

BRB No. 02-0849 BLA  
Case No. 99-BLA-0711

BURLEY G. WAMPLER (Deceased)	)	
	)	
Claimant-Petitioner	)	
	)	
v.	)	DATE ISSUED:_____
	)	
SLAB FORK COAL COMPANY	)	
	)	
and	)	
	)	
WEST VIRGINIA COAL WORKERS= COMPENSATION FUND	)	
	)	
Employer-Respondent	)	
	)	
DIRECTOR, OFFICE OF WORKERS= COMPENSATION PROGRAMS, UNITED STATES DEPARTMENT OF LABOR	)	
	)	
Party-in-Interest	)	ORDER

On August 21, 2003, the Board received the August 13, 2003 letter by Christine Wampler, claimant=s widow, informing the Board that she requested modification in the captioned case. In light of the request for modification filed by claimant=s widow with the Office of the District Director, the Board dismisses this appeal and remands the case to the district director for modification proceedings under 20 C.F.R. ' 725.310 (2000).<sup>1</sup> 20 C.F.R. ' 802.301.

Once a final decision on the petition for modification is issued by an administrative law judge, the case may be reinstated on the Board's docket if modification is denied. The

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<sup>1</sup>By Order dated July 31, 2003, the Board acknowledged receipt of documents filed by Christine Wampler. The Board advised that it cannot consider any new or additional evidence not part of the record developed at the hearing before the administrative law judge, and returned the documents to Mrs. Wampler. The Board also advised Mrs. Wampler of her right to request modification with the Office of the District Director, and requested that claimant notify the Board if modification had been requested from the district director.

case will be reinstated by the Board only if the petitioner requests reinstatement. The request for reinstatement must be filed with the Board within thirty (30) days of the date the decision on modification is issued and must be identified by the Board's docket number, BRB No. 02-0849 BLA. If reinstatement is requested, the Board will consider only the issues raised in the appeal of the Decision and Order On Remand - Denying Benefits issued on August 29, 2002.

After modification is processed by the district director, the case may be transferred to an administrative law judge for a hearing pursuant to the regulations. In the event the administrative law judge denies modification and the petitioner wishes the Board to consider not only the original appeal, but also whether the administrative law judge erred in denying modification, a Notice of Appeal of the decision denying modification must be filed, in addition to the request for reinstatement. The Notice of Appeal must also be filed with the Board within thirty (30) days of the date on which the decision on modification is filed. 20 C.F.R. ' 802.205. The appeal of the decision on modification will be assigned a new docket number and will be consolidated with the appeal, BRB No. 02-0849 BLA.

In the event an administrative law judge grants modification, any party who is aggrieved by the decision granting modification may file an appeal with the Board within thirty (30) days of the date the decision granting modification is filed. 20 C.F.R. ' ' 802.205, 802.301(c).

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NANCY S. DOLDER, Chief  
Administrative Appeals Judge

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BETTY JEAN HALL  
Administrative Appeals Judge

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PETER A. GABAUER, Jr.  
Administrative Appeals Judge