

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

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**J.S., Appellant** )

**and** )

**DEPARTMENT OF THE INTERIOR, BUREAU )  
OF INDIAN AFFAIRS NAVAJO REGION, )  
Navajo, NM, Employer** )  
\_\_\_\_\_ )

**Docket No. 19-1246  
Issued: June 8, 2021**

*Appearances:*

*Timothy Quinn, Esq.*, for the appellant<sup>1</sup>  
*Office of Solicitor*, for the Director

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

JANICE B. ASKIN, Judge  
PATRICIA H. FITZGERALD, Alternate Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On May 17, 2019 appellant, through counsel, filed a timely appeal from a March 25, 2019 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>2</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.<sup>3</sup>

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<sup>1</sup> In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

<sup>2</sup> 5 U.S.C. § 8101 *et seq.*

<sup>3</sup> The Board notes that, following the March 25, 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 has abused its discretion by denying appellant's requests for lodging and travel reimbursement from September 23, 2015 through September 8, 2017.

## **FACTUAL HISTORY**

On January 26, 2015 appellant, then a 55-year-old teacher, filed a traumatic injury claim (Form CA-1) alleging that on January 21, 2015 she sustained a possible subdural hematoma and cerebral concussion when she slipped on an icy sidewalk and fell while in the performance of duty. She stopped work on the date of injury.

On February 5, 2015 Dr. Charles Maestas, Board-certified in family medicine, noted that appellant was followed for a slip and fall injury, which occurred on January 21, 2015 on the sidewalk at school where she worked. He diagnosed neck, shoulder, and leg pain and advised that she was under continued evaluation for a concussion. Dr. Maestas referred appellant for physical therapy for treatment of her musculoskeletal injury.

On March 31, 2015 OWCP accepted the claim for a concussion.<sup>4</sup>

By decision dated June 12, 2015, OWCP expanded the acceptance of the claim to include sprain of neck and tinnitus.<sup>5</sup>

OWCP subsequently received a June 10, 2015 report, wherein Dr. Maestas explained that appellant underwent a computerized tomography (CT) scan of the head without contrast, which revealed bilateral bifrontal cortical brain atrophy and a diagnosis of closed-head injury, small subarachnoid hemorrhage, and back contusion. Dr. Maestas indicated that appellant had "difficulty driving any significant distance due to confusion and progressive fatigue with headaches and pain." He noted that she continued with physical therapy for neck, bilateral shoulder, low back, and leg pain. Dr. Maestas recommended a neurology consultation for postconcussion syndrome, recurrent headaches, and left-sided upper extremity neuropathy, and that appellant continue her physical therapy to reduce her neck, shoulder, back, and leg pain. He also requested that she be reimbursed for her hotel accommodations, as she was "unable to drive significant distance for physical therapy or other treatments."

In a letter dated June 15, 2015, appellant requested reimbursement of medical travel and lodging for intermittent dates commencing January 22, 2015. She explained that she had been staying at a hotel in Pojoaque, New Mexico, near Santa Fe, since her release from the University of New Mexico hospital on January 22, 2015 and was receiving physical therapy treatment in Santa Fe, New Mexico. The hotel lodging allowed her convenient access to her physician and was a manageable distance for her physical therapy appointments. Appellant noted that returning to live at her home near Crystal, New Mexico, would require her to receive physical therapy in either

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<sup>4</sup> In an April 14, 2015 report, Dr. Maestas noted that appellant should continue physical therapy to address chronic neck, shoulder, and leg pain due to musculoskeletal injury. In reports dated June 10 and 12, 2015, he continued her physical therapy.

<sup>5</sup> OWCP paid appellant wage-loss compensation on the supplemental rolls commencing June 26, 2015 and on the periodic rolls July 25 through February 6, 2015.

