

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

In the Matter of K.W., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Columbus, IN, Employer**

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**Docket No. 12-1467
Issued: January 5, 2015**

Appearances:
Joseph E. Allman, Esq., for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

ORDER GRANTING FEE PETITION

Before:

RICHARD J. DASCHBACH, Chief Judge
COLLEEN DUFFY KIKO, Judge
JAMES A. HAYNES, Alternate Judge

Counsel for appellant filed a request for approval of attorney fees in the amount of ten thousand, two hundred, eighty-seven dollars and fifty cents (\$10,287.50).¹ By order dated April 2, 2014, the Board denied counsel's request and allowed an additional 60 days for the submission of supplemental material information to review the request under the Board's regulations at 20 C.F.R. § 501.9.

The requested fees pertain to services performed before the Board in the above-referenced appeal. The Board's April 5, 2013 decision found that the Office of Workers' Compensation Programs (OWCP) properly denied expansion of appellant's claim to include a bilateral shoulder condition but reversed OWCP's termination of appellant's compensation and medical benefits due to an unresolved conflict of medical evidence as to whether appellant continued to have residuals of her accepted cervical condition.

The documents on appeal include a four-page brief addressing the issues before the Board. Counsel summarized the medical evidence in the record and argued that it was sufficient to expand acceptance of the bilateral shoulder condition and that it established appellant

¹ The Federal Employees' Compensation Act (FECA) (5 U.S.C. § 8127(b)) and its implementing regulations (20 C.F.R. § 501.9) clearly require the Board to review each fee petition on its own merits and with regard to the unique facts and issues of each appeal. The recognition that each appeal to the Board has unique aspects is reflected in the Board's orders granting or denying fee petitions.

continued to have residuals of the accepted conditions. Counsel referenced no statutory, regulatory or procedural authority nor did he cite to any Board precedent in his brief. Although the Board found that appellant had not submitted sufficient evidence to expand her claim to include bilateral shoulder conditions, it reversed OWCP's termination of her wage-loss and medical compensation benefits.

On May 29, 2014 counsel responded to the Board's April 2, 2014 order providing additional information for consideration of the fee request pursuant to 20 C.F.R. § 501.9(e). He noted that appellant had approved the hourly rate charged and that his fee had recently been approved by OWCP.² He addressed the usefulness of the representative services by noting that he prevailed on the termination issue. Appellant was awarded approximately two years of compensation benefits due to counsel's effort. Counsel also addressed the time his law firm spent 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.

Counsel clarified that his original request for approval of attorney fees had included work before both OWCP and the Board. He amended his request to include only 6.25 hours at \$250.00 per hour for a total of \$1,875.00 from June 22, 2012 to April 8, 2013. The Board has duly considered the matter and finds that it satisfies the requirements of section 501.9(e) of the Board's implementing federal regulations.

IT IS HEREBY ORDERED THAT that the fee petition is granted in the amount of one thousand, eight hundred and seventy-five dollars (\$1,875.00).³

Issued: January 5, 2015
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

² The procedures implemented by the Office of Workers' Compensation Programs (OWCP) with regard to the consideration of fees are separate from the Board's review of such applications under section 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).

³ Richard J. Daschbach, Chief Judge, who participated in the preparation of the opinion, was no longer a member of the Board after May 16, 2014.