

FACTUAL HISTORY

The case was before the Board on a prior appeal.² As the Board noted, appellant had received treatment from Dr. Jennifer Patterson, an orthopedic surgeon and hand specialist, for her accepted bilateral carpal tunnel syndrome and keloid scar. Dr. Patterson's office was located approximately 102 miles from appellant's home in Fayetteville, North Carolina, and OWCP denied reimbursement for travel to Dr. Patterson as there were "other hand specialists" closer to her home. The Board found that OWCP had failed to provide specific evidence as to the identity of these physicians, as appellant had argued there were no appropriate specialists closer to her home. The history of the case as reported in the Board's prior decision is incorporated herein by reference.

In a Form CA-110 (memorandum of telephone call) dated June 5, 2013, OWCP reported that contact was made with a Pinehurst Surgical Clinic, located approximately 40 miles from Fayetteville, with a hand specialist, Dr. Mark Brenner, that accepted federal workers' compensation patients. It noted that appellant had previously received treatment at the Pinehurst facility, although not with Dr. Brenner. In addition, OWCP identified hand specialist Dr. Albert Harris, from Orthopedic Specialists of North Carolina, with offices in Raleigh and Holly Springs, NC. OWCP found Holly Springs was 55 miles from appellant's home.

By decision dated June 5, 2013, OWCP denied reimbursement for travel expenses to obtain treatment from Dr. Patterson. It found there were appropriate hand specialists located closer to her home, noting Dr. Brenner and Dr. Harris.

Appellant requested a hearing before an OWCP hearing representative, which was held on October 28, 2013. By decision dated December 16, 2013, the hearing representative affirmed the June 5, 2013 decision.

LEGAL PRECEDENT

Section 8103 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 OWCP considers likely to cure, give relief, reduce the degree of the period of disability or aid in lessening the amount of monthly compensation.

With respect to travel expenses for medical treatment, OWCP regulations provide:

"(a) 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, a roundtrip distance of up to 100 miles is considered a reasonable distance to travel. Travel should be undertaken by the shortest route, and if practical, by public conveyance. If the medical evidence

² Docket No. 13-50 (issued May 21, 2013).

shows that the employee is unable to use these means of transportation, OWCP may authorize travel by taxi or special conveyance.

“(b) For nonemergency medical treatment, if roundtrip travel of more than 100 miles is contemplated, or air transportation or overnight accommodations will be needed, the employee must submit a written request to OWCP for prior authorization with information describing the circumstances and necessity for such travel expenses. OWCP will approve the request if it determines that the travel expenses are reasonable and necessary, and are incident to obtaining authorized medical services, appliances or supplies. Requests for travel expenses that are often approved include those resulting from referrals to a specialist for further medical treatment, and those involving air transportation of an employee who lives in a remote geographical area with limited local medical services.”³

The issues of authorization for medical treatment and reimbursement of travel expenses for medical treatment are separate and distinct. OWCP may authorize medical treatment but determine that the travel expense incurred for such authorized treatment was unnecessary or unreasonable.⁴ The Board has recognized that OWCP has discretion with respect to authorization of travel expenses for medical treatment.⁵ 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 established facts.⁶

ANALYSIS

As the Board noted in the prior appeal, appellant’s roundtrip travel to Dr. Patterson was more than 100 miles. As such, the requested travel expenses must be reasonable and necessary. The case was remanded because OWCP had stated only generally that there were “other” appropriate specialists located closer to appellant’s home. On remand, OWCP identified specific hand specialist that were considerably closer to appellant’s home: Dr. Brenner in Pinehurst (40 miles from Fayetteville) and Dr. Harris in Raleigh (approximately 65 miles from appellant’s home) and Holly Springs (55 miles)

Appellant has argued that the Pinehurst facility was not listed in the Affiliated Computer Services (ACS) system. As the Board noted in the prior appeal, the ACS website is used by OWCP for bill paying and medical authorization and is available to claimants. But the ACS is simply a source of information, not the only source of information regarding physicians. Appellant had been treated previously at the Pinehurst facility and OWCP confirmed that Dr. Brenner was a hand specialist that accepted federal workers’ compensation patients.

³ 20 C.F.R. § 10.315.

⁴ *W.M.*, 59 ECAB 132 (2007).

⁵ *V.K.*, Docket No. 12-1103 (issued October 12, 2012).

⁶ *See M.O.*, Docket No. 13-1822 (issued November 26, 2013).

With respect to Dr. Harris, appellant argues that the ACS shows he is located in Wake Forest, 95 miles from appellant's home. No documentation was provided to support this assertion.

As noted above, OWCP has discretion to authorize reimbursement for travel expenses related to medical treatment. It explained that there were specific hand specialists that were closer to appellant's home and it was not reasonable and necessary to travel approximately 205 miles round trip to Dr. Patterson. The Board finds no abuse of discretion in this case. While appellant may receive authorized treatment from Dr. Patterson, she is not entitled to reimbursement for travel expenses under FECA. Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that OWCP did not abuse its discretion in denying reimbursement of travel expenses in this case.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated December 16, 2013 is affirmed.

Issued: June 11, 2014
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

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