United States Department of Labor Employees' Compensation Appeals Board

M.S., Appellant and U.S. POSTAL SERVICE, POST OFFICE, Bronx, NY, Employer

Docket No. 24-0158 Issued: May 8, 2024

Appearances: Alan J. Shapiro, Esq., for the appellant¹ Office of Solicitor, for the Director Case Submitted on the Record

ORDER DISMISSING APPEAL

Before: ALEC J. KOROMILAS, Chief Judge PATRICIA H. FITZGERALD, Deputy Chief Judge JANICE B. ASKIN, Judge

On December 11, 2023 appellant, through her representative, sought an appeal from a purported November 28, 2023 final adverse decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned the appeal Docket No. 24-0158.

The Board, having duly considered this matter, notes that it has jurisdiction to review final adverse decisions of OWCP issued under the Federal Employees' Compensation Act.² This jurisdiction encompasses any final adverse decision issued by OWCP within 180 days of the date appellant filed the appeal.³

The case record contains three entries dated November 28, 2023. On November 28, 2023 OWCP notified appellant of its proposed termination of her wage-loss compensation and medical

¹ In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

² 5 U.S.C. § 8101 *et seq.*; 20 C.F.R. §§ 501.2(c) and 501.3(a).

³ 20 C.F.R. § 501.3(e), which provides in pertinent part: Any notice of appeal must be filed within 180 days from the date of issuance of a decision of OWCP.

benefits. It afforded appellant 30 days to submit evidence and argument challenging the proposed termination. Also, on November 28, 2023, OWCP expanded the acceptance of the claim to include aggravation of cubital tunnel syndrome. Further, on November 28, 2023, it issued a development letter informing appellant of the deficiencies of her schedule award claim and advising her of the type of medical evidence necessary to establish the claim. As these documents are either not adverse or not final, they do not constitute a decision issued by OWCP over which the Board may properly exercise jurisdiction.⁴

Consequently, the case record as transmitted to the Board does not contain a final adverse decision of OWCP issued within 180 days from the date of docketing of the current appeal. As there is no final adverse decision issued by OWCP over which the Board may properly exercise jurisdiction, the Board concludes that the appeal docketed as No. 24-0158 must be dismissed.⁵ Accordingly,

IT IS HEREBY ORDERED THAT the appeal docketed as Docket No. 24-0158 is dismissed.

Issued: May 8, 2024 Washington, DC

> Alec J. Koromilas, Chief Judge Employees' Compensation Appeals Board

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

Janice B. Askin, Judge Employees' Compensation Appeals Board

⁴ Section 501.2(c)(2) of the Board's *Rules of Procedure* provides: "There will be no appeal with respect to any interlocutory matter decided (or not decided) by OWCP during the pendency of a case." *Id.* at § 501.2(c)(2).

⁵ The Board's decisions and orders are "final upon the expiration of 30 days from the date of their issuance." 20 C.F.R. § 501.6(d).