

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

E.P., Appellant)
)
and) **Docket No. 20-0096**
) **Issued: January 8, 2021**
DEPARTMENT OF AGRICULTURE, ANIMAL)
& PLANT HEALTH INSPECTION SERVICE,)
Amityville, NY, Employer)

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

Case Submitted on the Record

DECISION AND ORDER

Before:
CHRISTOPHER J. GODFREY, Deputy Chief Judge
JANICE B. ASKIN, Judge
PATRICIA H. FITZGERALD, Alternate Judge

JURISDICTION

On October 16, 2019 appellant filed a timely appeal from an August 7, 2019 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.²

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that, following the August 7, 2019 decision, OWCP received additional evidence. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

ISSUE

The issue is whether OWCP abused its discretion by denying appellant's requests for additional travel reimbursement.

FACTUAL HISTORY

On May 15, 1998 appellant, then a 35-year-old plant protection technician, filed a traumatic injury claim (Form CA-1) alleging that on May 12, 1998 she experienced neck pain after being involved in a motor vehicle collision while in the performance of duty. She stopped work on May 13, 1998 and returned to work on May 15, 1998. On October 17, 1998 OWCP accepted appellant's claim for cervical sprain and paid medical expenses associated with this injury. On April 24, 2001 it expanded the acceptance of her claim to include a herniated disc at C5-6.³

In a May 4, 2016 letter, appellant indicated that she relocated from Atlanta, Georgia to Mobile, Alabama for a job promotion. She requested permission to change her treating physician to Dr. Timothy Holt, an orthopedic surgeon, who was located in Montgomery, Alabama.

On May 6, 2016 OWCP authorized Dr. Holt as appellant's treating physician.

By decision dated March 16, 2017, OWCP accepted appellant's claim for recurrence of disability due to the accepted conditions.

In an October 24, 2018 medical travel refund request (Form OWCP-957), appellant requested reimbursement for one trip of 376 miles roundtrip travel and one trip of 374 miles roundtrip travel, both on September 13, 2018. She also requested reimbursement for 376 miles on October 11, 2018. The travel requests were for treatment with Dr. William Montiel, a pain medicine specialist, in Prattville, Alabama and Dr. Holt in Montgomery, Alabama.

In a November 8, 2018 letter, OWCP informed appellant that she would be reimbursed for a total of 50 miles for her two appointments with Dr. Montiel on September 13 and October 11, 2018. Appellant was also informed that she would be reimbursed for 22.4 miles for treatment by Dr. Holt.

In a November 26, 2018 memorandum of a telephone call (Form CA-110), appellant informed OWCP that, although her mailing address was in Montgomery, Alabama, she lived in Mobile, Alabama. The claims examiner informed her that a 374-mile round-trip to see her physician was not reasonable.

In a November 28, 2018 memorandum of a telephone call (Form CA-110), the claims examiner confirmed that Dr. Albert Savage, a Board-certified orthopedic surgeon, was accepting new patients and was available to treat appellant. The claims examiner noted that Dr. Savage's office was located 33.5 miles away from her residence in Mobile, Alabama.

³ By decision dated December 1, 2005, OWCP awarded appellant a schedule award for 29 percent permanent impairment of the right upper extremity. It found that she reached maximum medical improvement on May 31, 2005.

By decision dated January 9, 2019, OWCP denied appellant's request for authorization for travel reimbursement. It found that, generally, 50 miles one way is a reasonable distance to travel for medical treatment. OWCP noted that Dr. Savage was available to treat appellant and was located 33.5 miles from her residence in Mobile, Alabama. It indicated that traveling 374 or 376 miles to attend periodic medical appointments was unreasonable given the availability of appropriate specialists within 50 miles of her residence.

