



Pursuant to its regulation, the Board considered the fee petition under the following criteria:

- (1) The usefulness of the Representative's services;<sup>4</sup>
- (2) The nature and complexity of the appeal;<sup>5</sup>
- (3) The capacity in which the Representative has appeared;<sup>6</sup>
- (4) The actual time spent in connection with the Board appeal;<sup>7</sup> and
- (5) Customary local charges for similar services.<sup>8</sup>

As required by the Board's regulations,<sup>9</sup> appellant has been afforded written notice of the fee requested and provided an opportunity to comment on the fee petition.<sup>10</sup>

The requested fees pertain to services performed before the Board in the above-referenced appeal. By decision dated September 22, 2014, the Office of Workers' Compensation Programs (OWCP) found that appellant had not met her burden of proof to establish survivor benefits for the benefit of the deceased employee's son. By decision dated September 19, 2016, the Board set aside OWCP's September 22, 2014 decision and remanded the case to OWCP for further development of the evidence.

On appeal counsel submitted a five-page brief containing supporting legal citation for the argument that the deceased employee developed a work-related emotional condition which contributed to his suicide, thereby entitling appellant to survivor benefits for the benefit of the deceased employee's son.

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<sup>4</sup> 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.

<sup>5</sup> 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.

<sup>6</sup> 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.

<sup>7</sup> 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).

<sup>8</sup> 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.

<sup>9</sup> 20 C.F.R. § 501.9(e).

<sup>10</sup> The Board notes that included with the fee petition was a signed statement indicating that he found the requested fee to be reasonable.

On December 8, 2016 counsel filed a fee petition requesting approval of fees totaling \$1,802.00, which addressed the general criteria found at 20 C.F.R. § 501.9(e). He provided a detailed account of the specific legal tasks performed by himself, another attorney, and a paralegal.

OWCP's decision on appeal was dated September 22, 2014 and the appeal was filed with the Board on March 20, 2015. The fee petition requests approval of services from March 20, 2015 to September 20, 2016 and documents 4.65 hours spent in connection with this appeal before the Board. Daniel M. Goodkin, Esq. billed his services (2.9 hours) at \$425.00 per hour, for a total of \$1,232.50, and Erika E. Bauer, a paralegal, billed her services (1.10 hours) at an hourly rate of \$195.00, for a total of \$214.50. Additionally, Steven E. Brown, Esq., billed 0.55 hours at \$550.00 per hour, for a total of \$302.50 and 0.10 hours at an hourly rate of \$525.00, for a total of \$52.50. The fee petition described the specific services provided for the amounts of time 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. 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 \$1,802.00.<sup>11</sup>

Issued: December 15, 2017  
Washington, DC

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

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

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<sup>11</sup> Colleen Duffy Kiko, Judge, participated in the preparation of this order, but was no longer a member of the Board effective December 11, 2017.