

IN THE UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

DENNIS R. SENNE

Appellant,

vs.

Case No. 19-1871

ROBERT WILKIE,

Secretary of Veterans Affairs,

Appellee.

**TABLE OF CONTENTS FOR APPELLANT'S APPLICATION
FOR AWARD OF REASONABLE ATTORNEYS' FEES AND
EXPENSES PURSUANT TO 28 U.S.C. § 2412(d)**

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**APPELLANT'S APPLICATION FOR AWARD OF
REASONABLE ATTORNEYS' FEES AND EXPENSES
PURSUANT TO 28 U.S.C. § 2412(d)**

Pursuant to the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412(d), and U.S. Vet. App. R. 39, Appellant, Dennis Senne, applies for an award of reasonable attorneys' fees and expenses in the amount of \$8,187.45. This submission is timely as it is within 30 after the Court's judgment becomes final pursuant to 38 U.S.C. § 7291(a). In the instant matter, the court's memorandum decision was issued April 27, 2020. The judgment was issued on May 19, 2020.

PROCEDURAL HISTORY

This 79-year-old Veteran served under honorable conditions on active duty as a brakeman/hydraulics in the United States Navy from May 22, 1958, to February 27, 1961. (R.633). The appellant filed for service-connected benefits based on a right knee condition in February 2015. R. at 631-32. In March 2015, the appellant submitted a disability benefits questionnaire (DBQ) from a private examiner. R. at 634-43. The examiner diagnosed the appellant with "knee tendonitis/tendonosis." R. at 634.

In response to the question asking the examiner to describe the "onset and course" of the appellant's right knee condition, the examiner answered that the condition began in 1959 when the appellant's "knee caught in J-bar on forklift [with] knee sprained." R. at 635. The examiner also noted that the appellant's right knee was deformed, R. at 637, and that at the site of the deformity the appellant experienced pain and swelling. R. at 638.

In April 2015, the appellant underwent a VA examination. R. at 519-22. The examiner first noted that there "are no imaging studies from the private sector or the VA which involve

record for a knee contusion after the appellant fell near the indoor pool and stated that "there were no further visits seen for this episode after that date." R. at 519. The examiner also added that there were no records of "persistent knee issues," during the appellant's service, and the appellant's military separation examination did not reveal any musculoskeletal or lower extremity abnormalities. R. at 519-20. The examiner opined that the appellant's knee condition was "less likely than not . . . caused by, or a result of, the contusion on the knees on March 7, 1959[,] during the military service." R. at 519.

In July 2017, the appellant submitted a VA Form 9 stating that during service "an incident occurred where my knee was pin[n]ed between a J-Bar and a Forklift at Quonset Point, Rhode Island." R. at 35.

In the February 2019 decision on appeal, the Board found that the appellant had a current knee condition and an in-service knee injury but denied service connection because it found that there was no nexus between the two. R. at 5-9. The Board afforded low probative weight to the appellant's private examiner's DBQ because the examiner did not provide a nexus statement, review the appellant's medical record or provide an opinion regarding the etiology of the diagnosed tendonitis. R. at 8. The Board afforded greater probative weight to the April 2015 VA examination because it found that the examination was "based on an accurate medical history and provides an explanation that contains clear conclusions and supporting data." R. at 8. The Board then concluded that the preponderance of the evidence was against the appellant's claim for service connection for a right knee condition. R. at 9.

The appellant's lay testimony was addressed in the decision as follows:

The Board has also considered the Veteran's inconsistent statements regarding his in-service knee injury. Service

treatment records show the Veteran slipped and fell in the steam room at the indoor pool. In recent VA medical records and in his July 2017 [S]ubstantive [A]ppeal form, the Veteran stated that his knee injury occurred when his knee was pinned in a J-bar on a forklift. . . . It is unclear why the Veteran's first report of his knee being injured by a J-bar did not occur until 2015, more than 50 years after service. Regardless of exactly how the Veteran injured his knee during service, the preponderance of the evidence remains against the claim. R. at 8.

After the decision was rendered by the BVA, the appellant timely appealed.

The Court concluded in its decision that the Board erred when it failed to address the credibility of the appellant's statements that he sprained his knee in an in-service forklift incident. *See Washington v. Nicholson*, 19 Vet.App. 362, 367-68 (2005) (holding that it is within the Board's province to determine the credibility and weight of the evidence before it). Although the Board addressed the appellant's statements regarding how the appellant hurt his knee, it never determined whether the appellant's statements were credible and simply concluded "[r]egardless of exactly how the Veteran injured his knee during service, the preponderance of the evidence remains against the claim." R. at 8. Yet, the negative nexus opinion relied on by the Board to deny the appellant's claim is premised on the appellant suffering a knee contusion versus a knee sprain. See R. at 519. Without a credibility determination, the Court cannot review the Board's decision. Remand is warranted for the Board to provide a credibility determination regarding the appellant's statements and to otherwise provide an adequate statement of reasons or bases for its determination. *Washington*, 19 Vet.App. at 367-68; see 38 U.S.C. § 7104(d)(1).

In its decision the court stated "To the extent that the Board determined that the appellant's current right knee condition is limited to right knee tendonitis, it is not clear how the

Board reached this determination, given that the private examiner noted that the appellant has a right knee deformity, R. at 637, and the VA examiner noted that the appellant's right knee had not been the subject of an imaging study". R. at 519. On remand, the court concluded, the Board must adequately support its current disability determination. 38 U.S.C. § 7104(d)(1).

The court issued its memorandum decision on April 27, 2020. A judgment has been issued on May 19, 2020.

ARGUMENT

I. APPELLANT IS A PREVAILING PARTY AND ELIGIBLE TO RECEIVE AN AWARD.

To obtain "prevailing party" status, a party need only to have obtained success "on any significant issue in litigation which achieve[d] some of the benefit ... sought in bringing the suit." *Shalala v. Schaefer*, 509 U.S. 292, 302 (1993). Appellant is a prevailing party entitled to an award of fees and costs because the Court vacated the BVA decision and remanded the matter to the BVA for review consistent with its ruling. *See also Zuberi v. Nicholson*, 19 Vet. App. 541 (2006); *Sumner v. Principi*, 15 Vet. App. 256 (2001) (*en banc*).