In a February 11, 2019 memorandum of a telephone call (Form CA-110), appellant indicated that she had not received a copy of OWCP's January 9, 2019 decision. On February 12, 2019 OWCP sent her a copy of the January 9, 2019 decision.⁴

In a June 3, 2019 letter, appellant requested reconsideration. She explained that she had not received a copy of the January 9, 2019 decision until approximately February 19, 2019. Appellant noted that, in a May 4, 2016 letter to OWCP, she requested a change of physician, which was granted. She indicated that her mailing address was in Montgomery, Alabama because that is where she received all of her important mail and because she traveled extensively for her job.

By decision dated August 7, 2019, OWCP denied modification of its January 9, 2019 decision.

LEGAL PRECEDENT

OWCP's regulations provide that an employee is entitled to reimbursement of reasonable and necessary expenses, including transportation needed to obtain authorized medical services, appliances, or supplies.⁵ To determine a reasonable travel distance, it will consider the availability of services, the employee's condition, and the means of transportation.

Effective August 29, 2011, the most recent regulations provide that a round-trip distance of up to 100 miles is considered a reasonable distance to travel.⁶ If round-trip 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 related to obtaining authorized medical services, appliances, or supplies.⁷

Pursuant to FECA Bulletin No. 14-02 (January 29, 2014), when a claimant submits a travel reimbursement in excess of 100 miles for a single date of service, the bill will automatically be

⁴ On April 8, 2019 appellant requested a telephonic hearing before an OWCP hearing representative. On May 6, 2019 OWCP noted that, since her request for a telephonic hearing was not made within 30 days of the January 9, 2019 decision, she was not entitled to a telephonic hearing. It found, however, that appellant's issue could be adequately addressed by requesting reconsideration and submitting evidence not previously considered which established that she was entitled to a travel reimbursement.

⁵ 20 C.F.R. § 10.315(a).

⁶ *Id.*

⁷ *Id.* at § 10.315(b).

suspended, and the Central Bill Processing provider will send notification to OWCP's claims examiner.⁸ FECA Bulletin No. 14-02 notes that, in some limited circumstances, it may be necessary for a claimant to travel more than 100 miles on a regular basis, such as when the claimant lives in a remote area.⁹

In interpreting this section, the Board has recognized that OWCP has broad discretion in approving services provided under FECA.¹⁰ The only limitation on OWCP's authority is that of reasonableness. OWCP may authorize medical treatment, but determine that the travel expense incurred for such authorized treatment was unreasonable or unnecessary.¹¹

ANALYSIS

The Board finds that OWCP has not abused its discretion by denying appellant's requests for additional travel reimbursement.

In support of her claim for reimbursement appellant submitted a May 31, 2019 letter in which she explained that her mailing address was in Montgomery, Alabama and that she frequently traveled for her job. She did not, however, provide a reason for why she needed to travel to Montgomery, Alabama for medical treatment when she was living and working in Mobile, Alabama. OWCP informed appellant that she could receive appropriate medical treatment from Dr. Savage who was located 33.5 miles away from her residence in Mobile, Alabama. Although OWCP had authorized travel expenses for her to see Dr. Holt in the past, issues of authorization for medical treatment and reimbursement of travel expenses for medical treatment are separate and distinct. It may authorize medical treatment, but determine that the travel expense incurred for such authorized treatment was unreasonable or unnecessary.¹² Therefore, the Board finds that OWCP has not abused its discretion as appellant has not submitted sufficient evidence to explain the necessity of traveling greater than 100 miles round trip to seek medical care or why such travel was reasonable.¹³

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.

⁸ FECA Bulletin No. 14-02 (January 29, 2014).

⁹ *Id.*

¹⁰ *G.C.*, Docket No. 19-0298 (issued June 24, 2019); *D.C.*, Docket No. 18-0080 (issued May 22, 2018).

¹¹ *Id.*

¹² *Id.*

¹³ *See supra* note 10.

CONCLUSION

The Board finds that OWCP has not abused its discretion by denying appellant's requests for additional travel reimbursement.

ORDER

IT IS HEREBY ORDERED THAT the August 7, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 8, 2021
Washington, DC

Christopher J. Godfrey, Deputy Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board