

FACTUAL HISTORY

This is the second appeal in this case. By decision and order dated August 14, 2007, the Board set aside the Office's September 14, 2006 decision denying appellant's request to reimburse her travel expenses for December 8, 2006 medical treatment for accepted left plantar fasciitis.¹ Appellant requested reimbursement for travel to Dr. Mark E. Petrik, an attending Board-certified orthopedic surgeon,² whose office was located in Louisville, Kentucky, approximately 220 miles from appellant's residence in Paducah, Kentucky. The Office found that a travel distance more than 25 miles from the place of injury was unreasonable under 20 C.F.R. § 10.315. The Board found that the Office did not adequately explain why the travel distance was not reasonable other than citing the 25-mile regulatory guideline. The Board remanded the case for further review. The law and facts of the case as set forth in the Board's prior decision and order are hereby incorporated by reference.

In an August 27, 2007 file memorandum, the Office noted that, in addition to Dr. Burton N. Stodghill, an orthopedic surgeon and appellant's initial treating physician, there were other available specialists within 25 miles of appellant's residence, such as the Paducah Orthopedic Clinic, who accepted federal workers' compensation and treated plantar fascia conditions."

In an August 27, 2007 telephone memorandum, the Office noted that, on August 23, 2007, it had authorized appellant to seek treatment with Dr. Stodghill. An employee in Dr. Stodghill's office confirmed that appellant had a new patient appointment scheduled for September 5, 2007. Appellant was considered a new patient as Dr. Stodghill had not treated her for "a lengthy period of time."

By decision dated August 27, 2007, the Office denied appellant's request for reimbursement of travel expenses beyond 25 miles of her residence on the grounds that the claimed travel exceeded the reasonable distance specified under 20 C.F.R. § 10.135. It found that, in addition to Dr. Stodghill, there were other "appropriate physicians in the practice of treating plantar fascia conditions ... available within 25 miles from [appellant's] residence" who accepted federal compensation cases. The Office explained that, while it authorized medical treatment from Dr. Petrik, "the issues of authorization of medical treatment and reimbursement of travel expenses for medical treatment [were] separate and distinct."

LEGAL PRECEDENT

Section 8103 of the Federal Employees' Compensation Act³ provides that the United States shall furnish to an employee who is injured while in the performance of duty, the services,

¹ Docket No. 07-33 (issued August 14, 2007). The Board further found that appellant did not meet her burden of proof to establish entitlement to wage loss on December 7, 2005. The Office's August 27, 2007 decision did not address the wage-loss issue. The wage-loss issue is not before the Board on the present appeal.

² The Office authorized Dr. Petrik to treat the accepted left plantar fasciitis, including performing a left plantar fasciotomy with partial plantar fasciectomy on June 17, 2005.

³ 5 U.S.C. §§ 8101-8193.

appliances and supplies prescribed or recommended by a qualified physician, which the Office considers likely to cure, give relief, reduce the degree or period of disability or aid in lessening the amount of monthly compensation.⁴

Section 10.315 of Title 20 of the Code of Federal Regulations provides, in relevant part:

“The employee is entitled to reimbursement of reasonable and necessary expenses, including transportation needed to obtain authorized medical services, appliances or supplies. To determine what is a reasonable distance to travel, [the Office] will consider the availability of services, the employee’s condition and the means of transportation. Generally, 25 miles from the place of injury, the work site or the employee’s home, is considered a reasonable distance to travel. The standard form designated for [f]ederal employees to claim travel expenses should be used to seek reimbursement under this section.”⁵

As the only limitation on the Office’s authority is reasonableness, abuse of discretion is generally shown through proof of manifest error, clearly unreasonable exercise of judgment or actions taken which are contrary to both logic and probable deductions from known facts.⁶ The Board has long held that, in interpreting relevant sections of the Act, the Office has broad discretion in approving services provided under the Act.⁷

ANALYSIS

The Office accepted that appellant sustained left plantar fasciitis and authorized treatment by Dr. Petrik, an attending Board-certified orthopedic surgeon, whose office was in Louisville, Kentucky, approximately 220 miles from appellant’s residence in Paducah, Kentucky. Appellant claimed reimbursement for December 8, 2005 travel expenses for the journey from her home to Dr. Petrik’s office for medical treatment.⁸ The Office denied reimbursement, finding that the distance was not reasonable.