Appellant is a party eligible to receive an award of reasonable fees and expenses because his net worth did not exceed \$2 million at the time this civil action was filed. As an officer of the Court, the undersigned counsel hereby states that Appellant's net worth did not exceed \$2 million at the time this civil action was filed and Appellant did not own any unincorporated business, partnership, corporation, association, unit of local government, or organization, of which the net worth exceeded \$7 million and which had more than 500 employees. *See Bazalo v. Brown*, 9 Vet. App. 304, 309, 311 (1996).

II. THE POSITION OF THE SECRETARY OF VETERANS AFFAIRS WAS NOT SUBSTANTIALLY JUSTIFIED.

The Secretary can defeat Appellant's application for fees and costs only by demonstrating that the government's position was substantially justified. *See Brewer v. American Battle Monument Commission*, 814 F.2d 1564, 1566-67 (Fed. Cir. 1987); *Stillwell v. Brown*, 6 Vet. App. 291, 301 (1994). The U.S. Supreme Court has held that for the position of the government to be substantially justified, it must have a "reasonable basis both in law and fact." *Pierce v. Underwood*, 487 U.S. 552, 565 (1988); *accord, Beta Sys. v. United States*, 866 F.2d 1404, 1406 (Fed. Cir. 1989).

In this case, the Secretary's administrative position was not substantially justified. The Court vacated and remanded the matter because the Board erred by failing to provide an adequate statement of reasons or bases for its determination that the appellant had a valid claim for service connected benefits based on a right knee condition. The deficiencies in the BVA decision warranted remand.

III. ITEMIZED STATEMENT OF SERVICES RENDERED AND AMOUNTS OF REASONABLE FEES AND EXPENSES.

An itemized statement of the services rendered is attached to this application as Exhibit A, and the reasonable fees for which Appellant seeks compensation are listed below in this section. Included in Exhibit A is a declaration that counsel has "(1) reviewed the combined billing statement and is satisfied that it accurately reflects the work performed by all counsel and (2) considered and eliminated all time that is excessive or redundant." *Baldrige and Demel v. Nicholson*, 19 Vet. App. 227, 240 (2005). Also included in Exhibit A is the method of computation for the hourly rate. Exhibit B is the CPI-U for the second half of 2019 in the Southern region which

was used in computing the hourly EAJA rate.

Appellant seeks attorneys' fees in the amount of \$8,187.45 for representation in the Court of Appeals for Veterans Claims.

WHEREFORE, Appellant respectfully requests that the Court award attorneys' fees in the total amount of \$8,187.45.

Respectfully submitted,

/s/ Robert K. Dwyer

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EXHIBIT A

DECLARATION OF ROBERT K. DWYER

I, ROBERT K. DWYER, attorney for the Appellant, make the following declaration in support of Appellant Dennis Senne's application for attorney's fees:

1. I am an attorney working for Appellant in the proceedings before the Court of Appeals for Veterans' Claims. I am currently admitted to practice before this Court. The attached Exhibit A constitutes the total hours expended in this matter.

2. Under 28 U.S.C. §2412(d) (1) (D) (2), the applicable rate is \$125.00 per hour for appeals filed after March 29, 1996. An attorney may seek a rate in excess of \$125 per hour based on the increase in the cost of living since the EAJA was amended in March 1996. *See* U.S.C. § 2412(d) (2) (A) (ii); *Mannino v. West*, 12 Vet. App. 242 (1999). Appellant's appeal was accepted by the court in 2019, with the undersigned performing the work for the appeal in August through November of 2019. Since the majority of the work for the brief was performed in August through November 2019, the undersigned will use the Consumer Price Index for that period which remained unchanged. The \$125 attorney rate, adjusted for inflation for the South region, was \$247.10 (average between August CPI \$246.95 and November CPI \$247.38 for the period of August through November 2019. *See* Bureau of Labor and Statistics Data, CPI-U, attached as Exhibit B, page 4. This rate was calculated by using the following formula:

A=August-November 2019 CPI-U (247.16)

B= March 1996 CPI-U (152.4)

C= CPI-U adjusted rate

$C = A/B \times \$125/\text{HOUR} = 247.1/152.4 \times 125 = 202.67$

The total billable cost is equal to \$202.67 multiplied by 40.4 hours for a total of \$8,187.45.

3. I am a duly licensed attorney who has been engaged in the practice of law since 1991. My typical work involves both state and federal court work and my usual hourly rate is greater than the \$125 statutory cap.

4. I declare and state under penalty of perjury under the laws of the United States of America that the information set forth in this declaration is true and correct.

4. I have reviewed the combined billing statement and am satisfied that it accurately reflects the work performed by all counsel.

5. I have considered and eliminated all time that is excessive or redundant.

6. I declare and state under penalty of perjury under the laws of the United States of America that the information set forth in this declaration is true and correct.

