

- (2) The nature and complexity of the appeal;⁵
- (3) The capacity in which the Representative has appeared;⁶
- (4) The actual time spent in connection with the Board appeal;⁷ and
- (5) Customary local charges for similar services.⁸

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.⁹

The requested fees pertain to services performed before the Board in the above-referenced appeal. The underlying issue was whether appellant met her burden of proof to establish that her claim should be expanded to include the additional conditions. By decision dated September 16, 2015, the Board affirmed the denial of appellant's request to expand her claim to include additional conditions.

On October 19, 2015 counsel provided a fee petition and statement of services requesting approval of fees totaling \$1,491.00.

OWCP's decision on appeal was dated August 4, 2014 and the appeal was filed with the Board on September 9, 2014. The Board issued its decision on September 16, 2015. The fee petition requests approval of services for September 3, 2014 and documents 3.60 hours spent in connection with the appeal before the Board at \$425.00 an hour for 3 hours for Daniel M. Goodkin, Esq., \$525.00 per hour for .30 hours for Steven E. Brown, Esq., and \$195.00 per hour for .30 hours for Paralegal Jessica Pope. The fee petition described the specific services provided for the amount claimed.

The Board has carefully reviewed the fee petition, and finds that it satisfies the requirements of section 501.9(e) of the Board's implementing regulations. The Board concludes that the fee requested is reasonable.

The Board notes that under 20 C.F.R. § 501.9(e) "[n]o claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board." Under 18 U.S.C. § 292, collecting a fee without the approval of the Board may constitute a misdemeanor, subject to fine or imprisonment for up to a year or both."

⁵ The Board's evaluation of the "nature and complexity" of an appeal includes, but is not limited to, whether the issue appealed is novel or required extensive or unusual factual evidence or legal argument. The Board recognizes that not all complex issues are cases of first impression. However, the representative must establish the complex or unusual nature of the appeal.

⁶ The Board's consideration of the "capacity" in which a representative appears includes, but is not limited to, whether the representative obtained a written retainer and fee agreement was obtained.

⁷ The Board's evaluation of an 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 the representative 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).

⁸ The Board's consideration of customary, local fees recognizes that representatives often have clients in several states and that local custom must be balanced against national practice in the FECA appeals.

⁹ 20 C.F.R. § 501.9(e). The Board notes that included with the representative's fee petition was a signed statement from appellant indicating that she agreed with the requested fee for services rendered.

IT IS HEREBY ORDERED THAT that the fee petition is granted in the amount of \$1,491.00.¹⁰

Issued: November 1, 2016
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

¹⁰ James A. Haynes, Alternate Judge participated in the original decision but was no longer a member of the Board effective November 16, 2015 and did not participate in the preparation of this order.