

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Department of Employment Services**

**VINCENT C. GRAY**  
**MAYOR**



**LISA M. MALLORY**  
**DIRECTOR**

**COMPENSATION REVIEW BOARD**

**CRB No. 12-110**

**MARYANNE TAGOE,**

**Claimant–Petitioner,**

**v.**

**HOWARD UNIVERSITY HOSPITAL,**

**Self-Insured Employer-Respondent.**

Appeal from a Compensation Order of  
Administrative Law Judge Amelia G. Govan  
AHD No. 03-287, OWC No. 568310

Maryanne Tagoe, *pro se* Petitioner

William H. Schladt, Esquire, for the Respondent

Before JEFFREY P. RUSSELL,<sup>1</sup> MELISSA LIN JONES, and LAWRENCE D. TARR, *Administrative Appeals Judges*.

JEFFREY P. RUSSELL, for the Compensation Review Board.

**ORDER DENYING MOTION FOR RECONSIDERATION**

On July 10, 2012, a Compensation Order was issued by an Administrative Law Judge in the hearings section of the Department of Employment Services, entitled “Compensation Order on Remand” (COR).

The COR was necessitated as a result of our prior Decision and Remand Order issued October 11, 2011, and an Order Modifying Decision, issued March 14, 2012, which modified the October 11, 2011 Decision and Remand Order.

The Decision and Remand Order of October 11, 2011 disposed of multiple issues, affirming the bulk of the ALJ’s Compensation Order on Remand issued February 18, 2011. The one issue that the CRB did find required further action by the ALJ concerned the interest rate to be assessed against

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<sup>1</sup> Judge Russell was appointed by the Director of DOES as a Board member pursuant to DOES Administrative Policy Issuance No. 12-01 (June 20, 2012).

the employer for unpaid reimbursements for out-of-pocket medical expenses incurred and paid by Petitioner to which it was ultimately determined she was entitled to reimbursement. The CRB wrote:

The February 28, 2011 Compensation Order on Remand is AFFIRMED IN PART and VACATED IN PART. The matter is remanded solely for a determination of the interest rate to be applied to the claimant's out-of-pocket medical expenses.

As noted above, the CRB also issued an Order Modifying Decision, which modified the Decision and Remand Order of October 11, 2011. The modification was a limited one: it determined that the mileage reimbursement rate applied by the ALJ in the earlier compensation order and affirmed by the CRB was premised upon a mistake by the Office of Workers' Compensation (OWC) which mistake was acknowledged by OWC while the earlier disputes were pending in the hearings and/or appeals sections of the agency. It modified the cents-per-mile rate allowable for travel expenses incurred by Petitioner from 21 cents-per-mile to 32 ½ cents-per-mile for travel in 2000, and from 25 cents-per-mile to 34 ½ cents-per-mile for 2001. The Order Modifying Decision contained this instruction to the ALJ, before whom the October 11, 2011 remand was still pending:

Therefore, for these reasons we hereby amend the CRB's October 11, 2011 Decision and Remand Order and find the mileage reimbursement rates to which the claimant is entitled is \$0.325 for mileage driven in 2000 and \$0.345 for mileage driven in 2001.

This matter is remanded to the ALJ for entry of an Award consistent with this Order and, as further explained in the October 11, 2011 Decision and Remand Order, for a determination of the interest rate to be applied to the claimant's out-of-pocket medical expenses.

Subsequent to the issuance of the Order Modifying Decision, Petitioner filed a Motion for Clarification seeking, among other things, clarification as to whether the ALJ was also to consider travel reimbursement claims for years subsequent to 2001; she asserted that she had presented claims for the years 2000 through 2009 to the ALJ. In response to the motion, the CRB issued a response to Claimant's Motion for Clarification on March 29, 2012. In it, the CRB stated:

The CRB cannot tell from its file whether the claimant claimed mileage for 2001-2009. However, since this case is on remand this concern can be addressed by the ALJ on remand.

Thus, the combined effect of the three CRB orders was that the ALJ was to do three things: first, having already determined to which out-of-pocket medical expenses Claimant was entitled to reimbursement (and hence, were subject to interest assessment), the ALJ was to determine what legal interest rate should be assessed against the employer during the period when they had not been paid; second, the ALJ was to award travel expenses for the years 2000 and 2001 at the rate specified by the CRB; and third, the ALJ was to determine whether a claim had been made by Claimant at the formal hearing for reimbursement of mileage expenses for the years 2002 through 2009 (and

presumably, if so, rule upon the claim and make such an award as the facts support according to the rates in effect for those years, which rates were not in dispute).

In response to these directives, the ALJ issued a Compensation Order on Remand on July 10, 2012, which Petitioner appealed to the CRB. Employer-Respondent Howard University Hospital filed a timely opposition. In a Decision and Remand Order issued September 18, 2012, the CRB affirmed the interest rate determination and the awards of travel expense mileage reimbursement for the years 2000 through 2008, and remanded for consideration of any claims for such travel expense mileage reimbursement that may have been raised for the year 2009. The CRB's decision was premised upon the determination that the ALJ had followed to instructions of the CRB in its earlier remand except that she did not consider any claims for travel expense mileage reimbursement for the year 2009, which the ALJ should have considered per the earlier instructions.

Petitioner filed a Motion for Reconsideration.

Upon consideration of that motion, it appearing that the Decision and Remand Order resolved all the issues properly before the CRB, the Motion is denied.

FOR THE COMPENSATION REVIEW BOARD:

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JEFFREY P. RUSSELL  
*Administrative Appeals Judge*

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November 13, 2012  
DATE