/s/ Robert K. Dwyer
Robert K. Dwyer

Dennis R. Senne v. Robert L. Wilkie
Attorney Time Records - Case No. 19-1871

Date of Service	Advocate	Activity Details	Billable
06/07/2020	Robert K. Dwyer	preparation of EAJA petition	2.9
5/19/2020	Robert K. Dwyer	review of CAVC judgment	0.20
4/30/2019	Robert K. Dwyer	letter to client regarding the decision	0.40
4/27/2019	Robert K. Dwyer	review of court decision	1.20
1/9/2020	Robert K. Dwyer	email regarding judge assignment	0.10
12/17/2019	Robert K. Dwyer	email from court regarding proceeding	1.20
11/21/2019	Robert K. Dwyer	letter to client with appellee's brief	1.1
11/20/2019	Robert K. Dwyer	review of appellee's brief	1.50
11/11/2019	Robert K. Dwyer	file brief with court	0.40
11/9/2019	Robert K. Dwyer	t/c with client	0.30
11/8/2019	Robert K. Dwyer	letter to client regarding the brief	0.50
11/7/2019	Robert K. Dwyer	final review of brief and filing	1.3
10/31/2019	Robert K. Dwyer	Review of brief and editing	4.50
10/30/2019	Robert K. Dwyer	brief drafting	3.70
10/26/2019	Robert K. Dwyer	Begin drafting of brief-citations to RBA	1.6
10/10/2019	Robert K. Dwyer	Rule 33 conference	0.4
10/10/2019	Robert K. Dwyer	prep for call with the court re Rule 33	0.90
8/29/2019	Robert K. Dwyer	SOI sent to central staff and VA counsel	0.20
8/29/2019	Robert K. Dwyer	final edits to SOI	1.75
8/28/2019	Robert K. Dwyer	preparation of SOI for conference with CAVC	3.50
8/28/2019	Robert K. Dwyer	review of RBA pages 401-679	2.60
8/26/2019	Robert K. Dwyer	review of RBA pages 201-400	3.00
8/25/2019	Robert K. Dwyer	review of RBA pages 1-200	2.20
8/23/2019	Robert K. Dwyer	filed notice of appearance	0.80
8/22/2019	Robert K. Dwyer	Call with client	0.75
8/21/2019	Robert K. Dwyer	email letter to client	0.40
8/21/2019	Robert K. Dwyer	Review of memo sent by the Pro Bono Panel	2.50
8/21/2019	Robert K. Dwyer	email from Pro bono consortium referring case	0.50
			40.40

EXHIBIT B



For Release: Thursday, September 12, 2019

19-1629-ATL

SOUTHEAST INFORMATION OFFICE: Atlanta, Ga.

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Media contact: (404) 893-4220

Consumer Price Index, South Region – August 2019

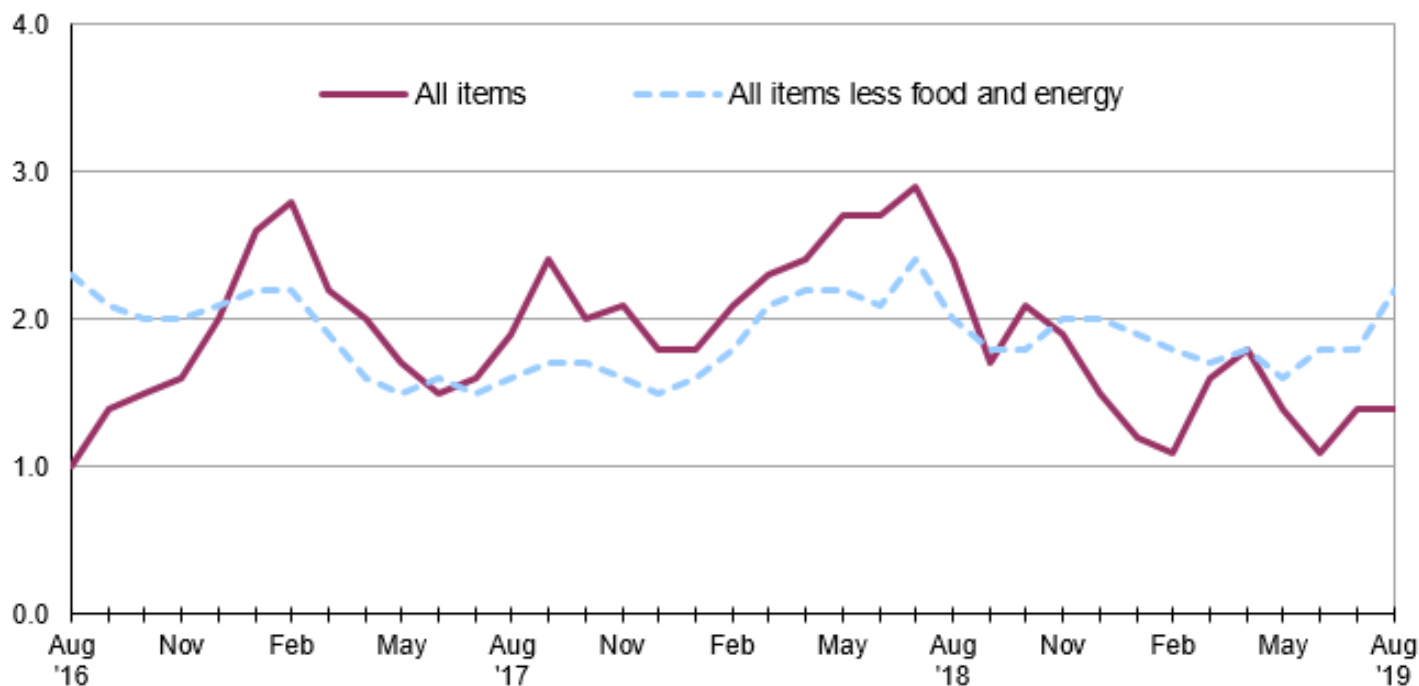
Prices in the South down 0.1 percent over the month; up 1.4 percent over the year

The Consumer Price Index for All Urban Consumers (CPI-U) for the South declined 0.1 percent in August, the U.S. Bureau of Labor Statistics reported today. Since July, the energy index fell 3.1 percent, while the all items less food and energy index edged up 0.2 percent. The food index was unchanged from July to August. (Data in this report are not seasonally adjusted. Accordingly, month-to-month changes reflect the impact of seasonal influences.)

The all items CPI-U for the South increased 1.4 percent from August 2018 to August 2019. Over the year, the all items less food and energy index advanced 2.2 percent and the food index rose 1.5 percent. The energy index declined 5.7 percent over the 12-month period. (See [chart 1](#) and [table 1](#).)

Chart 1. Over-the-year percent change in CPI-U, South region, August 2016–August 2019

Percent change



Source: U.S. Bureau of Labor Statistics.

Food

The food index was unchanged from July to August. The food away from index edged up 0.2 percent since July, while the food at home index inched down 0.1 percent.

