

ISSUE

The issue is whether OWCP abused its discretion by denying appellant's request for travel reimbursement for medical treatment.

FACTUAL HISTORY

On August 27, 2018 appellant, then a 62-year-old forestry technician recreation, filed a traumatic injury claim (Form CA-1) alleging that on August 25, 2018 when picking up trash on employing establishment premises she was startled by a dog, stepped backward, tripped over a rock, and fell backwards landing on her wrists while in the performance of duty. She stopped work on that date. On September 5, 2018 OWCP accepted appellant's claim for displaced fracture of the left ulna styloid process, displaced fracture of the right ulna styloid process, and intraarticular fractures of the lower end of the left and right radius. On October 30, 2018 it authorized wage-loss compensation beginning October 10, 2018.

Appellant's attending physician, Dr. Steven B. Care, a Board-certified orthopedic surgeon, performed bilateral open reduction and internal fixations of distal radius with closed treatment of bilateral ulnar styloid fractures on September 13, 2018.

On September 28, 2018 appellant notified OWCP that her address would change to Redding, California effective October 1, 2018. She began attending physical therapy in Redding, California on October 29, 2018.

In a November 15, 2018 memorandum of telephone call (Form CA-110), appellant informed OWCP that she was unable to find a hand surgeon in Redding, California who was willing to take a federal workers' compensation case, and that she planned to seek treatment from Dr. Care in Idaho on December 12, 2018. In November 16, 2018 Form CA-110 notes, she asked if she could be compensated for travel to Idaho to see Dr. Care. Appellant again alleged that she could not find a physician in Redding, California that was willing to treat her. She planned to drive to the appointment with Dr. Care. OWCP agreed to pay for the appointment, but not the travel. It requested the names of the physicians that appellant had contacted.

In a November 16, 2018 letter, appellant asserted that she was unable to transfer her medical care to northern California and requested travel reimbursement for her appointment with Dr. Care scheduled for December 12, 2018 in Boise, Idaho. She indicated that she had contacted Dr. Stephen P. Ferraro, a Board-certified hand surgeon and orthopedic surgeon in Redding, California, who was not accepting any new workers' compensation patients, and Hand Surgery Associates in Sacramento, California which had discontinued accepting federal workers' compensation patients in 2018. Appellant asserted that Dr. Care was the appropriate physician to address her accepted conditions.

In a November 29, 2018 Form CA-110, OWCP advised that the trip to see Dr. Care was 564 miles one way and that it would not pay travel expenses. In a January 4, 2019 Form CA-110, appellant informed OWCP that she was flying to see Dr. Care for an appointment on January 23, 2019. She requested financial assistance with the cost of the flight, overnight stay in a hotel, and car rental.

In a January 11, 2019 development letter, OWCP noted appellant's request for travel reimbursement to see Dr. Care in Boise, Idaho. It noted that his office was located 565 miles from her residence in Redding, California or 1,130 miles roundtrip. OWCP informed appellant that generally a roundtrip distance of 100 miles was considered a reasonable distance to travel. It further noted that, if a roundtrip of more than 100 miles was contemplated, an employee must submit a written request describing the circumstances and necessity for travel expenses such as air transportation or overnight accommodations. OWCP further noted that it would approve travel requests which it found to be reasonable and necessary, including those resulting from referrals to specialists or those involving air transportation of an employee who lives in a remote geographical area with limited local medical services. It afforded appellant 30 days to submit additional argument or evidence in support of her request for travel reimbursement to Boise, Idaho.

Appellant responded to OWCP's development letter on January 18, 2019 and asserted that she was unable to transfer her medical care to a hand/wrist surgeon in northern California and that she believed that it was important to continue her medical treatment with Dr. Care. She asserted that she had not recovered from her accepted employment injuries and required additional treatment from him. Appellant again noted that neither Dr. Ferraro nor Hand Surgery Associates were accepting new workers' compensation patients. She alleged that she had been unable to find a hand/wrist surgeon within 100 miles to provide treatment. Appellant provided a summary of her anticipated travel expenses in the amount of \$525.66.

On February 27, 2019 appellant again asserted that she was unable to transfer medical care from Dr. Care in Boise, Idaho, to a hand/wrist surgeon nearer her home in Redding, California. She noted that Redding Occupational Medical Center was not accepting transfers of care for Federal workers' compensation patients.

Appellant traveled to a medical appointment with Dr. Care in Boise, Idaho on March 20, 2019.

