

- (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 issues were whether the Office of Workers' Compensation Programs (OWCP) met its burden of proof to terminate appellant's wage-loss compensation and medical benefits effective April 6, 2014 and whether appellant established any continuing employment-related disability after April 6, 2014. By decision dated September 28, 2016, the Board reversed the October 6 and December 15, 2014 decisions of OWCP. The Board found that OWCP failed to meet its burden to terminate appellant's wage-loss compensation and medical benefits effective April 6, 2014 due to an unresolved conflict in the medical evidence. The Board further determined that in light of the disposition of the first issue, the second issue was moot.

OWCP's decisions were dated October 6 and December 15, 2014 and the appeal was filed with the Board on March 9, 2015 and the eight-page brief was filed with the Board on March 16, 2015. On March 7, 2017 counsel provided a fee petition requesting approval of fees totaling \$594.00. The fee petition requests a fee for 1.50 hours of legal services by Thomas R. Uliase, Esquire, at an hourly rate of \$350.00 for the preparation of a brief and memorandum to file on March 3, 2015 for a total of \$525.00. The fee petition also requests fees for .92 hours of secretarial services by Cherryl A. Leonardo at an hourly rate of \$75.00 on March 11 and 16, 2015 for preparation of brief and correspondence to the Board for a total of \$69.00.

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.

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 he agreed with the requested fee for services rendered.

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.”

IT IS HEREBY ORDERED THAT that the fee petition is granted in the amount of \$594.00.

Issued: December 8, 2017
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees’ Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge
Employees’ Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees’ Compensation Appeals Board