The food index rose 1.5 percent for the 12 months ending August 2019, led by a 3.2-percent increase in the food away from home index. The food at home index was little changed over the 12-month period, up 0.1 percent.

Energy

The energy index fell 3.1 percent in August, led by a 5.5-percent decline in the gasoline index. The electricity index was down 0.7 percent over the month, while the utility (piped) gas service index was up 1.2 percent.

The energy index was down 5.7 percent over the past 12 months, reflecting a 10.4 percent drop in the gasoline index. Since August 2018, the electricity and the utility (piped) gas service indexes rose slightly, up 0.1 and 0.4 percent, respectively.

All items less food and energy

The index for all items less food and energy edged up 0.2 percent in August. Several categories recorded increases, most notably medical care (0.5 percent), recreation (0.7 percent), and shelter (0.1 percent). In contrast, household furnishings and operations was among the indexes that declined from July to August, down 0.6 percent.

Since August 2018, the index for all items less food and energy advanced 2.2 percent, reflecting increases in the shelter (3.2 percent) and medical care (2.8 percent) indexes.

Geographic divisions

Additional price indexes are now available for the three divisions of the South. The all items CPI-U for the West South Central division edged down 0.2 percent in August. Over the month, the all items index inched down 0.1 percent in both the East South Central and the South Atlantic divisions.

Over the year, the all items index advanced 1.8 percent in the South Atlantic division. The all items index rose 0.9 percent in the West South Central division and 0.6 percent in the East South Central division.

Table A. South region CPI-U 1-month and 12-month percent changes, all items index, not seasonally adjusted

Month	2015		2016		2017		2018		2019	
	1-month	12-month	1-month	12-month	1-month	12-month	1-month	12-month	1-month	12-month
January.....	-0.7	-0.4	0.0	1.2	0.5	2.6	0.5	1.8	0.2	1.2
February.....	0.5	-0.3	0.1	0.7	0.2	2.8	0.6	2.1	0.5	1.1
March.....	0.6	-0.3	0.6	0.7	0.0	2.2	0.2	2.3	0.7	1.6
April.....	0.3	-0.6	0.4	0.9	0.2	2.0	0.4	2.4	0.5	1.8
May.....	0.4	-0.4	0.4	0.9	0.0	1.7	0.3	2.7	-0.1	1.4
June.....	0.5	-0.1	0.4	0.8	0.2	1.5	0.2	2.7	-0.1	1.1
July.....	-0.1	-0.1	-0.2	0.7	-0.2	1.6	0.0	2.9	0.3	1.4
August.....	-0.2	-0.2	0.1	1.0	0.4	1.9	-0.1	2.4	-0.1	1.4
September.....	-0.2	-0.4	0.2	1.4	0.7	2.4	0.0	1.7		
October.....	0.0	-0.1	0.1	1.5	-0.2	2.0	0.2	2.1		
November.....	-0.2	0.3	-0.1	1.6	-0.1	2.1	-0.3	1.9		
December.....	-0.4	0.5	0.1	2.0	-0.1	1.8	-0.5	1.5		

The Consumer Price Index for September 2019 is scheduled to be released on Thursday, October 10, 2019.

Technical Note

The Consumer Price Index (CPI) is a measure of the average change in prices over time in a fixed market basket of goods and services. The Bureau of Labor Statistics publishes CPIs for two population groups: (1) a CPI for All Urban Consumers (CPI-U) which covers approximately 93 percent of the total population and (2) a CPI for Urban Wage Earners and Clerical Workers (CPI-W) which covers 29 percent of the total population. The CPI-U includes, in addition to wage earners and clerical workers, groups such as professional, managerial, and technical workers, the self-employed, short-term workers, the unemployed, and retirees and others not in the labor force.

The CPI is based on prices of food, clothing, shelter, and fuels, transportation fares, charges for doctors' and dentists' services, drugs, and the other goods and services that people buy for day-to-day living. Each month, prices are collected in 75 urban areas across the country from about 5,000 housing units and approximately 22,000 retail establishments—department stores, supermarkets, hospitals, filling stations, and other types of stores and service establishments. All taxes directly associated with the purchase and use of items are included in the index.

The index measures price changes from a designated reference date (1982-84) that equals 100.0. An increase of 16.5 percent, for example, is shown as 116.5. This change can also be expressed in dollars as follows: the price of a base period "market basket" of goods and services in the CPI has risen from \$10 in 1982-84 to \$11.65. For further details see the CPI home page on the Internet at www.bls.gov/cpi and the BLS Handbook of Methods, Chapter 17, The Consumer Price Index, available on the Internet at www.bls.gov/opub/hom/pdf/homch17.pdf.

In calculating the index, price changes for the various items in each location are averaged together with weights that represent their importance in the spending of the appropriate population group. Local data are then combined to obtain a U.S. city average. Because the sample size of a local area is smaller, the local area index is subject to substantially more sampling and other measurement error than the national index. In addition, local indexes are not adjusted for seasonal influences. As a result, local area indexes show greater volatility than the national index, although their long-term trends are quite similar. **NOTE: Area indexes do not measure differences in the level of prices between cities; they only measure the average change in prices for each area since the base period.**

The **South region** is comprised of Alabama, Arkansas, Delaware, District of Columbia, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia.

Information in this release will be made available to sensory impaired individuals upon request. Voice phone: (202) 691-5200; Federal Relay Service: (800) 877-8339.