Farmington or Gallup, New Mexico, which would be “impossible” due to the after-effects of her therapy, which included “light headedness and anxiety to various degrees.” She attached maps, hotel receipts, and her appointment schedule in support of her request for reimbursement. The maps revealed that appellant’s home near the reservation was identified as Tohatchi, New Mexico, and was 285.82 miles from Santa Fe, New Mexico, which takes 3 hours and 25 minutes *via* Interstate 40, or 4 hours and 25 minutes *via* NM- 96 E. The map also showed that it was 97.9 miles from Tohatchi to Farmington and 61.29 miles from Tohatchi to Gallup. Appellant’s appointment schedule showed physical therapy visits from February 10 to June 25, 2015, which required 33 miles of travel for each visit. A Google map showed that travel from the hospital in Santa Fe, New Mexico to her hotel was 79 miles or 1 hour and 15 minutes.<sup>6</sup>

Appellant continued to submit requests for medical travel reimbursement.

By decision dated September 3, 2015, OWCP expanded the acceptance of appellant’s claim to include adjustment disorder with anxiety. By decision dated September 23, 2015, it expanded the acceptance of the claim to include post-concussion syndrome.

In a separate letter dated September 23, 2015, OWCP notified appellant that, when her travel to Santa Fe, New Mexico and associated lodging was initially considered, it appeared that she was unable to find medical care closer to her residence. However, it explained that there were several providers in Farmington and Gallup that were approved and suitable for her medical needs. OWCP included a list of those providers and informed appellant that if she chose to continue treatment in Santa Fe, New Mexico, she would only be compensated for mileage to the nearest provider applicable to the type of service she was receiving, and that lodging and *per diem* would not be authorized as the providers in Farmington, New Mexico and Gallup, New Mexico were less than two hours from her residence. It advised appellant that this notice would take effect as of the date of the letter. OWCP also advised appellant that, if there were special circumstances regarding her treatment, she should provide a statement and include the specialty of the providers.

In a letter dated September 24, 2015, appellant responded that it would have been stressful to change physical therapy treatment to a provider in Farmington or Gallup, New Mexico. She noted that she could not drive more than 40 miles without fatigue. Appellant also alleged that her current physical therapist was providing specialized cranial/facial treatments customized for her accepted conditions.

As of September 29, 2015, OWCP continued to receive physical therapy reports from Annette Weyrauch, a physical therapist in Santa Fe, New Mexico, who reported that appellant was receiving physical therapy treatments to the cervical through thoracic spine, bilateral shoulders,

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<sup>6</sup> The record substantiates that OWCP initially approved reimbursement of some of the claimed lodging and travel expenses. OWCP approved payment of \$306.60 for lodging from May 25 to June 1, 2015; 536 miles for February 6, April 6 and May 15, 2015; 33 miles for February 23 and March 5, 2015, \$394.20 for lodging from April 18 to 27, 2015, \$306.60 for lodging from May 11 to 18, 2015, \$481.80 for lodging from January 22 to February 2, 2015, \$481.80 for lodging from February 2 to 13, 2015, \$438.00 for lodging from February 20 to March 2, 2015, \$305.60 for lodging from March 9 to 16, 2015, \$306.60 for lodging from March 23 to April 6, 2015, and 33 miles for February 10, 16, and 18, 2015. On September 23, 2015 it noted that it had authorized reimbursements for 268 miles on June 24, 2015, 536 miles on August 10, 2015, and \$43.80 on June 16, 2015.

and trigger point therapy. Ms. Weyrauch noted that appellant often required a brief period of rest after her physical therapy session before she could drive home.

In a report dated October 1, 2015, Dr. Maestas advised that appellant would continue to require physical therapy for an additional three months. He noted that appellant's employment-related symptoms did not allow her to travel long distances or treatment in a more rural location.

In a report dated January 20, 2016, Dr. Maestas noted that appellant was able to travel from her place of employment to the Santa Fe, New Mexico area as long as she stopped as necessary along the way. He noted that she continued to receive necessary physical therapy and medical treatment in the Santa Fe, New Mexico area.

On March 11, 2016 Dr. Maestas reported that appellant was not to return to work for three weeks until her therapy recommendations could be reevaluated.

