

CYRUS BROWN)	BRB No. 95-0881
)	
Claimant-Petitioner)	
)	
v.)	
)	
MARYLAND SHIPBUILDING AND)	
DRYDOCK COMPANY)	
)	
Self-Insured)	
Employer-Respondent)	
)	
TALBERT STYLES)	BRB No. 95-0882
)	
Claimant-Petitioner)	
)	
v.)	
)	
MARYLAND SHIPBUILDING AND)	
DRYDOCK COMPANY)	DATE ISSUED:
)	
Self-Insured)	
Employer-Respondent)	DECISION and ORDER

Appeals of the Supplemental Orders-Attorney Fees of Bruno DiSimone, District Director,
United States Department of Labor.

Clifford W. Cuniff, Baltimore, Maryland, for claimants.

Donna L. Jacobs and Richard W. Scheiner (Semmes, Bowen & Semmes), Baltimore,
Maryland, for self-insured employer.

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

PER CURIAM:

Claimant appeals the Supplemental Order-Attorney Fees (Case No. 4-27977) and the
Supplemental Order-Attorney Fees (Case No. 4-28537) of District Director Bruno DiSimone
awarding attorneys' fees on claims filed pursuant to the provisions of the Longshore and Harbor

Workers' Compensation Act, as amended, 33 U.S.C. §901 *et seq.* (the Act).¹ The amount of an attorney's fee is discretionary and may be set aside only if the challenging party shows it to be arbitrary, capricious, an abuse of discretion, or not in accordance with law. *See, e.g., Muscella v. Sun Shipbuilding & Dry Dock Co.*, 12 BRBS 272 (1980).

Claimant Brown sought benefits for a work-related hearing loss. Employer controverted the claim, and the case was transferred to the Office of Administrative Law Judges for a hearing. The administrative law judge found that employer is liable for claimant's benefits as the responsible employer, and he awarded claimant benefits for a stipulated 17.3 percent binaural impairment. Thereafter, the administrative law judge awarded claimant's counsel a fee in the amount of \$4,950.63, representing 35 hours of legal services at the rate of \$135 per hour, and \$225.63 for costs.

Claimant Styles also sought benefits for a work-related hearing loss. Employer controverted this claim as well, and the case was transferred to the Office of Administrative Law Judges for a hearing. The administrative law judge awarded claimant benefits for a 44.4 percent binaural impairment. Thereafter, the administrative law judge awarded claimant's counsel a fee in the amount of \$4,266.25, representing 15 hours of legal services at the rate of \$185, 1.75 of paralegal services at the rate of \$75 per hour, and \$1,360 in witness related costs.

In each case, claimants' counsel filed a fee petition for work performed before the district director. In claimant Brown's case, counsel requested a fee in the amount of \$1,856.25, representing 13.75 hours of legal services at the hourly rate of \$135. In claimant Styles' case, counsel requested a fee in the amount of \$3,001.25, representing 14.5 hours of legal services at the hourly rate of \$185, and 4.25 hours of paralegal services at the hourly rate of \$75. Employer submitted objections to counsel's fee request in each case. After considering employer's objections in each case, the district director awarded claimant's counsel a fee of \$999, representing 7.4 hours of legal services at the hourly rate of \$135 in claimant Brown's case, and in claimant Styles' case, a fee of \$1,297.50, representing 6 hours of legal services rendered at the hourly rate of \$185 and 2.4 hours of paralegal services at the hourly rate of \$75.

On appeal, claimants contend that the district director erred by arbitrarily reducing the number of hours requested without adequate explanation. Employer responds, urging affirmance of the district director's Supplemental Orders.

¹We hereby consolidate for purposes of decision claimants' appeals of District Director Bruno DiSimone's Supplemental Order-Attorney Fees in claimant Brown's case, BRB No. 95-0881, and Supplemental Order-Attorney Fees in claimant Styles' case, BRB No. 95-0882. 20 C.F.R. §802.104.

We agree that the district director's fee awards do not comport with law, as a sufficient explanation for reductions in each fee request must be provided. *See Devine v. Atlantic Container Lines, G.I.E.*, 23 BRBS 279 (1990); *Bell v. Volpe/Head Construction Co.*, 11 BRBS 377 (1979). Where a district director has not set forth a sufficient explanation for the reduction, the Board is prevented from reviewing the award and will remand the case to the district director for an explanation. *Devine*, 23 BRBS at 288; *Speedy v. General Dynamics Corp.*, 15 BRBS 448 (1983).

In each of the instant cases, the district director stated that employer had proposed reasonable objections to the amounts of time claimed, but failed to specifically discuss the application of the regulatory criteria of 20 C.F.R. §702.132 to the fee reductions. Moreover, the district director neglected to state which specific hours were being disallowed. Therefore, the fee awards must be vacated and the cases remanded for reconsideration pursuant to the regulatory criteria. *Roach v. New York Protective Covering Co.*, 16 BRBS 114 (1984). On remand, the district director must specify any reductions and provide an explanation therefor. *Devine*, 23 BRBS at 288.

Claimant's counsel has filed fee petitions in each case, requesting two fees of \$971.25 for 5.25 hours of work in each case at a rate of \$185 per hour. As counsel has yet to establish entitlement to additional fees below, we will not address these petitions at this time. Counsel may refile his petitions if the district director issues awards of additional fees on remand.

Accordingly, the district director's Supplemental Order-Attorney Fees, Case No. 4-27977, and Supplemental Order-Attorney Fees, Case No. 4-28537, are vacated and the cases remanded for reconsideration consistent with this opinion.

SO ORDERED.

BETTY JEAN HALL, Chief
Administrative Appeals Judge

ROY P. SMITH
Administrative Appeals Judge

NANCY S. DOLDER
Administrative Appeals Judge