Table 1. Consumer Price Index for All Urban Consumers (CPI-U): Indexes and percent changes for selected periods South (1982-84=100 unless otherwise noted)

Item and Group	Indexes			Percent change from-		
	Jun. 2019	Jul. 2019	Aug. 2019	Aug. 2018	Jun. 2019	Jul. 2019
Expenditure category						
All Items.....	246.515	247.250	246.953	1.4	0.2	-0.1
All items (December 1977=100).....	399.882	401.075	400.593	-	-	-
Food and beverages	254.350	254.928	255.037	1.6	0.3	0.0
Food	255.594	256.133	256.205	1.5	0.2	0.0
Food at home	238.216	238.910	238.578	0.1	0.2	-0.1
Cereal and bakery products	280.509	282.345	281.465	1.2	0.3	-0.3
Meats, poultry, fish, and eggs.....	242.066	244.064	243.047	-0.8	0.4	-0.4
Dairy and related products	220.435	219.642	220.224	-0.1	-0.1	0.3
Fruits and vegetables	282.523	284.617	283.586	-0.5	0.4	-0.4
Nonalcoholic beverages and beverage materials.....	166.934	166.842	168.573	2.2	1.0	1.0
Other food at home	210.788	210.251	209.420	0.0	-0.6	-0.4
Food away from home.....	284.053	284.385	285.022	3.2	0.3	0.2
Alcoholic beverages	236.610	237.757	238.416	2.9	0.8	0.3
Housing	244.805	245.364	245.324	2.8	0.2	0.0
Shelter	282.573	283.058	283.383	3.2	0.3	0.1
Rent of primary residence	294.996	295.659	296.843	3.5	0.6	0.4
Owners' equiv. rent of residences(1).....	283.865	284.649	285.297	3.2	0.5	0.2
Owners' equiv. rent of primary residence(1)	283.870	284.657	285.306	3.2	0.5	0.2
Fuels and utilities.....	240.276	242.012	241.333	0.4	0.4	-0.3
Household energy	193.370	194.951	194.026	-0.1	0.3	-0.5
Energy services.....	193.668	195.334	194.480	0.1	0.4	-0.4
Electricity	192.670	194.543	193.267	0.1	0.3	-0.7
Utility (piped) gas service	183.978	184.077	186.213	0.4	1.2	1.2
Household furnishings and operations	125.599	125.685	124.888	2.6	-0.6	-0.6
Apparel	133.527	131.962	133.148	2.0	-0.3	0.9
Transportation	210.716	212.724	209.909	-2.2	-0.4	-1.3
Private transportation	209.434	211.737	208.988	-2.3	-0.2	-1.3
New and used motor vehicles(2).....	102.289	102.721	102.880	0.2	0.6	0.2
New vehicles	153.715	153.361	153.058	-0.4	-0.4	-0.2
New cars and trucks(2)(3).....	104.643	104.396	104.190	-0.4	-0.4	-0.2
New cars(3).....	153.831	153.438	153.136	0.0	-0.5	-0.2
Used cars and trucks.....	141.785	143.788	145.103	1.8	2.3	0.9
Motor fuel	219.998	227.170	214.791	-10.3	-2.4	-5.4
Gasoline (all types).....	218.734	226.040	213.538	-10.4	-2.4	-5.5
Unleaded regular(3)	213.270	220.592	207.977	-10.7	-2.5	-5.7
Unleaded midgrade(3)(4)	242.758	250.147	238.442	-8.7	-1.8	-4.7
Unleaded premium(3).....	241.315	247.567	237.503	-7.9	-1.6	-4.1
Motor vehicle insurance(5).....	948.277	951.188	951.189	0.7	0.3	0.0
Medical care	470.823	472.693	475.283	2.8	0.9	0.5
Medical care commodities.....	355.674	357.008	357.260	-2.3	0.4	0.1
Medical care services.....	509.713	511.765	515.165	4.1	1.1	0.7
Professional services	366.162	366.081	366.642	0.5	0.1	0.2
Recreation(2).....	119.903	119.585	120.379	1.6	0.4	0.7
Education and communication(2).....	132.851	132.881	133.022	0.1	0.1	0.1
Tuition, other school fees, and child care(5) ..	1,334.325	1,337.155	1,343.441	2.2	0.7	0.5
Other goods and services	429.206	430.820	431.284	1.2	0.5	0.1
Commodity and service group						
All Items.....	246.515	247.250	246.953	1.4	0.2	-0.1
Commodities	184.721	185.556	184.500	-0.5	-0.1	-0.6

Note: See footnotes at end of table.

Table 1. Consumer Price Index for All Urban Consumers (CPI-U): Indexes and percent changes for selected periods South (1982-84=100 unless otherwise noted) - Continued

Item and Group	Indexes			Percent change from-		
	Jun. 2019	Jul. 2019	Aug. 2019	Aug. 2018	Jun. 2019	Jul. 2019
Commodities less food and beverages	151.894	152.777	151.369	-1.7	-0.3	-0.9
Nondurables less food and beverages	199.459	201.217	197.940	-3.3	-0.8	-1.6
Nondurables less food, beverages, and apparel	240.140	243.673	237.980	-4.7	-0.9	-2.3
Durables	108.178	108.433	108.325	0.2	0.1	-0.1
Services	308.723	309.341	309.856	2.6	0.4	0.2
Rent of shelter(1)	290.195	290.719	291.075	3.3	0.3	0.1
Transportation services	361.128	361.192	360.385	0.8	-0.2	-0.2
Other services	344.677	344.499	345.916	1.2	0.4	0.4
Special aggregate indexes						
All items less medical care	234.265	234.940	234.502	1.2	0.1	-0.2
All items less food	244.857	245.621	245.269	1.4	0.2	-0.1
All items less shelter	233.494	234.326	233.793	0.6	0.1	-0.2
Commodities less food	154.478	155.372	154.002	-1.5	-0.3	-0.9
Nondurables	225.494	226.716	224.984	-0.8	-0.2	-0.8
Nondurables less food	201.337	203.063	199.989	-2.9	-0.7	-1.5
Nondurables less food and apparel	238.702	242.033	236.860	-4.1	-0.8	-2.1
Services less rent of shelter(1)	341.725	342.479	343.204	1.9	0.4	0.2
Services less medical care services	290.585	291.088	291.376	2.4	0.3	0.1
Energy	201.518	205.779	199.306	-5.7	-1.1	-3.1
All items less energy	252.362	252.700	253.101	2.1	0.3	0.2
All items less food and energy	252.205	252.511	252.968	2.2	0.3	0.2
Commodities less food and energy commodities	146.715	146.750	146.912	0.5	0.1	0.1
Energy commodities	223.645	230.758	218.307	-10.2	-2.4	-5.4
Services less energy services	320.880	321.382	322.047	2.8	0.4	0.2

Footnotes

(1) Indexes on a December 1982=100 base.

