

the records for file numbers xxxxxx355 and xxxxxx783. Following the consolidation of case records, OWCP was advised to consider all the evidence and issue an appropriate wage-earning capacity decision. The August 4 and September 12, 2011 OWCP decisions were set aside.

The documents on appeal include a 15-page brief addressing the issues on appeal. Counsel cited statutory authority, Board precedent, as well as OWCP's procedure manual in support of his contention that the wage-earning determination was improper. He argued that it did not meet the physical restrictions provided for appellant and that OWCP had failed to consider other preexisting conditions which limited the use of appellant's extremities. As noted, the Board remanded the case for OWCP to combine the case records from prior work injuries and to issue an appropriate decision.

On September 29, 2014 counsel responded to the Board's August 25, 2014 order providing additional information for consideration of the fee petition pursuant to 20 C.F.R. § 501.9(e). He noted that appellant did not contest the amount of the fee and submitted a document signed by appellant agreeing to the fees charged. Counsel also noted that fees for work performed by OWCP are approved on a consistent basis.² He addressed the usefulness of the representative services by submitting legal argument in the claim with citation to Board precedent that was found relevant to the issue on appeal. Counsel also addressed the time submitted in the fee petition on the case, in communication with appellant, 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.

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

² 20 C.F.R. 10.703(b) and the FECA Procedure Manual, Part 2 -- Claims, *Representatives' 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).

IT IS HEREBY ORDERED THAT the fee petition is granted in the amount of five thousand, one hundred and twenty dollars (\$5,120.00).³

Issued: February 23, 2015
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

³ Richard J. Daschbach, Chief Judge, participated in the original decision, but was no longer a member of the Board effective May 16, 2014.