In a letter dated March 22, 2019, appellant requested a second opinion examination regarding her proposed left wrist surgery. She requested an appointment with Dr. Dustin Judd, a Board-certified orthopedic surgeon, in Meridian, Idaho.

By decision dated April 2, 2019, OWCP denied appellant's request for travel reimbursement. It found that she had not presented sufficient factual evidence to establish that it was reasonable and necessary for her to travel 1,130 miles roundtrip with an overnight hotel stay to obtain medical services. OWCP noted that there were several orthopedic surgeons in Redding, California where appellant resided. It further noted that additional orthopedic surgeons were located between 144 and 432 miles away, roundtrip. OWCP determined that appropriate specialists to provide treatment for appellant's conditions included orthopedists, physiatrists, or a specialist in occupational medicine.

On April 8, 2019 appellant requested an oral hearing before a representative of OWCP's Branch of Hearings and Review.

In a letter dated April 11, 2019, OWCP denied appellant's request for a second opinion evaluation with Dr. Judd. Appellant subsequently attended a medical examination with him in Meridian, Idaho on May 24, 2019.

On May 31, 2019 appellant notified OWCP of her change of address to Sunriver, Oregon. In a June 14, 2019 letter, she requested to change her primary treating physician to Dr. Judd, located in Meridian, Idaho. On June 28, 2019 OWCP approved this request.

On August 9, 2019 appellant testified at the oral hearing before an OWCP hearing representative and asserted that she did not want to travel to San Francisco, California for medical treatment due to the traffic, the length of the trip which she testified was approximately five hours, or 530 miles roundtrip, and the necessity for an overnight stay. She noted that she contacted three medical providers, all of whom refused to accept her as a patient. Appellant alleged that there were no hand specialists in her area who would accept her workers' compensation claim and that a general orthopedist was not appropriate for her care. She noted that Drs. Care and Judd agreed that she needed a second left wrist surgery.

By decision dated October 18, 2019, OWCP's hearing representative denied appellant's claim for travel expenses. The hearing representative further noted that travel over 100 miles was often approved when it resulted in referral to a specialist, or when an employee lived in a remote geographic area with limited local medical services. She found that there was no evidence that the accepted bilateral wrist fracture involved complicating factors that required treatment only by Dr. Care. OWCP's hearing representative found that appellant's contentions that she could not find a closer provider were not plausible. She concluded that OWCP properly exercised its discretion to deny the request for reimbursement of travel expenses.

On October 22, 2019 appellant attended a medical appointment with Dr. Judd. On October 23, 2019 Dr. Judd performed a left distal radius hardware removal and manipulation under anesthesia of the left wrist.

On December 13, 2019 appellant requested reconsideration of OWCP's prior decisions. She alleged that her medical conditions involved complicating factors including that the radial-sided fixation screw in the distal radius was causing a small area of mechanical erosion in the adjacent scaphoid bone. Appellant resubmitted her January 23 and March 20, 2019 left wrist x-rays, physical therapy notes, and October 23, 2019 operative notes. She alleged that Dr. Care ignored the mechanical erosion demonstrated on x-ray and that during her March 20, 2019 appointment he severely manipulated and compressed her left wrist which left it notably regressed in position, flexibility, and function. Appellant asserted that she lost confidence in Dr. Care and sought a second opinion from a hand surgeon and met with Dr. Judd, who was also located in Idaho. She alleged that her condition required a hand surgeon not an orthopedist, physiatrist, or occupational medicine specialist. Appellant further alleged that there were extremely limited choices or no choices of appropriate practitioners within the federal workers' compensation program.

By decision dated March 20, 2020, OWCP denied modification of its prior decision. It found that the additional medical evidence did not reasonably justify traveling greater than 100

miles roundtrip to receive medical treatment when there were several orthopedic specialists which required less travel distance.

LEGAL PRECEDENT

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.³ 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.⁴ 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.⁵

Pursuant to FECA Bulletin No. 14-02, 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.⁶ 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.⁷

In interpreting this section, the Board has recognized that OWCP has broad discretion in approving services provided under FECA.⁸ 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.⁹

ANALYSIS

The Board finds that OWCP has not abused its discretion in denying appellant's request for travel reimbursement for medical treatment in excess of 100 miles roundtrip.