(2) Indexes on a December 1997=100 base.

(3) Special index based on a substantially smaller sample.

(4) Indexes on a December 1993=100 base.

(5) Indexes on a December 1977=100 base.

- Data not available.

Regions defined as the four Census regions. South includes Alabama, Arkansas, Delaware, District of Columbia, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia.



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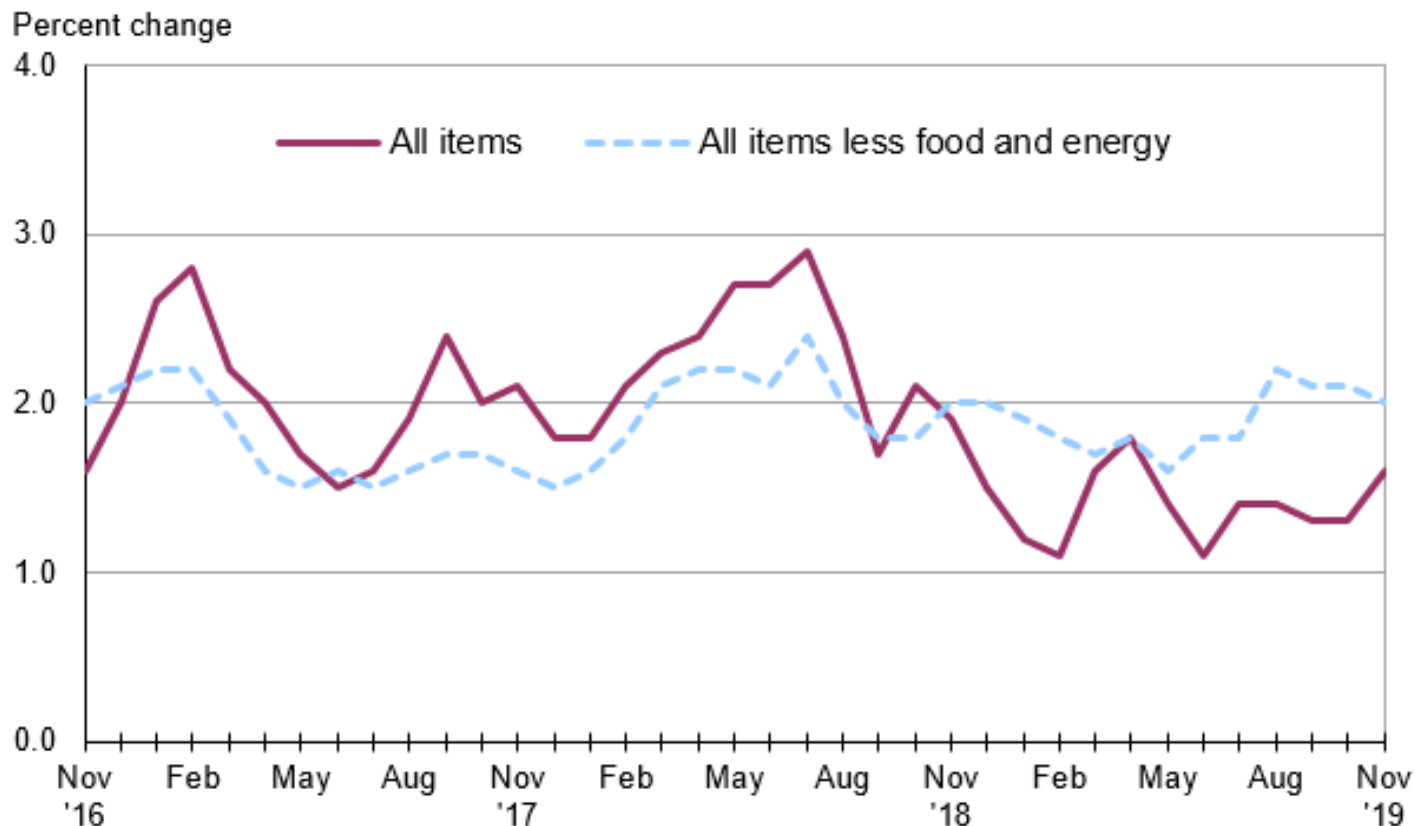
Consumer Price Index, South Region – November 2019

Prices in the South unchanged over the month; up 1.6 percent over the year

The Consumer Price Index for All Urban Consumers (CPI-U) for the South was unchanged in November, the U.S. Bureau of Labor Statistics reported today. The index for all items less food and energy was little changed in November, up 0.1 percent. The energy index declined 1.1 percent in November and the food index edged down 0.2 percent. (Data in this report are not seasonally adjusted. Accordingly, month-to-month changes reflect the impact of seasonal influences.)

The all items CPI-U for the South increased 1.6 percent from November 2018 to November 2019. Over the year, the all items less food and energy index advanced 2.0 percent and the food index rose 1.7 percent. In contrast, the energy index declined 2.4 percent over the last 12 months. (See [chart 1](#) and [table 1](#).)

Chart 1. Over-the-year percent change in CPI-U, South region, November 2016–November 2019



Food

The food index edged down 0.2 percent in November, reflecting a 0.6-percent decrease in the food at home index. The food away from home index edged up 0.3 percent in November.

The food index rose 1.7 percent for the 12 months ending November 2019, led by a 3.3-percent increase in the food away from home index. The food at home index edged up 0.3 percent over the last 12 months.

Energy

The energy index declined 1.1 percent in November, reflecting decreases in the electricity (-1.4 percent) and gasoline (-1.1 percent) indexes. The utility (piped) gas service index rose 0.4 percent in November.

The energy index fell 2.4 percent over the past 12 months, reflecting a 4.5-percent drop in the gasoline index. Since November 2018, the utility (piped) gas service and the electricity indexes increased, up 1.2 and 0.2 percent, respectively.

