

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

H.J., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Greensboro, NC, Employer**

)
)
)
)
)
)
)
)
)
)
)
)

**Docket No. 14-382
Issued: May 1, 2014**

Appearances:
Daniel F. Read, Esq., for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

RICHARD J. DASCHBACH, Chief Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On January 13, 2014 appellant, through counsel, filed a timely appeal from a September 23, 2013 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) 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 abused its discretion by denying appellant's request for reimbursement of travel expenses for October 15, 2012.

FACTUAL HISTORY

On May 4, 2002 appellant, then a 38-year-old rural carrier, sustained multiple injuries as a result of a motor vehicle accident. OWCP accepted the claim for contusions of the left lower limb and hip; injury to the sciatic nerve; displacement of a lumbar intervertebral disc without

¹ 5 U.S.C. § 8101 *et seq.*

myelopathy; a cervical herniated disc at C6-7; C6-7 discectomy and bilateral chondromalacia of patellae. Appellant did not return to work and OWCP authorized treatment for his injuries.

On August 15, 2013 appellant requested mileage reimbursement for travel to a medical appointment on October 15, 2012.

By letter dated August 16, 2013, OWCP informed appellant that it had received his request for authorization of mileage reimbursement. It noted that the file did not contain any medical reports for treatment on October 15, 2012 and June 27, 2013. OWCP requested that appellant submit copies of medical records for those dates to be considered for authorization of payment.²

In support of his claim, appellant submitted a June 27, 2013 medical report from Dr. Keith Walker Michael, a treating physician. No medical records were received documenting treatment on October 15, 2012.

By decision dated September 23, 2013, OWCP denied appellant's request for reimbursement of travel on October 15, 2012. It noted that no evidence was received relevant to treatment on October 15, 2012 to support reimbursement of travel. OWCP authorized travel on June 27, 2013 as a medical report pertaining to that date was submitted.

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 OWCP considers likely to cure, give relief, reduce the degree of the period of disability or aid in lessening the amount of monthly compensation.³ Section 10.315 of Title 20 of the Code of Federal Regulations provide in relevant part that the employee may be furnished necessary and reasonable transportation and expenses incidental to the securing of such services, appliances and supplies.⁴ To determine what a reasonable distance to travel is, OWCP will consider the availability of services, the employee's condition, and the means of transportation. Generally, 100 miles from the place of injury, the work site, or the employee's home, is considered a reasonable distance to travel.⁵

² The development letter also referenced other dates claimed for mileage reimbursement. It noted the dates which were authorized for payment and dates which were not approved because authorization of reimbursement of mileage to Dr. Fred McQueen's office, appellant's physician, was terminated effective May 31, 2012 and upheld by the Branch of Hearings and Review on January 7, 2013. The Board notes that it does not have jurisdiction to review the January 7, 2013 decision because more than 180 days elapsed from issuance of that decision to the filing of this appeal on January 13, 2014. 20 C.F.R. § 501.3(e).

³ 5 U.S.C. § 8103.

⁴ *Id.* at § 8103(a).

⁵ 20 C.F.R. § 10.315.

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.⁶ The Board has recognized that OWCP has discretion with respect to authorization of travel expenses for medical treatment.⁷

The only limitation on OWCP's authority is reasonableness. 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 known facts.⁸ The Board has held that, in interpreting relevant sections of FECA, OWCP has broad discretion in approving services provided under FECA.⁹

ANALYSIS

The Board finds that OWCP did not abuse its discretion by denying reimbursement of travel for October 15, 2012.

On August 15, 2013 appellant requested authorization of mileage reimbursement on October 15, 2012. In an August 16, 2013 letter, OWCP advised him that he must submit medical records establishing treatment on that date for consideration of authorization of payment. Appellant, however, failed to submit any medical evidence documenting medical treatment on October 15, 2012.

The Federal (FECA) Procedural Manual provides that no travel expense shall be allowed until the evidence shows that travel was performed for the purpose authorized. This is usually established by a report from the attending or examining physician which lists the dates when the injured employee reported to the physician.¹⁰ OWCP may then determine whether the travel expense incurred was reasonable and necessary for treatment.¹¹

OWCP has broad discretion in considering whether to reimburse or authorize travel expenses. The only limitation on OWCP's authority is reasonableness. As noted, 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 deduction from known facts.¹² Appellant failed to submit any medical evidence to document treatment on October 15,

⁶ *W.M.*, 59 ECAB (2007).

⁷ *V.K.*, Docket No. 12-1103 (issued October 12, 2012).

⁸ See *Lecil E. Stevens*, 49 ECAB 673 (1998).

⁹ See *Wanda L. Campbell*, 44 ECAB 633 (1993).

¹⁰ See Federal (FECA) Procedure Manual, Part 5 -- Benefit Payments, *Overview of the BPS System*, Chapter 5.204.8(m) (January 1996).

¹¹ See *Dr. Mira R. Adams*, 48 ECAB 504 (1997).

¹² See *William B. Webb*, 56 ECAB 156 (2004); *Lecil E. Stevens*, 49 ECAB 673 (1998).

2012 by a qualified physician. OWCP did not abuse its discretion by denying reimbursement of travel on that date.¹³

On appeal, counsel contends that authorization of reimbursement of mileage to Dr. McQueen's office should not have been terminated. As noted, the Board does not have jurisdiction over the January 7, 2013 decision upholding the May 31, 2012 termination of authorization of travel and expense reimbursements related to appellant's treatment by Dr. McQueen.

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 by denying appellant's request for reimbursement of travel expenses for the period October 15, 2012.

ORDER

IT IS HEREBY ORDERED THAT the September 23, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 1, 2014
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

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

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

¹³ *Angie Prater*, Docket No. 01-104 (issued February 25, 2003).