

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

C.E., Appellant)	
)	
and)	Docket No. 21-0456
)	Issued: September 20, 2021
DEPARTMENT OF JUSTICE, BUREAU OF PRISONS, Grand Prairie, TX, Employer)	
)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
JANICE B. ASKIN, Judge
PATRICIA H. FITZGERALD, Alternate Judge

JURISDICTION

On February 2, 2021 appellant filed a timely appeal from a September 16, 2020 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.²

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that, following the September 16, 2020 decision, OWCP received additional evidence. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

ISSUE

The issue is whether appellant has met her burden of proof to establish entitlement to four hours of wage-loss compensation for disability on June 29, 2020 causally related to the accepted August 19, 2019 employment injury.

FACTUAL HISTORY

On August 19, 2019 appellant, then a 54-year-old computation classification specialist, filed a traumatic injury claim (Form CA-1) alleging that on that date she sustained bilateral hip and right shoulder injuries as the result of slipping and falling on a wet floor in the performance of duty. OWCP accepted the claim for bilateral knee sprain, bilateral knee contusion, right shoulder joint sprain, cervical ligament sprain, lumbar ligament sprain, right wrist and hand sprains, unilateral bilateral hip post-traumatic osteoarthritis, right elbow sprain, and left hip sprain. It subsequently expanded its acceptance of the claim to include right knee medial meniscus tear. OWCP paid appellant wage-loss benefits on the supplemental rolls.

On July 6, 2020 appellant filed a claim for compensation (Form CA-7) requesting wage-loss compensation for disability from work on June 29, 2020. In an attached time analysis form (Form CA-7a), appellant noted that she was claiming four hours of wage-loss compensation on June 29, 2020 for a doctor/therapy appointment.

In an August 27, 2020 development letter, OWCP advised appellant that the evidence submitted was insufficient to establish entitlement to four hours of compensation for medical treatment on June 29, 2020 due to her accepted August 19, 2019 employment injury as it did not receive any evidence to support a medical visit on that date. It further requested that she submit additional evidence to establish that she was disabled from work on the date. OWCP afforded appellant 30 days to submit the necessary evidence.

By decision dated September 16, 2020, OWCP denied appellant's Form CA-7 claim for compensation for time lost from work to obtain medical treatment on June 29, 2020. It found that she was provided 30 days to submit the requested information; however, no medical evidence had been submitted to establish that she received medical treatment on the claimed date causally related to the accepted August 19, 2019 employment injury.

LEGAL PRECEDENT

OWCP's procedures provide that wages lost for compensable medical examination or treatment may be reimbursed.³ A claimant who has returned to work following an accepted injury or illness may need to undergo examination, testing, or treatment and such employee may be paid compensation for wage loss while obtaining medical services or treatment, including a reasonable

³ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Wages Lost for Medical Examination or Treatment*, Chapter 2.901.19 (February 2013).

time spent traveling to and from the medical provider's location.⁴ Wage loss is payable only if the examination, testing, or treatment is provided on a day which is a scheduled workday and during a scheduled tour of duty. Wage-loss compensation for medical treatment received during off-duty hours is not reimbursable.⁵ The evidence should establish that a claimant attended an examination or treatment for the accepted work injury on the dates claimed in order for compensation to be payable. For a routine medical appointment, a maximum of four hours may be allowed. However, longer periods of time may be allowed when required by the nature of the medical procedure and/or the need to travel a substantial distance to obtain medical care.⁶

ANALYSIS

The Board finds that this case is not in posture for decision.

OWCP's procedures address the time period to be allowed by OWCP for submission of evidence pertaining to a wage-loss compensation claim for medical treatment.⁷ Its procedures provide that, if the necessary evidence is not present regarding medical treatment or attendance at an examination at the time of the initial review, it will develop the claim and review the claim after 30 days for either payment or issuance of a decision denying any claimed hours not supported by the medical evidence.

OWCP's August 27, 2020 development letter to appellant properly advised that she had 30 days to submit additional evidence supporting her wage-loss claim. OWCP issued its September 16, 2020 decision denying appellant's claim for wage-loss compensation; however, it provided appellant only 20 days after the August 27, 2020 development letter before denying the claim. The Board, therefore, finds that the September 16, 2020 decision was premature and did not conform with OWCP's procedures.

This case will, therefore, be remanded to OWCP. Following any further development as deemed necessary, OWCP shall issue a *de novo* decision.

CONCLUSION

The Board finds that this case is not in posture for decision.

⁴ *Id.* at Chapter 2.901.19(a); *A.M.*, Docket No. 20-0320 (issued March 31, 2021); *M.B.*, Docket No. 19-1049 (issued October 21, 2019).

⁵ *Id.* at Chapter 2.901.19(a)(2).

⁶ *Id.* at Chapter 2.901.19(c).

⁷ *Id.* at Chapter 2.901.19(a)(3).

ORDER

IT IS HEREBY ORDERED THAT the September 16, 2020 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: September 20, 2021
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board