All items less food and energy

The index for all items less food and energy was little changed over the month, up 0.1 percent in November. Increases in the shelter (0.2 percent) and medical care (0.5 percent) indexes were largely offset by declines in the new and used motor vehicles (-0.5 percent) and motor vehicle insurance (-0.2 percent) indexes.

Since November 2018, the index for all items less food and energy advanced 2.0 percent, reflecting increases in the shelter (3.1 percent) and medical care (3.2 percent) indexes.

Geographic divisions

Additional price indexes are now available for the three divisions of the South. Over the month, the all items CPI-U was little changed in the South Atlantic and East South Central divisions, up 0.1 percent each. The all items index in the West South Central division edged down 0.2 percent in November.

Over the year, the all items index advanced 2.0 percent in the South Atlantic division. The all items index rose 1.3 percent in the West South Central division and 0.7 percent in the East South Central division.

Table A. South region CPI-U 1-month and 12-month percent changes, all items index, not seasonally adjusted

Month	2015		2016		2017		2018		2019	
	1-month	12-month	1-month	12-month	1-month	12-month	1-month	12-month	1-month	12-month
January.....	-0.7	-0.4	0.0	1.2	0.5	2.6	0.5	1.8	0.2	1.2
February.....	0.5	-0.3	0.1	0.7	0.2	2.8	0.6	2.1	0.5	1.1
March.....	0.6	-0.3	0.6	0.7	0.0	2.2	0.2	2.3	0.7	1.6
April.....	0.3	-0.6	0.4	0.9	0.2	2.0	0.4	2.4	0.5	1.8
May.....	0.4	-0.4	0.4	0.9	0.0	1.7	0.3	2.7	-0.1	1.4
June.....	0.5	-0.1	0.4	0.8	0.2	1.5	0.2	2.7	-0.1	1.1
July.....	-0.1	-0.1	-0.2	0.7	-0.2	1.6	0.0	2.9	0.3	1.4
August.....	-0.2	-0.2	0.1	1.0	0.4	1.9	-0.1	2.4	-0.1	1.4
September.....	-0.2	-0.4	0.2	1.4	0.7	2.4	0.0	1.7	0.0	1.3
October.....	0.0	-0.1	0.1	1.5	-0.2	2.0	0.2	2.1	0.2	1.3
November.....	-0.2	0.3	-0.1	1.6	-0.1	2.1	-0.3	1.9	0.0	1.6
December.....	-0.4	0.5	0.1	2.0	-0.1	1.8	-0.5	1.5		

The Consumer Price Index for December 2019 is scheduled to be released on Tuesday, January 14, 2020.

Technical Note

The Consumer Price Index (CPI) is a measure of the average change in prices over time in a fixed market basket of goods and services. The Bureau of Labor Statistics publishes CPIs for two population groups: (1) a CPI for All Urban Consumers (CPI-U) which covers approximately 93 percent of the total population and (2) a CPI for Urban Wage Earners and Clerical Workers (CPI-W) which covers 29 percent of the total population. The CPI-U includes, in addition to wage earners and clerical workers, groups such as professional, managerial, and technical workers, the self-employed, short-term workers, the unemployed, and retirees and others not in the labor force.

The CPI is based on prices of food, clothing, shelter, and fuels, transportation fares, charges for doctors' and dentists' services, drugs, and the other goods and services that people buy for day-to-day living. Each month, prices are collected in 75 urban areas across the country from about 5,000 housing units and approximately 22,000 retail establishments—department stores, supermarkets, hospitals, filling stations, and other types of stores and service establishments. All taxes directly associated with the purchase and use of items are included in the index.

The index measures price changes from a designated reference date (1982-84) that equals 100.0. An increase of 16.5 percent, for example, is shown as 116.5. This change can also be expressed in dollars as follows: the price of a base period "market basket" of goods and services in the CPI has risen from \$10 in 1982-84 to \$11.65. For further details see the CPI home page on the Internet at www.bls.gov/cpi and the BLS Handbook of Methods, Chapter 17, The Consumer Price Index, available on the Internet at www.bls.gov/opub/hom/pdf/homch17.pdf.

In calculating the index, price changes for the various items in each location are averaged together with weights that represent their importance in the spending of the appropriate population group. Local data are then combined to obtain a U.S. city average. Because the sample size of a local area is smaller, the local area index is subject to substantially more sampling and other measurement error than the national index. In addition, local indexes are not adjusted for seasonal influences. As a result, local area indexes show greater volatility than the national index, although their long-term trends are quite similar. **NOTE: Area indexes do not measure differences in the level of prices between cities; they only measure the average change in prices for each area since the base period.**

The **South region** is comprised of Alabama, Arkansas, Delaware, District of Columbia, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia.

Information in this release will be made available to sensory impaired individuals upon request. Voice phone: (202) 691-5200; Federal Relay Service: (800) 877-8339.

Table 1. Consumer Price Index for All Urban Consumers (CPI-U): Indexes and percent changes for selected periods South (1982-84=100 unless otherwise noted)