The record reflects that appellant moved from Garden Valley, Idaho to Redding, California and notified OWCP of her move on September 28, 2018. In Idaho, appellant had been treated by

³ 20 C.F.R. § 10.315(a).

⁴ *Id.*

⁵ *Id.* at 10.315(b).

⁶ FECA Bulletin No. 14-02 (issued January 29, 2014).

⁷ *Id.*

⁸ *S.M.*, Docket No. 19-0989 (issued May 12, 2020); *G.C.*, Docket No. 19-0298 (issued June 24, 2019).

⁹ *Id.*

Dr. Care, her authorized treating physician. After returning to California, appellant alleged that she was unable to find a physician that she deemed appropriate and requested to continue her care with Dr. Care, traveling approximately 1,130 miles roundtrip for appointments on December 12, 2018, January 23, and March 20, 2019. She then requested to change her attending physician to Dr. Judd and traveled to Meridian, Idaho for additional medical treatment on May 24 and October 22, 2019.

On November 29, 2018 OWCP informed appellant that she would not be reimbursed for travel expenses in excess of 100 miles roundtrip in accordance with its procedures. In a development letter dated January 11, 2019, it advised her that she needed to provide a detailed statement as to why it was reasonable and necessary for her to travel approximately 1,130 miles roundtrip for medical treatment.

OWCP's regulations provide that, generally, a round trip of up to 100 miles is a reasonable distance to travel.¹⁰ There may be circumstances where reimbursement for travel of more than 100 miles is appropriate. An example of those circumstances might be an appellant who lives in a remote area with limited medical services and physicians of an appropriate specialty.¹¹ To establish that a travel reimbursement of more than 100 miles is warranted, OWCP's regulations indicate that the claimant must provide information describing the circumstances and necessity for such travel expenses. Appellant has not provided sufficient evidence to explain the necessity of traveling 1,130 miles each way to Idaho to seek care or why such travel was reasonable.¹² Although she maintained that she could not obtain medical treatment closer than in Idaho, her residence in Redding, California was in an urban area of approximately 90,000 people.¹³ Furthermore, appellant has provided no evidence to establish a lack of available services closer to her home or a specific need for the distances for which she was requesting authorization for reimbursement.¹⁴ Although OWCP had authorized her to see Drs. Care and Judd, 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.¹⁵

OWCP has broad discretion in considering whether to reimburse or authorize travel expenses.¹⁶ As the only limitation on its authority is reasonableness, abuse of discretion is generally shown through proof of manifest error, clearly unreasonable exercise of judgment, or

¹⁰ 20 C.F.R. § 10.315(a).

¹¹ *Id.* at § 10.315(b).

¹² *G.C.*, *supra* note 8; *D.C.*, Docket No. 18-0080 (issued May 22, 2018); *M.B.*, Docket No. 17-1072 (issued August 16, 2017); *M.M.*, Docket No. 15-1724 (issued February 16, 2016).

¹³ *See D.C.*, Docket No. 18-0080 (issued May 22, 2018) (finding that a large urban center was within the 100-mile roundtrip limit and thus OWCP's denial of travel expenses was not an abuse of discretion).

¹⁴ *Id.*; *M.M.*, *supra* note 12.

¹⁵ *Supra* note 12.

¹⁶ *Id.*

actions taken which are contrary to both logic and probable deduction from known facts.¹⁷ The Board thus finds that OWCP has not abused its discretion by denying appellant's travel reimbursement requests for trips over 100 miles roundtrip.¹⁸ No probative evidence was presented with respect to the necessity of travel over the 100-mile roundtrip standard set forth in OWCP regulations.¹⁹ OWCP has administrative discretion with respect to authorization of travel reimbursement.²⁰ Therefore, the expenses appellant incurred for travel between her home in California and her treating physicians in Idaho beyond the 100-mile roundtrip limit must be considered personal to her.²¹

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 has not abused its discretion in denying appellant's request for travel reimbursement for medical treatment.

¹⁷ *Id.*

¹⁸ *J.J.*, Docket No. 10-1908 (issued June 16, 2011).

¹⁹ *Supra* note 13.

²⁰ *Supra* note 12.

²¹ *D.C.*, *supra* note 13; *W.J.*, Docket No. 10-1944 (issued June 1, 2011).

ORDER

IT IS HEREBY ORDERED THAT the March 20, 2020 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 8, 2022
Washington, DC

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

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

James D. McGinley, Alternate Judge
Employees' Compensation Appeals Board