

**United States Department of Labor
Employees' Compensation Appeals Board**

T.M., Appellant

and

**DEPARTMENT OF THE NAVY, MARINE
CORPS LOGISTICS BASE, Albany, GA,
Employer**

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**Docket No. 11-449
Issued: September 20, 2011**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

COLLEEN DUFFY KIKO, Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On December 14, 2010 appellant filed a timely appeal from September 21 and November 22, 2010 merit decisions of the Office of Workers' Compensation Programs (OWCP) denying reimbursement of expenses. Pursuant to the Federal Employees' Compensation Act (FECA)¹ and 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 OWCP properly denied appellant's request for reimbursement of an overnight hotel stay and parking fees incurred on August 17, 2010.

¹ 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On May 8, 2001 appellant, then a 47-year-old heavy mobile equipment mechanic, filed a claim alleging that on that date he sustained an injury to three fingers on his right hand in the performance of duty. OWCP accepted the claim for a right hand contusion, a crush injury to the right finger, carpal tunnel syndrome of the right wrist, a boutonniere deformity of the small and middle right fingers and right hand traumatic arthropathy.² Appellant underwent a right carpal tunnel release on May 3, 2004.

On August 17, 2010 Dr. Vita Kesner, a Board-certified neurologist, performed a neurological examination on appellant in Atlanta, Georgia.

By letter dated September 13, 2010, OWCP advised appellant that it had paid his claim for mileage for travel from his home in Albany, Georgia to Atlanta, Georgia for his appointment with Dr. Kesner. It informed him that he was not entitled to overnight hotel accommodations or parking fees associated with his hotel stay as his travel from Albany to Atlanta was under 12 hours and less than 500 miles round-trip. OWCP utilized a computer mapping site to determine the distance from appellant's home to Atlanta, Georgia.

On September 15, 2010 appellant challenged the denial of his request for lodging. He noted that he had an early morning appointment with Dr. Kesner.

By decision dated September 21, 2010, OWCP denied appellant's request for reimbursement for an overnight hotel stay and parking fees resulting from the overnight stay. It found that its procedure manual did not provide for reimbursement for lodging without prior authorization or when the travel was under 12 total hours or less than 500 miles round-trip.

On September 24, 2010 appellant requested reconsideration. In an undated statement received on September 30, 2010, he contended that due to his disability and need for medication he drove to Atlanta the day before his medical appointment. Appellant avoided rush hour traffic by going the day before. He also maintained that he was not aware of an OWCP requirement that denied hotel reimbursement for trips under 500 miles round-trip or less than 12 hours total.

By decision dated November 22, 2010, OWCP denied modification of its September 21, 2010 decision. It found that it was his choice to schedule an early morning appointment and that he went the night before for his own convenience.

LEGAL PRECEDENT

Section 8103 of FECA³ 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

² By decision dated April 16, 2003, OWCP granted appellant a schedule award for a 20 percent permanent impairment of the right hand. In a decision dated January 10, 2005, it granted him a schedule award for a five percent impairment of the right thumb. By decisions dated March 24 and July 21, 2008, OWCP denied appellant's claim for an additional schedule award. In a decision dated May 11, 2010, it denied his request for an oral hearing as it was made regarding an information letter rather than a final decision.

³ *Supra* note 1.

recommended by a qualified physician, which OWCP considers likely to cure, give relief, reduce the degree of the period of disability or aid in lessening the amount of monthly compensation.⁴

Section 10.315 of Title 20 of the Code of Federal Regulations provide in pertinent 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, OWCP 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.”⁵

OWCP’s procedures state, “There will be no reimbursement for meals or lodging when travel is for less than 12 hours in total or fewer than 500 miles round-trip. Lodging must receive prior authorization.”⁶

ANALYSIS

OWCP accepted that appellant sustained a right hand contusion, a crush injury to the right finger, right carpal tunnel syndrome, a boutonniere deformity of the small and middle right fingers and right hand traumatic arthropathy due to a May 8, 2001 employment injury. On August 17, 2010 appellant received treatment for his work injury from Dr. Kesner in Atlanta, Georgia. OWCP reimbursed him for mileage from his home in Albany, Georgia to Atlanta, Georgia but denied his request for reimbursement for an overnight hotel stay and parking fees associated with the hotel stay.

Appellant argued that he was entitled to reimbursement because he could not drive early in the morning to his appointment given his need for medication. OWCP’s procedure manual, however, provides that it will not reimburse for lodging when the travel is under 12 hours total or less than 500 miles round-trip.⁷ OWCP used a computer mapping program to determine that the distance from appellant’s home in Albany to Atlanta was less than 12 hours in total and under 500 total miles round-trip.⁸ It further noted that he had not requested authorization for lodging in advance. Consequently, OWCP properly denied appellant’s request for reimbursement for lodging and associated expenses.

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

⁵ 20 C.F.R. § 10.315.

⁶ Federal (FECA) Procedure Manual, Part 5 -- Overview of the BPS, *Unique Bills*, Chapter 200.9i (April 2005).

⁷ *Id.*

⁸ The distance between Albany, GA and Atlanta, GA is approximately 183 miles.

CONCLUSION

The Board finds that OWCP properly denied appellant's request for reimbursement of an overnight hotel stay and parking fees incurred on August 17, 2010.

ORDER

IT IS HEREBY ORDERED THAT the November 22 and September 21, 2010 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: September 20, 2011
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

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