

Pursuant to its regulations, the Board considered the petition under the following general criteria:

- (1) The usefulness of the Representative's services;⁴
- (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 On September 15, 2016 the Clerk of the Board received a signed statement in which appellant indicated that the requested fee of \$376.50 was reasonable and appropriate. Appellant expressed her understanding that she was responsible for payment of the fee.

The requested fees pertain to services performed before the Board in the above-referenced appeal. By decision dated February 2, 2016, the Office of Workers' Compensation Programs (OWCP) hearing representative affirmed an August 7, 2015 OWCP decision terminating appellant's compensation effective that day as it found she refused an offer of suitable work, pursuant to 5 U.S.C. § 8106(c). By decision dated August 24, 2016, the Board reversed OWCP's February 2, 2016 decision. The Board found that OWCP did not meet its burden of proof to establish that the modified social insurance specialist (claims representative, bilingual) position offered by the employing establishment was suitable. As the offered position

⁴ The Board's consideration of "usefulness" includes, but is not limited to, the frequency and quality of communication by the representative with the client, the factual evidence and legal argument offered, and written pleadings filed in the case. The Board will also consider the usefulness of a representative's work as it aided the Board in its consideration and decision of the issue appealed.

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 a representative's 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 FECA appeals.

⁹ 20 C.F.R. § 501.9(e).

was not suitable, the Board found OWCP's termination of appellant's compensation for refusing the offered position was improper.

On September 9, 2016 counsel provided a fee petition and a statement of service requesting approval of fees totaling \$376.50.

OWCP's decision on appeal was dated February 2, 2016 and the appeal was filed with the Board on February 22, 2016. The fee petition requests approval of services from February 22 to August 24, 2016 and documents 1.5 hours spent in connection with this appeal before the Board at \$475.00 per hour for 0.3 hours for Daniel M. Goodkin, Esq. and \$195.00 per hour for 1.2 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. Counsel provided a detailed brief which aided the Board in its consideration of the issue on appeal, and provided an appropriate itemized statement of services performed with respect to the appeal. 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 up to a year or both.

IT IS HEREBY ORDERED THAT the fee petition is granted in the amount of \$376.50.

Issued: August 10, 2017
Washington, DC

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

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

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board