The Office previously authorized appellant to be treated by Dr. Petrik and paid her expenses in obtaining treatment. Authorization of medical treatment and reimbursement of travel expenses for that treatment are separate issues. The Office may authorize medical treatment but determine that the associated travel expense was unnecessary or unreasonable.⁹

⁴ 5 U.S.C. § 8103; *W.M.*, 59 ECAB __ (Docket No. 07-583, issued October 15, 2007).

⁵ 20 C.F.R. § 10.315; *W.M.*, *supra* note 4; *D.C.*, 58 ECAB ____ (Docket No. 06-2161, issued July 13, 2007).

⁶ *Hubert Jones, Jr.*, 57 ECAB 467 (2006).

⁷ *W.M.*, *supra* note 4; *see Wanda L. Campbell*, 44 ECAB 633 (1993).

⁸ 5 U.S.C. § 8103. *See* Federal (FECA) Procedure Manual, Part 3 -- Medical, *Medical Services and Supplies*, Chapter 3.400.10 (April 1992).

⁹ *W.M.*, *supra* note 4 ; *D.C.*, *supra* note 5.

Appellant requested that the Office reimburse her travel expenses for a December 8, 2005 visit to Dr. Petrik, a drive of approximately 440 miles roundtrip. She is entitled to reimbursement for reasonable and necessary travel expenses as provided in section 10.315 of the Act's implementing regulations.¹⁰ The regulation provides that a reasonable travel distance is generally 25 miles from the place of injury, the work site or the employee's home.¹¹ In determining what constitutes a reasonable travel distance, the Office must consider the availability of medical services in appellant's area, her condition and the means of transportation.

The Office found that appellant did not reasonably need to seek treatment in Louisville given the availability of adequate specialists for her condition closer to her commuting area of Paducah, Kentucky. The Office noted as examples that the Paducah Orthopedic Clinic and Dr. Stodghill, her original treating physician, were both competent to treat the accepted plantar fasciitis. Both were located within 25 miles of appellant's home. Additionally, the Office authorized appellant to seek treatment with Dr. Stodghill as of August 23, 2007. Appellant scheduled an appointment with Dr. Stodghill in September 2007. This demonstrates that she was able to access appropriate care from germane specialists within her commuting area.¹²

The Office has broad discretion in considering whether to reimburse or authorize travel expenses. In this case, the Office properly considered the availability of services for appellant's condition in determining whether the distance was reasonable. As the only limitation on the Office's authority is reasonableness, abuse of discretion is generally shown through proof of manifest error, clearly unreasonable exercise of judgment or actions taken which are contrary to both logic and probable deduction from known facts.¹³ The Office properly considered the factors listed in section 10.315 and denied appellant's request for authorization for travel expenses to see a physician in Louisville. The Board finds that the Office's denial of reimbursement did not constitute an abuse of discretion.

CONCLUSION

The Board finds that the Office did not abuse its discretion by denying appellant's request for reimbursement of travel expenses.

¹⁰ 20 C.F.R. § 10.315.

¹¹ 20 C.F.R. § 10.315. *See also* *W.M.*, *supra* note 4 ; *D.C.*, *supra* note 5.

¹² *W.M.*, *supra* note 4 ; *D.C.*, *supra* note 5; *Julia A. Strickland*, 54 ECAB 649 (2003).

¹³ *Hubert Jones, Jr.*, *supra* note 6.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated August 27, 2007 is affirmed.

Issued: July 22, 2008
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board