Item and Group	Indexes			Percent change from-		
	Sep. 2019	Oct. 2019	Nov. 2019	Nov. 2018	Sep. 2019	Oct. 2019
Expenditure category						
All Items.....	246.891	247.423	247.385	1.6	0.2	0.0
All items (December 1977=100).....	400.492	401.354	401.294	-	-	-
Food and beverages	255.288	256.171	255.776	1.6	0.2	-0.2
Food	256.510	257.388	256.969	1.7	0.2	-0.2
Food at home	238.910	240.171	238.834	0.3	0.0	-0.6
Cereal and bakery products	281.594	282.606	279.565	0.3	-0.7	-1.1
Meats, poultry, fish, and eggs.....	243.099	245.609	244.012	0.7	0.4	-0.7
Dairy and related products	222.735	223.121	223.523	1.2	0.4	0.2
Fruits and vegetables	282.107	284.349	280.345	-1.7	-0.6	-1.4
Nonalcoholic beverages and beverage materials.....	168.817	168.471	168.211	1.8	-0.4	-0.2
Other food at home	210.160	211.199	210.944	0.3	0.4	-0.1
Food away from home.....	285.294	285.649	286.511	3.3	0.4	0.3
Alcoholic beverages	237.871	238.832	238.777	1.3	0.4	0.0
Housing	245.823	246.044	246.137	2.7	0.1	0.0
Shelter	284.117	284.575	285.140	3.1	0.4	0.2
Rent of primary residence	297.531	298.053	299.082	3.3	0.5	0.3
Owners' equiv. rent of residences(1).....	285.990	286.876	287.559	3.1	0.5	0.2
Owners' equiv. rent of primary residence(1)	286.002	286.885	287.570	3.1	0.5	0.2
Fuels and utilities.....	241.672	239.578	237.440	0.2	-1.8	-0.9
Household energy	194.374	191.880	189.621	0.2	-2.4	-1.2
Energy services.....	194.743	192.120	189.789	0.3	-2.5	-1.2
Electricity	194.256	190.541	187.802	0.2	-3.3	-1.4
Utility (piped) gas service	181.434	186.591	187.283	1.2	3.2	0.4
Household furnishings and operations	124.737	125.581	125.513	2.6	0.6	-0.1
Apparel	134.259	132.967	133.525	-0.9	-0.5	0.4
Transportation	207.983	208.663	207.692	-1.0	-0.1	-0.5
Private transportation	206.900	207.334	206.267	-1.1	-0.3	-0.5
New and used motor vehicles(2).....	101.315	101.221	100.756	-0.8	-0.6	-0.5
New vehicles	152.668	152.337	151.651	-0.5	-0.7	-0.5
New cars and trucks(2)(3).....	103.923	103.700	103.234	-0.6	-0.7	-0.4
New cars(3).....	152.473	152.286	151.365	-0.6	-0.7	-0.6
Used cars and trucks.....	139.853	139.689	138.809	-0.7	-0.7	-0.6
Motor fuel	212.291	212.504	210.160	-4.6	-1.0	-1.1
Gasoline (all types).....	210.978	211.143	208.794	-4.5	-1.0	-1.1
Unleaded regular(3)	205.364	205.551	203.138	-4.7	-1.1	-1.2
Unleaded midgrade(3)(4)	236.591	236.142	234.340	-3.4	-1.0	-0.8
Unleaded premium(3).....	235.626	235.698	234.143	-2.9	-0.6	-0.7
Motor vehicle insurance(5).....	951.142	960.817	958.554	0.2	0.8	-0.2
Medical care	475.494	476.689	478.888	3.2	0.7	0.5
Medical care commodities.....	354.010	352.780	353.018	-2.1	-0.3	0.1
Medical care services.....	516.589	518.629	521.509	4.5	1.0	0.6
Professional services	366.900	366.878	366.907	0.8	0.0	0.0
Recreation(2).....	120.782	121.488	121.814	2.3	0.9	0.3
Education and communication(2).....	132.870	133.408	133.564	0.8	0.5	0.1
Tuition, other school fees, and child care(5) ..	1,349.055	1,356.623	1,356.704	2.2	0.6	0.0
Other goods and services	431.693	434.357	434.117	1.2	0.6	-0.1
Commodity and service group						
All Items.....	246.891	247.423	247.385	1.6	0.2	0.0
Commodities	183.791	184.051	183.514	-0.1	-0.2	-0.3

Note: See footnotes at end of table.

Table 1. Consumer Price Index for All Urban Consumers (CPI-U): Indexes and percent changes for selected periods South (1982-84=100 unless otherwise noted) - Continued

Item and Group	Indexes			Percent change from-		
	Sep. 2019	Oct. 2019	Nov. 2019	Nov. 2018	Sep. 2019	Oct. 2019
Commodities less food and beverages	150.362	150.395	149.835	-1.0	-0.4	-0.4
Nondurables less food and beverages	197.309	197.173	196.646	-1.7	-0.3	-0.3
Nondurables less food, beverages, and apparel	236.430	236.886	235.782	-1.9	-0.3	-0.5
Durables	107.175	107.310	106.780	-0.3	-0.4	-0.5
Services	310.484	311.297	311.792	2.7	0.4	0.2
Rent of shelter(1)	291.841	292.317	292.910	3.1	0.4	0.2
Transportation services	360.405	364.562	364.717	1.0	1.2	0.0
Other services	346.447	348.219	349.212	1.6	0.8	0.3
Special aggregate indexes						
All items less medical care	234.426	234.923	234.775	1.4	0.1	-0.1
All items less food	245.153	245.633	245.652	1.6	0.2	0.0
All items less shelter	233.429	233.991	233.725	0.9	0.1	-0.1
Commodities less food	153.001	153.053	152.502	-1.0	-0.3	-0.4
Nondurables	224.757	225.089	224.621	0.0	-0.1	-0.2
Nondurables less food	199.364	199.284	198.782	-1.5	-0.3	-0.3
Nondurables less food and apparel	235.395	235.888	234.870	-1.7	-0.2	-0.4
Services less rent of shelter(1)	343.686	344.936	345.329	2.2	0.5	0.1
Services less medical care services	291.938	292.649	292.956	2.4	0.3	0.1
Energy	198.260	197.145	194.900	-2.4	-1.7	-1.1
All items less energy	253.150	253.870	254.082	2.0	0.4	0.1
All items less food and energy	252.974	253.668	253.987	2.0	0.4	0.1
Commodities less food and energy commodities	146.094	146.116	145.804	-0.2	-0.2	-0.2
Energy commodities	215.901	216.185	213.866	-4.6	-0.9	-1.1
Services less energy services	322.715	323.905	324.710	2.8	0.6	0.2

Footnotes

(1) Indexes on a December 1982=100 base.

(2) Indexes on a December 1997=100 base.

(3) Special index based on a substantially smaller sample.

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(5) Indexes on a December 1977=100 base.

- Data not available.

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