In a February 19, 2016 report, Dr. Maestas noted that appellant continued to have residual symptoms of fatigue, muscle skeletal pain, intermittent headaches, intermittent episodes of lapses in cognitive function, and episodes of anxiety.

In a February 26, 2016 report, Kristen Adams, a physical therapist, noted that appellant was being treated for her neck, shoulder, and back pain, headaches, and postconcussion syndrome. She advised that appellant's primary limitation was related to her traumatic brain injury and postconcussion syndrome. Ms. Adams also noted that tasks such as driving long distance on the freeway required high-level cognitive processing.

On March 4, 2016 appellant submitted a housing reimbursement claim summary for the period June 19, 2015 to January 27, 2016.

On May 18, 2016 appellant continued to submit requests for mileage and lodging reimbursement. She included: a copy of her appointment schedule with Dr. Maestas from January 30 to April 15, 2016; physical therapy visits, hotel bills, and Form OWCP-957s from July 27 to October 3, 2015; and maps of her trip from Santa Fe, New Mexico to her audiologist in Albuquerque, 78.7 miles, her psychiatrist in Albuquerque, New Mexico, 77.3 miles, and her ear, nose and throat physician in Albuquerque, New Mexico, 78.5 miles.

On June 1, 2016 OWCP expanded the acceptance of the claim to include traumatic brain injury without loss of consciousness.

In a letter dated August 7, 2016, appellant again requested reimbursement for her travel expenses. She reiterated that she was staying in a hotel in Pojoaque, New Mexico to be near medical services in Santa Fe, New Mexico, and that she would have trouble driving to medical appointments in Farmington or Gallup, New Mexico. Appellant indicated that she paid for her government quarters near Crystal, New Mexico and the hotel in Pojoaque, New Mexico.

In a letter August 9, 2016, OWCP denied appellant's requests for lodging reimbursement. It noted that Dr. Maestas had opined on January 20, 2016 that she could, in fact, travel by automobile from her place of employment to Santa Fe, New Mexico for medical appointments so long as she takes necessary stops along the way. Therefore, only meal-related expenses would be

authorized for treatment in Santa Fe, New Mexico. OWCP reiterated that authorization for lodging and travel expense to Santa Fe, New Mexico was denied as of September 23, 2015.

On August 17, 2016 OWCP referred appellant for a second opinion examination with Dr. Michael Baten, a neurologist, to determine appellant's status and ability to drive a motor vehicle.

In a letter dated August 23, 2016, Dr. Maestas recommended that appellant receive counseling by an OWCP-approved psychologist. In a second letter of even date, he recommended that she seek treatment from Dr. Robert Weisz, a psychologist in Santa Fe, New Mexico.

In a September 1, 2016 report, Dr. Maestas noted that appellant was seen for significant neck and shoulder pain, along with persistent headaches and dizziness. He indicated that her treatment included physical therapy and conservative management. Dr. Maestas indicated that appellant had trouble traveling more than 60 miles from her home base due to musculoskeletal symptoms, anxiety, and confusion.

In a report dated September 16, 2015, Dr. Maestas noted that chronic physical and mental conditions resulting from appellant's accepted employment injuries did not allow her to travel more than 60 miles from her home base for medical treatment. He noted that she currently lived in Santa Fe, New Mexico and it would be difficult for her to travel to Gallup, New Mexico for treatment.

In a September 21, 2016 report, Dr. Baten noted that appellant was driving upwards of four hours, "again broken up." He opined that he had no objections to her driving, as she seemed to be doing it safely for some time. Dr. Baten indicated that appellant could drive for four hours "at least two or three days weekly if needed."

On October 19, 2016 OWCP again indicated that no authorization for lodging or expenses would be reimbursed after September 23, 2015. It advised appellant to contact OWCP to seek preauthorization, if she believed her situation warranted a special circumstance.

In a letter dated December 29, 2016, appellant described the difficulties she had when she returned to her home near Crystal, New Mexico every six weeks to collect her mail and change her seasonal clothing. She noted that she would take a friend or family member with her or that someone would drive her.

