

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

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