

BRB No. 03-0806 BLA  
Case No. 00-BLA-0040

FRANCIS WISCOUNT, JR.	)	
	)	
Claimant-Petitioner	)	DATE ISSUED: <u>February 12, 2004</u>
	)	
v.	)	
	)	
DIRECTOR, OFFICE OF WORKERS'	)	
COMPENSATION PROGRAMS, UNITED	)	
STATES DEPARTMENT OF LABOR	)	
	)	
Respondent	)	ORDER

By Order dated November 26, 2003, the Board denied claimant's motion for an extension of time, directed claimant to file his Petition for Review and brief or to **show cause within ten (10) days of receipt of its Order why this appeal should not be dismissed for failure to file the required Petition for Review and brief.** 20 C.F.R. ' ' 802.211, 802.217, 802.218(b), 802.402(a).

In response to the Board's Order, claimant has filed a Motion to Remand, dated January 5, 2004. Claimant requests that the Board dismiss his appeal and remand the case to the Office of the District Director for modification proceedings. The Board grants claimant's motion, dismisses the appeal, and remands the case to the district director for claimant to pursue modification. After the request for modification is processed by the district director, the case may be transferred to an administrative law judge for a hearing pursuant to the regulations and a decision.

The case will be reinstated by the Board only if the claimant requests reinstatement. The request for reinstatement must be filed with the Board within thirty (30) days from the date the Order on modification is issued and must be identified by the Board's docket number assigned to the case. The request for reinstatement must be served on all parties. If reinstatement is requested, the Board will consider only the issues raised in claimant's appeal of the administrative law judge's decision and order issued on August 7, 2003.

In the event the administrative law judge denies modification and claimant wishes the Board to consider not only the original appeal, but also whether the denial of modification was erroneous, 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 the decision on modification is issued. 20 C.F.R. ' ' 802.205, 802.301(c). The appeal of the decision on modification will be assigned a new docket number and will be consolidated with the appeal of the original decision.

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

---

ROY P. SMITH  
Administrative Appeals Judge

---

REGINA C. McGRANERY  
Administrative Appeals Judge

---

PETER A. GABAUER, Jr.  
Administrative Appeals Judge