

**United States Department of Labor
Employees' Compensation Appeals Board**

S.M., Appellant)	
)	
and)	Docket No. 22-1151
)	Issued: August 15, 2024
DEPARTMENT OF VETERANS AFFAIRS,)	
ROCKY MOUNTAIN VA MEDICAL CENTER,)	
Aurora, CO, Employer)	
)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

ORDER DISMISSING APPEAL

Before:
PATRICIA H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge
JAMES D. MCGINLEY, Alternate Judge

On July 29, 2022 appellant filed a timely appeal from a July 27, 2022 nonmerit decision of the Office of Workers' Compensation Programs (OWCP).¹ The Clerk of the Appellate Boards assigned the appeal Docket No. 22-1151.

The Board, having duly considered this matter, notes that the Board and OWCP may not simultaneously exercise jurisdiction over the same issue(s) in a case on appeal.² By the July 27, 2022 decision, OWCP found that OWCP properly denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. §8128(a). However, on July 15, 2022, appellant had filed an appeal with the Board from a September 21, 2021 OWCP decision, regarding the same underlying issue, to which the Clerk of the Appellate Boards assigned Docket No. 22-1095. As the issue of whether appellant had sustained an injury in the performance of duty was pending

¹ To the extent that appellant's July 29, 2022 appeal may be construed as a petition for reconsideration of the Board's July 29, 2022 final order in Docket No. 22-1095, the Board will consider the petition separately under Docket No. 22-1095.

² 20 C.F.R. §§ 10.501.2(c)(3), 10.626; *Douglas E. Billings*, 41 ECAB 880 (1990). See also *Order Dismissing Appeal, M.B.*, Docket No. 23-0750 (issued July 20, 2023); *Order Dismissing Appeal, A.J.*, Docket No. 22-1336 (issued May 15, 2023); *Order Dismissing Appeal, M.H.*, Docket No. 22-0880 (issued November 4, 2022).

before the Board in Docket No. 22-1095 when OWCP issued its July 27, 2022 decision, OWCP's July 27, 2022 decision is null and void.³

As OWCP's July 27, 2022 decision is null and void, there is no final adverse decision issued by OWCP over which the Board may properly exercise jurisdiction. The Board, therefore, concludes that the appeal docketed as No. 22-1151 must be dismissed. Accordingly,

IT IS HEREBY ORDERED THAT Docket No. 22-1151 is dismissed.

Issued: August 15, 2024
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board

James D. McGinley, Alternate Judge
Employees' Compensation Appeals Board

³ *Id.*; see also *G.W.*, Docket No. 19-0260 (issued July 10, 2020); *Cathy B. Millin*, 51 ECAB 331 (2000).