U.S. Department of Labor

Benefits Review Board
200 Constitution Ave. NW
Washington, DC 20210-0001

BRB No. 24-0448
OALJ No. 2021-LDA-00358
OWCP No. LS-05314810

HAKIIM NADIFF

Claimant-Petitioner

v.

DATAPATH INCORPORATED

and

INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA

Employer/Carrier-Respondents

NOT-PUBLISHED

DATE ISSUED: 08/18/2026

ORDER

On August 30, 2024, Claimant, without representation, filed an appeal of Administrative Law Judge (ALJ) Lauren C. Boucher's April 28, 2022 Decision and Order Awarding Benefits (2021-LDA-00358) rendered on a claim filed pursuant to the Longshore and Harbor Workers' Compensation Act, as amended, 33 U.S.C. §§901-950 (Act), as extended by the Defense Base Act, 42 U.S.C. §§1651-1655 (DBA). Although Claimant asserts in his notice of appeal that his attorney at the time of the issuance of the ALJ's decision did not file a motion for modification with the ALJ, Cl. Notice of Appeal at 1, on April 6, 2024, Claimant did request modification of the ALJ's April 28, 2022 Decision and Order Awarding Benefits pursuant to Section 22 of the Act, 33 U.S.C. §922.[1] Claimant's April 6, 2024 Amendment to Pre-Hearing Statement; *see* July 12, 2024 Hearing Tr. at 6-8.

[1] Due to the parties' filings after the ALJ's Decision and Order Awarding Benefits, the Office of Administrative Law Judges (OALJ) assigned this case OALJ numbers 2024-LDA-02391 and 2024-LDA-05613.

Claimant's modification request is currently pending before the Office of Administrative Law Judges. *See* March 31, 2026 Briefing Order (March 31, 2026 hearing); February 6, 2026 Omnibus Order (denying Claimant's most recent modification request because Claimant's prior modification request was still under consideration).

Pursuant to 20 C.F.R. §802.301(c), when the Benefits Review Board receives notice that a party has filed a petition for modification, "the Board shall dismiss the case without prejudice." As Claimant requested modification before filing his appeal with the Board, and his modification request is still pending, we dismiss this appeal without prejudice. 20 C.F.R. §802.301(c).

The Board will reinstate Claimant's appeal only if he requests reinstatement within thirty (30) days from the date the decision on modification is filed in the district director's office. Any request for reinstatement must be identified with the Board's docket number assigned to the case, BRB No. 24-0448, and served on all parties. If the original appeal is reinstated, the Board will address only issues arising from the ALJ's April 28, 2022 Decision and Order Awarding Benefits. 20 C.F.R. §802.301(c).

Any party aggrieved by a decision on modification may file a notice of appeal within thirty (30) days of the date the decision on modification is filed in the district director's office. 33 U.S.C. §921(a); 20 C.F.R. §§802.205, 802.301(c). Any new appeal will be

assigned a new docket number and will be consolidated with any reinstated appeal of the original decision.

Accordingly, we dismiss Claimant's appeal without prejudice.

SO ORDERED.

JONATHAN ROLFE, Acting Chief
Administrative Appeals Judge

DANIEL T. GRESH
Administrative Appeals Judge

MELISSA LIN JONES
Administrative Appeals Judge