

BRB No. 01-0875 BLA

CLYDE GABBARD)	
)	
Claimant-Respondent)	
)	
v.)	
)	DATE ISSUED:
MOUNTAIN CLAY, INCORPORATED)	
)	
and)	
)	
LIBERTY MUTUAL INSURANCE COMPANY)	
)	
Employer/Carrier- Petitioners)	
)	
and)	
)	
ARGONAUT INSURANCE COMPANY)	
)	
Carrier-Respondent)	
)	
DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, UNITED STATES DEPARTMENT OF LABOR)	
)	
Party-in-Interest)	ORDER

The Board has received employer's Motion for Remand for Modification Proceedings. In its motion, employer advises that it has filed a petition for modification with the District Director of the Office of Workers' Compensation Programs (the district director). Consequently, the Board dismisses employer's appeal and remands this case to the district director for modification proceedings. 20 C.F.R. §802.301(c).

Once a final decision on the petition for modification is filed by an administrative law judge, this case may be reinstated on the Board's docket if modification is denied. 20 C.F.R. §802.301(c). This case will be reinstated by the

Board only if employer requests reinstatement. The request for reinstatement must be filed with the Board within thirty

(30) days from the date the decision on modification is filed and must be identified by the Board's docket number BRB No. 01-0875 BLA. The request for reinstatement must be served on all parties. If reinstatement is requested, the Board will consider only the issues raised in employer's appeal of the original decision.

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. In the event the administrative law judge denies modification and employer 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 be filed with the Board within thirty (30) days of the date the decision on modification is filed. 20 C.F.R. §§802.205(a); 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 the 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(a), 802.301(c).

ROY P. SMITH
Administrative Appeals Judge

REGINA C. McGRANERY
Administrative Appeals Judge

BETTY JEAN HALL
Administrative Appeals Judge