

## INSTRUCTIONS RELATING TO REPRESENTATIVE FEE APPLICATIONS

Note: Additional information pertaining to fee requests may be found within Chapter 2-1200, Fees for Representatives' Services, of the Federal (FECA) Procedure Manual.

The Federal Employees' Compensation Act, 5 U.S.C. 8101 et seq., provides that: "A claim for legal or other services furnished in respect to a case, claim, or award for compensation under this chapter is valid only if approved by the Secretary." (5 U.S.C. 8127(b)) Fees collected prior to the Secretary's approval may constitute a misdemeanor under 18 U.S.C. § 292. However, funds deposited into an appropriately segregated account, such as a client trust or escrow, and held until receipt of the Secretary's approval will not be considered receipt or collection of a fee by the representative.

The Office of Workers' Compensation Programs (OWCP) does not recognize any contract or agreement between representatives and clients for payment of a fee for services on a contingency basis, and such contract or agreement, if one exists, will result in the denial of the fee request. Further, a fee will not be approved merely on the basis of a percentage of the amount of compensation awarded. All fees claimed for services rendered must be calculated on an hourly basis. (Angela M. Sanden, Docket No. 04-1632 (issued September 20, 2004))

In each case where a representative's fee is desired, an application for approval of the fee must be submitted to OWCP. In order to eliminate the time lag between case approval/payment or disallowance and a formal ruling on the fee application, representatives should submit requests for approval at the time they submit the final evidence necessary for adjudication of their client's claim. The fee application must contain an itemized statement that provides the information listed below.

1. The representative's hourly rate.
2. The number of hours worked.
3. A description of the specific work performed.
4. The total amount charged for the representation, exclusive of administrative costs.
5. A statement signed by the claimant, indicating agreement or disagreement with the amount charged. The statement must also acknowledge that the claimant is aware that he or she must pay the fee and that OWCP is not responsible for paying (or reimbursing) the fee or other costs associated with the representative's services.

Where a fee application is accompanied by a signed statement indicating the claimant's agreement with the fee, the application will be deemed approved. (20 C.F.R. § 10.703(b))

Where the claimant disagrees with the amount of the fee, as indicated in the statement accompanying the application, OWCP will evaluate the objection and issue a formal decision that approves, modifies, or denies the fee.

File Number:  
attorneyfee-O-AT

In order to make this determination, OWCP will provide a copy of the fee request to the claimant and ask him or her to provide any additional information in support of his or her objection within 15 days from the date the fee request was forwarded to the claimant. (20 C.F.R. § 10.703(c))

In those instances where OWCP proposes to reduce a requested fee, including the hourly rate the representative may charge, the representative will be provided with notice of the reasons for the proposed reduction, and given the opportunity to respond with written comments and by affidavit prior to a final decision being issued.

An incomplete application will be returned for proper completion.

It should be noted that the ultimate collection of the fee is a matter between the representative and the claimant.

#### Privacy Act Statement

The Privacy Act of 1974 as amended (5 U.S.C 552a) and 5 U. S. C 8101 et seq authorize collection of this information. Information collected will be handled and stored in compliance with the Freedom of Information Act, the Privacy Act of 1974, as amended, 5 U.S.C 552a). The information requested is used to determine approval of fees submitted by attorneys' who represent claimants under the Office of Workers' Compensation Programs, Division of Federal Employees' Compensation. Failure to furnish the requested information may result in a delay in processing the fee application.

#### Public Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. Public reporting burden for this collection is estimated to average 1 hour to complete this information collection including the time for reviewing data needed, and completing and reviewing the information. The obligation to respond to this collection is required to obtain or retain benefit under 20 CFR 10. 10.703. Send comments regarding the burden estimate or any aspect of this collection of information, including suggestions for reducing this burden, to the Office of Workers' Compensation Programs, Department of Labor, Room S-3229, 200 Constitution Avenue, NW, Washington, DC 20210, and reference the OMB Control Number 1215-0078. Note: please do not send the completed form to this office; rather, send it to the address shown on the letterhead.