

The documents on appeal include a five-page attachment to appellant's AB-1 form addressing the issue on appeal. Counsel cited to several decisions of the Board in support of his contention that there remained a conflict of medical evidence. In citing *William C. Bush*, 40 ECAB 1064 (1989), he argued that where there are two opposing reports of virtually equal weight and rationale, the case must be referred to an impartial medical specialist. Counsel also cited to *Victor J. Woodhams*, 41 ECAB 345 (1989) to determine what composed a rationalized medical opinion, finding that appellant's treating physician met that requirement. As noted, the Board found that the medical reports in the record were of equal weight sufficient to require an impartial specialist.

On June 16, 2014 counsel responded to the Board's May 6, 2014 order providing additional information for consideration of the fee request pursuant to 20 C.F.R. § 501.9(e). He noted that appellant did not contest the amount of the fee.² Counsel addressed the usefulness of the representative services by noting that he submitted legal argument in the claim with citation to Board precedent that was found relevant to the issue on appeal. He noted that this was a case with a seven-year history and that he was successful in his argument, as the Board remanded the case for further development of the claim.

Counsel noted that the time spent on the appeal was documented and addressed the customary local charges for similar services. He specifically addressed the hourly rates charged by the staff of his law firm in this appeal. In this regard, however, the Board finds excessive billing while the appeal was pending before the Board. In many cases, counsel included multiple billings by various staff members for "conference w/attorney (or w/attorney and paralegal) re: current status" or "review of file for status meeting." In each of these meetings, which appear on the average of every six weeks, generally two attorneys and a paralegal are in attendance and bill for their time collectively. Each attendee's participation is described in the exact same fashion. The only rationale offered for this periodic practice was "so as not to allow anything to 'slip through the cracks' and also to determine whether any new decisions, change in regulations or legal arguments that are successful in other cases might impact each claim." All of these status conferences took place after the appeal was filed with the Board and before the Board's decision was rendered. Absent a showing of a detailed explanation on how each particular conference assisted the appellant in furtherance of this appeal, the billed amounts for these status conferences are disallowed.

09/10/2008	.3 hours	\$ 133.50
10/03/2008	.1 hour	\$ 52.50
10/08/2008	.3 hours	\$ 133.50
01/14/2009	.3 hours	\$ 133.50
02/11/2009	.3 hours	\$ 133.50
03/05/2009	.3 hours	\$ 133.50

² 20 C.F.R. § 10.703(b) and the FECA Procedure Manual, Part 2 -- Claims, *Representative Services*, Chapter 2.1200.6 (June 2012) pertain to uncontested fees for work performed before OWCP. The procedures implemented by OWCP with regard to the consideration of fees are separate from the Board's review of such applications under 20 C.F.R. § 501.9(e). OWCP and the Board are two separate and distinct bodies and separate application to the Board is required for approval of a fee for legal or other services performed in connection with an appeal. *Evelyn R. Adams*, 10 ECAB 585 (1959).

04/10/2009	.3 hours	\$ 133.50
05/28/2009	.2 hours	\$ 81.00
07/10/2009	.3 hours	\$ 133.50
08/12/2009	.3 hours	<u>\$ 133.50</u>
		\$1,201.50

The Board will disallow these 2.7 hours for a total of \$1,201.50 as excessive and redundant.³

The Board has reviewed the fee petition and additional information submitted by counsel and finds that it otherwise satisfies the requirements of section 501.9(e) of the Board's implementing federal regulations.

IT IS HEREBY ORDERED THAT the fee petition is granted in the amount of seven thousand, five hundred and ten dollars (\$7,510.00).

Issued: August 25, 2014
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

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

³ While not directly pertaining to claims under FECA, the Board finds instructive the decision of the United States Supreme Court in *Hensley v. Eckerhart*, 461 U.S. 424 (1983). In any fee petition, counsel must use billing judgment and exclude redundant or unnecessary hours and to confirm that the fee requested is not excessive. Adequate documentation should be submitted to support the hours of work performed with specificity or a reasonably precise description of the work performed on behalf of the client.