On January 10, 2017 appellant was removed from federal service as she was medically unable to perform the essential functions of the teacher position.

In a February 8, 2017 addendum, Dr. Baten completed a work capacity evaluation (Form OWCP-5c), indicating that appellant was able to operate a motor vehicle for four hours per day.

In a report dated February 22, 2017, Dr. Weisz noted that appellant had chosen to relocate to Pojoaque, New Mexico and obtain medical services in Santa Fe, New Mexico because the medical services near Crystal, New Mexico were inadequate. He noted that it would be difficult

for her to travel round trip from Crystal, New Mexico for her medical service in the Santa Fe, New Mexico area.

On March 9, 2017 appellant, through counsel, again requested reimbursement of her travel and lodging expenses. Counsel included a February 22, 2017 letter from Dr. Weisz who explained that, if appellant were still living at her former residence near Crystal, New Mexico, she would have to drive 600 miles two to three times per week in order to receive her medical services. He opined that it would be “physically and psychologically impossible for a trip for [appellant] to sustain those demands.”

On April 14, 2017 OWCP notified appellant that FECA did not allow for an individual to relocate completely to attend medical appointments.

On June 30, 2017 appellant submitted Form OWCP-957 medical travel refund requests for the period February 3 to June 28, 2017. They included: a copy of her appointment schedule with Dr. Maestas from February 3 to June 16, 2017; her appointment schedule with Dr. Weisz from August 23, 2016 to June 28, 2017; her appointment schedule for physical therapy from February 27 to June 29, 2017; and the Google map mileage for her trips to medical appointments, which was 19.2 miles each way to Dr. Weisz; 18.1 miles each way for physical therapy; 78.8 miles each way for the radiologist; and 46 miles each way for Dr. Singer.

By decision dated September 8, 2017, OWCP denied appellant’s request for lodging and travel reimbursement from September 23, 2015 through “the date of this letter.”<sup>7</sup>

On October 3, 2017 appellant, through counsel, requested an oral hearing before a representative of OWCP’s Branch of Hearings and Review. In a letter dated October 3, 2017, he argued that she should be reimbursed under for her lodging because she was unable to travel from Navajo to Santa Fe, New Mexico for medical treatment.

OWCP subsequently received a report dated October 6, 2017, wherein Dr. Maestas indicated that appellant required medically necessary cervical cranial physical therapy to address

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<sup>7</sup> On September 9, 2017 OWCP received Form OWCP-957s for the period August 23, 2016 to August 25, 2017. Appellant included a copy of her appointment schedule with Dr. Weisz from August 23, 2016 to August 23, 2017, physical therapy from February 27 to August 17, 2017, and the Google map mileage for her trips from Santa Fe, New Mexico to Dr. Weisz of 19.2 miles each way and 18.1 miles each way for physical therapy. On September 29, 2017 appellant submitted Form OWCP-957s for the period September 6 to 29, 2017. She included a copy of her appointment schedule with Dr. Maestas from February 3 to September 29, 2017, with Dr. Weisz from January 11 to September 27, 2017; and the Google maps mileage for trips from Santa Fe, New Mexico to Dr. Weisz of 19.2 miles each way.

her complaints of headache, neck pain, and shoulder pain, and that the physical therapy offices in Farmington, New Mexico did not accept patients with head injuries.

A November 10, 2017 treatment note from a physical therapy provider in Santa Fe, New Mexico indicated that the facility provided treatment for patients with postconcussion syndrome.<sup>8</sup>

The hearing was held telephonically on February 23, 2018, regarding OWCP's September 8, 2017 decision. During the hearing, appellant argued that she should be reimbursed for her lodging and travel expenses because there were "no treaters available either on or around the reservation." She indicated that she contacted all of OWCP providers and they did not treat symptoms of head injury. Appellant argued that the family practitioners were inadequate as they did not provide physical therapy services. She explained that she maintained her residence on the Navajo reservation because she intended to return to work; however, her residence was withdrawn when her employment was terminated in January 2017. Appellant confirmed that she lived in Santa Fe, New Mexico in a property she purchased in October 2017.<sup>9</sup>

By decision dated March 27, 2018, an OWCP hearing representative affirmed the September 8, 2017 decision.

