

- (3) The capacity in which the Representative has appeared;⁴
- (4) The actual time spent in connection with the Board appeal;⁵ and
- (5) Customary local charges for similar services.⁶

As required by the Board's regulations, appellant has been afforded written notice of the fee requested and provided an opportunity to comment on the fee petition.⁷ No response was received.

The Board, having considered the fee petition and supporting documentation, denies the fee petition. The Board finds that the petition provides insufficient information to allow approval of any portion of the amount claimed. The Board notes the following defects:⁸

- (1) The fee petition does not adequately distinguish the services performed relative to the appeal(s) before the Board from those performed relative to the Office of Workers' Compensation Programs and for what purposes.
- (2) That while the appellant has signed the fee petition indicating satisfaction with the legal services provided and the fee requested, counsel has not affirmatively stated that he or she has personally verified that the notations of work performed, time billed and hourly rate are correct, that all work was in connection with this appeal before the Board and that no portion of the fee requested has been paid by OWCP, the appellant or another source.
- (3) The fee petition fails to explain in detail how the claimed fee is justified under the five factors listed in this order.

⁴ The Board's consideration of the "capacity" in which an attorney appears includes, but is not limited to, whether the attorney obtained a written retainer and fee agreement.

⁵ The Board's evaluation of an attorney's itemized statement of work and charges includes, but is not limited to, whether the statement is clear, detailed and describes those aspects of the appeal which merit the fee claimed and whether counsel has personally affirmed the correctness of the fee. No stipulated or contingent fee will be approved by the Board. 20 C.F.R. § 501.9(e).

⁶ The Board's consideration of customary, local fees recognizes that attorneys often have clients in several states and that local custom must be balanced against national practice in the Federal Employees' Compensation Act appeals.

⁷ 20 C.F.R. § 501.9(e).

⁸ This list is intended to assist counsel but does not limit the Board's discretion to evaluate any future fee petition on its own merits.

IT IS HEREBY ORDERED THAT the fee petition is denied and may be resubmitted to the Board within 60 days of the date of this order.

Issued: April 2, 2014
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board