



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

October 21, 2013

CBCA 3543-TRAV

In the Matter of BINDER & BINDER

Omar O. Ortega, Travel Coordinator of Binder & Binder, Hayward, CA, appearing for Claimant.

M. Dwight Evans, Administrative Law Judge, Office of Disability Adjudication and Review, Social Security Administration, Fort Myers, FL appearing for Social Security Administration.

BORWICK, Board Judge.

Claimant, Binder & Binder, a law firm, submitted a travel claim to this Board appealing a decision of a Social Security Administration (SSA) Administrative Law Judge (ALJ) denying the firm travel reimbursement for automobile mileage expense incurred when representing a client at a SSA hearing. We dismiss this claim for lack of jurisdiction.

The Board's jurisdiction over travel claims is defined by statute:

Authority to settle claims

(a) Except as provided in this chapter or another law, all claims of or against the United States Government shall be settled as follows:

....

(3) The Administrator of General Services shall settle claims involving expenses incurred by Federal civilian employees for official travel and transportation, and for relocation expenses incident to transfers of official duty station.

31 U.S.C. § 3702(a) (2006).¹

Binder & Binder is not a federal employee seeking reimbursement for official travel and thus its claim does not come within the jurisdiction granted by statute. Consequently, we are without jurisdiction to consider this matter. *Nirupa Netram*, CBCA 3365-TRAV, 13 BCA ¶ 35,340.

SSA regulations do reference federal mileage rates and conditions as the basis for reimbursement of a representative's travel expenses. 20 CFR 404.999c (2013). This regulation sets the rate of reimbursement for travel expenses. It does not even purport to provide an appeal to the CBCA from an adverse decision of a SSA ALJ denying a representative's travel reimbursement claim.

In denying Binder & Binder's claim, the SSA ALJ cited the SSA's financial management manual, at AIMS.FMM 07.31.05, as providing for an appeal of an ALJ's disallowance of the claim to this Board. The SSA financial management manual does not alter the jurisdictional limits set by statute. Indeed, the manual correctly identifies the Board's jurisdictional authority over travel cases, stating that the CBCA's "review of these claims is subject to the requirements in 31 U.S.C. § 3702," which, as we have seen, is limited to claims submitted by federal employees. AIMS.FMM.7.31.02. The Board's jurisdiction is not plenary; it must be defined by either statute, rule, or regulation. *See Todd v. Merit Systems Protection Board*, 55 F.3d 1574, 1576-77 (Fed. Cir. 1995). The SSA ALJ erroneously advised Binder & Binder that it could appeal his adverse decision to this Board.

Decision

This matter is dismissed.

ANTHONY S. BORWICK
Board Judge

¹ The Administrator of General Services delegated to this Board the statutory authority to settle these claims. GSA ADM P 5450.39D ch. 19 (Nov. 16, 2011). That delegation provides that the Board "resolves claims by Federal civilian employees made under 31 U.S.C. § 3702 for reimbursement of expenses incurred while on official temporary duty travel."