On September 4, 2018 appellant, through counsel, requested reconsideration and submitted an August 24, 2018 report, wherein Dr. Maestas noted that appellant was referred to a different physical therapy provider in October 2017 for treatment of her accepted conditions.

By decision dated October 29, 2018, OWCP denied modification of the March 27, 2018 decision.

On January 14, 2019 appellant, through counsel, requested reconsideration and submitted additional evidence.

In a January 4, 2019 report, Dr. Maestas explained that the physical therapy was to decrease pain, increase range of motion, and allow healing of the damaged areas, improve function, and strengthen the damaged muscles and tendons. He indicated that the cranial nerves were sensory, motor, or both, and for a whiplash injury, those muscles were attached to the skull/head and if the brain was injured, the muscles/muscle skeletal system could not function properly and caused problems with balance, fatigue, generalized malaise, and headaches. Dr. Maestas opined that the physical therapy to the muscle skeletal system included the head/skull.

In a November 28, 2018 letter, in support of reconsideration, appellant requested that OWCP reconsider her hotel and travel expenses from January 21, 2015 to January 14, 2017, as she had maintained her apartment near Crystal, New Mexico during that period in anticipation of

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<sup>8</sup> On February 16, 2018 appellant submitted mileage reimbursement requests for the period January 11, 2017 to January 31, 2018, including a list of her medical appointments and Google maps to showing 5 miles from Santa Fe, New Mexico to Dr. Maestas' office and 23 miles to Dr. Weisz' office.

<sup>9</sup> On March 5, 2018 OWCP received appellant's requests for mileage reimbursement for the period September 6, 2017 to February 28, 2018, including a list of appointments with Dr. Maestas from September 8, 2017 to February 23, 2018, and Dr. Weisz from September 6 to February 28, 2018.

returning to work, while also incurring expenses for her temporary lodging at the least expensive hotel in Santa Fe, New Mexico.

By decision dated March 25, 2019, OWCP denied modification.

### **LEGAL PRECEDENT**

Medical expenses, along with transportation and other expenses incidental to securing medical care, are covered by section 8103 of FECA.<sup>10</sup> OWCP's regulations provide that the employee is entitled to reimbursement of reasonable and necessary expenses, including transportation needed to obtain authorized medical services, appliances, or supplies.<sup>11</sup> 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, OWCP's regulations provide that a round-trip distance of up to 100 miles is considered a reasonable distance to travel.<sup>12</sup> 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.<sup>13</sup>

Pursuant to FECA Bulletin No. 14-02 (issued 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 suspended, and the Central Bill Processing provider will send notification to OWCP's claims examiner.<sup>14</sup> FECA Bulletin No. 14-02 (January 29, 2014) 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.<sup>15</sup>

The Federal (FECA) Procedure Manual provides that 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. It also requires appellant to seek prior authorization for lodging.<sup>16</sup>

The Board has recognized that OWCP has broad discretion in approving services provided under FECA.<sup>17</sup> The only limitation on OWCP's authority is that of reasonableness. OWCP may

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<sup>10</sup> 5 U.S.C. § 8103.

<sup>11</sup> 20 C.F.R. § 10.315(a).

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at § 10.315(b).

<sup>14</sup> FECA Bulletin No. 14-02 (January 29, 2014).

<sup>15</sup> *Id.*

<sup>16</sup> *D.F.*, Docket No. 17-0482 (issued June 7, 2017); Federal (FECA) Procedure Manual, Part 5 -- Overview of the BPS, *Unique Bills*, Chapter 5.200.9(i) (April 2005).

