

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

J.M., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Federal Way, WA, Employer**

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**Docket No. 14-150
Issued: May 12, 2014**

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

Case Submitted on the Record

ORDER REMANDING CASE

Before:

COLLEEN DUFFY KIKO, Judge
PATRICIA HOWARD FITZGERALD, Judge
MICHAEL E. GROOM, Alternate Judge

On October 28, 2013 appellant filed a timely appeal from a July 3, 2013 merit decision of the Office of Workers' Compensation Programs (OWCP) denying her claim for reimbursement of travel expenses and an October 17, 2013 nonmerit decision denying her request for reconsideration.

In September 2011, appellant began treatment with Dr. Kurt Anderson, a Board-certified hand surgeon and orthopedic surgeon. She resided in Walla Walla, Washington and Dr. Anderson's practice was located in Spokane, Washington. The distance between appellant's home and Dr. Anderson's office round-trip was approximately 320 miles. Dr. Anderson performed various surgical procedures pertaining to appellant's accepted employment-related conditions which were approved by OWCP. OWCP paid appellant's expenses in the course of securing medical services or supplies from Dr. Anderson, including mileage for travel reimbursement. Appellant continued seeking treatment with Dr. Anderson over the course of the next two years.

In a June 26, 2013 transportation and travel request, appellant notified OWCP that Dr. Anderson moved his practice to Olympia, Washington. She noted that she had an upcoming appointment on July 9, 2013 and requested reimbursement of mileage in the amount of 646 miles for round-trip travel during the dates of July 8 to 9, 2013.

By decision dated July 3, 2013, OWCP denied appellant's request for reimbursement of 646 miles of travel for her physician appointment for the period of July 8 to 9, 2013. It noted that the procedure manual states that generally, 25 miles from the place of injury, the work site or residence, is considered a reasonable distance to travel.

On July 15, 2013 appellant requested reconsideration of OWCP's decision. By decision dated October 17, 2013, OWCP denied appellant's request for reconsideration finding that she neither raised substantive legal questions nor included new and relevant evidence.

Section 8103 of the Federal Employees' Compensation Act (FECA) 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.¹

With respect to travel expenses for medical treatment, the 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 round[-]trip 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 shows that the employee is unable to use these means of transportation, OWCP may authorize travel by taxi or special conveyance.”²

The July 3, 2013 OWCP decision denying appellant's request for travel reimbursement noted that the procedure manual provides that a reasonable distance to travel is generally considered to be 25 miles from the place of injury, the work site or the employee's home. The Board notes, however, that effective August 29, 2011, the regulations changed and currently a round-trip of up to 100 miles is considered reasonable.³ Thus, OWCP improperly utilized the old regulations when denying appellant's request for travel reimbursement. Further, the July 3, 2013 decision provided no explanation for denying the claim other than generally stating that 25 miles from appellant's work site, residence or place of injury is considered a reasonable distance to and from medical appointments. The decision failed to consider factors such as the availability of services and the employee's condition as noted in the regulations.⁴

¹ 5 U.S.C. § 8103.

² 20 C.F.R. § 10.315(a) (2012).

³ *Id.* See also FECA Bulletin No. 14-02-03 (issued January 29, 2014).

⁴ *Supra* note 2.

The case will be remanded to OWCP for proper adjudication of the issue using the current regulations.⁵ After such further development as is deemed necessary, OWCP should issue a merit decision.⁶

IT IS HEREBY ORDERED THAT the October 17 and July 3, 2013 decisions of the Office of Workers' Compensation Programs are set aside. The case is remanded for further proceedings consistent with this opinion of the Board.

Issued: May 12, 2014
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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

⁵ *Id.*

⁶ Given the disposition of the first issue as this case is not in posture for decision, the second nonmerit issue is moot.