

BRB No. 92-1482 BLA

ELSIE LYNCH)
(Widow of JAMES F. LYNCH))
)
Claimant-Petitioner)
)
v.)
)
DIRECTOR, OFFICE OF WORKERS')
COMPENSATION PROGRAMS, UNITED)
STATES DEPARTMENT OF LABOR)
)
Respondent)

DATE ISSUED:

DECISION and ORDER on
RECONSIDERATION *EN BANC*

Appeal of the Amended Award for Legal Services of John C. Martin, District Director, United States Department of Labor.

Antoinette Boyle, Billings, Montana, for claimant.

Before: HALL, Chief Administrative Appeals Judge, SMITH, BROWN, DOLDER and McGRANERY, Administrative Appeals Judges.

PER CURIAM:

Claimant's counsel has timely filed a Motion for *En Banc* Reconsideration of the Board's Decision and Order in *Lynch v. Director, OWCP*, BRB No. 92-1482 BLA (Jan. 31, 1994)(unpub.). See 20 C.F.R. §802.407(a). In *Lynch*, the Board modified in part and affirmed the district director's Amended Award for Legal Services. In her motion for reconsideration, counsel requests that the Board reconsider its affirmance of the district director's denial of attorney's fees.

In *Lynch*, the Board modified the Amended Award for Legal Services to allow an additional 2.75 hours of compensation and affirmed the remainder of the district director's

findings as they are not arbitrary, capricious nor an abuse of discretion. *Lynch, supra*; see *Abbott v. Director, OWCP*, 13 BLR 1-15 (1989), citing *Marcum v. Director, OWCP*, 2 BLR 1-894 (1980). Upon reconsidering the district director's Amended Award for Legal Services and counsel's arguments, we grant the motion for reconsideration and further modify the award of attorney's fees. Initially, we reverse the district director's disallowance of compensation for .25 hours of service performed on July 9, 1979, .75 hours performed on August 21, 1980, .5 hours performed on August 23, 1980, .25 hours performed on January 12, 1983, .25 hours performed on January 28, 1983, .25 hours performed on September 16, 1980, .25 hours performed on June 13, 1981, .25 hours performed on January 12, 1983, and .25 hours performed on March 20, 1984, for a total of 3 hours, because these services involved reasonable communications to and from claimant regarding the status of the claim and providing instructions and explanations in regard to the claim. See *Gibson v. Director, OWCP*, 9 BLR 1-149 (1986); *Cox v. Director, OWCP*, 7 BLR 1-810 (1985); *Lanning v. Director, OWCP*, 7 BLR 1-314; *Miller v. Director, OWCP*, 4 BLR 1-640 (1982); *Brown v. Director, OWCP*, 3 BLR 1-95 (1979).

We also reverse the district director's disallowance of compensation for 1.5 hours of service performed on July 7, 1980, .25 hours performed on August 22, 1980, 2.25 hours performed on November 18, 1982, 1.5 hours performed on November 22, 1982, 1.5 hours performed on June 27, 1983, and 1.25 hours performed on March 20, 1984, for a total of 8.25 hours, because these services involved a reasonable amount of researching, reviewing, and preparing relevant statutes, evidence, and case law while the case was pending prior to the award of benefits. See *Lanning, supra*; *Spencer v. Director, OWCP*, 6 BLR 1-971 (1984); *Wiggins v. Director, OWCP*, 4 BLR 1-439 (1982). Also, we reverse the

district director's disallowance of two hours of compensation for eight entries entitled "Note for file re above-listed conference". These entries involved notes made to the file following phone calls from claimant, and are reasonable in light of the fact that the district director compensated counsel for the preceding phone calls in the Amended Award. See *Bradley v. Director, OWCP*, 4 BLR 1-241 (1981). Thus, we modify the Amended Award for Legal Services to include an additional fee of \$1,325.00 for thirteen and one-quarter hours of services performed at an hourly rate of \$100.00, making the total fee awarded to date \$6,475.00 for sixty-four and three-quarter hours of service performed at an hourly rate of \$100.00. In all other respects, we re-affirm our prior Decision and Order.

Accordingly, we grant counsel's Motion for Reconsideration and modify the Amended Award for Legal Services as indicated in this opinion.

SO ORDERED.

BETTY JEAN HALL, Chief
Administrative Appeals Judge

ROY P. SMITH
Administrative Appeals Judge

JAMES F. BROWN
Administrative Appeals Judge

NANCY S. DOLDER
Administrative Appeals Judge

REGINA C. McGRANERY
Administrative Appeals Judge