

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

R.H., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Bakersfield, CA, Employer**

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**Docket No. 12-1384
Issued: November 3, 2014**

Appearances:
Steven E. Brown, Esq., for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

ORDER GRANTING ATTORNEY'S FEE

Before:
RICHARD J. DASCHBACH, Chief Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

Counsel for appellant filed a request for approval of attorney fees in the amount of two thousand, three hundred and ninety-nine dollars (\$2,399.00). By order dated April 8, 2014, the Board denied counsel's request and allowed an additional 60 days for the submission of supplementary information to review the request under the Board's regulations at 20 C.F.R. § 501.9.¹

In this appeal, the Board's May 22, 2013 decision found that the Office of Workers' Compensation Programs (OWCP) met its burden of proof to terminate appellant's compensation benefits based on the impartial medical report of Dr. Daniel D. Primm, a Board-certified orthopedic surgeon. The Board also found that the evidence of record established that OWCP properly utilized the Medical Management Application in selecting the physician as the impartial specialist. The May 3, 2012 OWCP decision was affirmed.

On April 17, 2014 counsel responded to the Board's April 8, 2014 order providing additional information for consideration of the fee request pursuant to section 501.9(e).² He noted that appellant did not contest the reasonableness of the fee. Regarding the usefulness of

¹ See 5 U.S.C. § 8127(b); 20 C.F.R. § 501.9.

² 20 C.F.R. § 501.9(e).

the representative's services, counsel noted that the issue of proper selection of an impartial medical specialist is complicated as OWCP has changed its procedures. The Board notes that counsel's pleading in the appeal cited to several decisions in support of his contention that OWCP did not properly document selection of Dr. Primm.

Counsel noted that the time spent on the appeal was documented and addressed the customary local charges for similar services. He specifically addressed the hourly rates charged by the staff of his law firm in this appeal from June 11, 2012 to June 14, 2013. In this regard, the Board will disallow the fees charged on July 11, 2012 for .90 hours in the amount of \$144.50 hours to prepare a supplement to the appeal. The docket before the Board does not reflect any supplemental or addendum pleading submitted by counsel during the pendency of the appeal. The Board will further disallow .20 hours in the amount of \$50.00 by Daniel M. Goodkin and Jessica Gordon on May 28, 2013 for time spent in conference with one another on the case as it is duplicative of the time spent at a subsequent office meeting that date: re case status.³ The Board will also disallow \$70.00 for a call to client on June 14, 2013 as it is not readily apparent the charge was in furtherance of the appeal. This reduces the attorney's fee by \$264.50.

The Board has reviewed the fee petition and additional information submitted by counsel and finds that it otherwise satisfies the requirements of section 501.9(e) of the Board's implementing federal regulations.

IT IS HEREBY ORDERED THAT the fee petition is granted in the amount of two thousand, seventy-four dollars and fifty cents (\$2,074.50).⁴

Issued: November 3, 2014
Washington, DC

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

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board

³ With regard to interoffice conferences, the Board notes that it is good practice to avoid routine discussions regarding a file with other members of a firm unless such discussions involve items of substantive importance, outside parties, or large blocks of time.

⁴ Richard J. Daschbach, Chief Judge, who participated in the decision, was no longer a member of the Board after May 16, 2014.