<sup>17</sup> *D.C.*, Docket No. 18-0080 (issued May 22, 2018); *M.B.*, Docket No. 17-1072 (issued August 16, 2017).



authorize medical treatment, but determine that the travel expense incurred for such authorized treatment was unreasonable or unnecessary.<sup>18</sup>

Section 8123(a) of FECA provides, in pertinent part: “If there is disagreement between the physician making the examination for the United States and the physician of the employee, the Secretary shall appoint a third physician who shall make an examination.” In situations where there exist opposing medical reports of virtually equal weight and rationale and the case is referred to an impartial medical specialist for the purpose of resolving the conflict, the opinion of such specialist, if sufficiently well rationalized and based upon a proper factual background, must be given special weight.<sup>19</sup>

### ANALYSIS

The Board finds that this case is not in posture for decision, as a conflict in medical opinion exists between treating physician Dr. Maestas and second opinion physician Dr. Baten with regard to the amount of time that appellant was capable of driving to attend her medical appointments.

Dr. Maestas provided reports to explain why appellant was incapable of driving to her medical appointments for extended periods of time and why it was better for her to be close to her physicians as opposed to driving from her home in a remote location. In a report dated October 1, 2015, he opined that appellant’s employment-related symptoms did not allow her to travel long distances for treatment in a more rural location. Dr. Maestas provided a January 20, 2016 report, noting that appellant was able to travel from her place of employment to Santa Fe, New Mexico, as long as she stopped as necessary along the way. However, he saw appellant on February 19, 2016, and explained that appellant continued to have residual symptoms of fatigue, musculoskeletal pain, intermittent headaches, intermittent episodes of lapses in cognitive function, and episodes of anxiety. Dr. Maestas saw appellant on September 1, 2016, for significant neck and shoulder pain along with persistent headaches and dizziness. He indicated that appellant had trouble traveling more than 60 miles from her home due to musculoskeletal symptoms, anxiety, and confusion. In a report dated September 16, 2016, Dr. Maestas provided an opinion with regard to the selection of Santa Fe for appellant’s physical therapy. He explained that appellant had ongoing issues related to her slip and fall at work on January 21, 2015, to include intermittent forgetfulness, chronic headaches, neck and shoulder conditions, periods of confusion, ongoing fatigue, significant anxiety, depression, and malaise. Dr. Maestas also noted that she continued to have a fragile emotional state with confusion, bouts of fatigue, dizziness, and depression, she required medication which sometimes impaired her day-to-day activities. He opined that appellant’s chronic physical and mental conditions resulting from her accepted employment injuries did not allow her to travel more than 60 miles from her home for medical treatment and that there was a high potential to exacerbate her conditions and a high probability of an accident. Dr. Maestas indicated it was imperative that appellant continue with her physical therapy, she currently lived in Santa Fe, New Mexico, and it would be difficult for her to travel to Gallup, New Mexico for treatment.

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<sup>18</sup> *Id.*; *W.M.*, 59 ECAB 132 (2007).

<sup>19</sup> *See T.T.*, Docket No. 19-0544 (issued August 14, 2020); *D.M.*, Docket No. 18-0746 (issued November 26, 2018); *R.H.*, 59 ECAB 382 (2008); *James P. Roberts*, 31 ECAB 1010 (1980).

Dr. Baten, the second opinion physician, advised that appellant was capable of driving up to four hours per day, three times per week, with stops as needed. He also completed a Form OWCP-5c advising that appellant could operate a motor vehicle for up to four hours per day. Dr. Baten's report supported that appellant was capable of driving longer distances to her doctors without having to relocate.

The Board, thus, finds that a conflict is created between the treating and second opinion physicians with regard to appellant's ability to drive to her medical appointments. Under section 8123(a) of FECA, OWCP must resolve the conflict by referring appellant, together with the medical record and a statement of accepted facts, to an impartial medical specialist.<sup>20</sup> After this and such other development as OWCP deems necessary, OWCP shall issue a *de novo* decision on appellant's claim.

### **CONCLUSION**

The Board finds that the case is not in posture for decision.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the March 25, 2019 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: June 8, 2021  
Washington, DC

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

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

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board

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<sup>20</sup> See *T.T., id.; D.P.*, Docket No. 10-0121 (issued July 23, 2010).