



BRB No. 17-0090 BLO

OMA MILAM, JR.	)	
	)	
Claimant-Petitioner	)	
	)	
v.	)	DATE ISSUED: 10/11/2017
	)	
DIRECTOR, OFFICE OF WORKERS'	)	
COMPENSATION PROGRAMS, UNITED	)	
STATES DEPARTMENT OF LABOR	)	
	)	
Respondent	)	ORDER

On March 13, 2017, claimant filed his brief challenging the denial of his request for a waiver of the recovery of an overpayment.<sup>1</sup>

On September 11, 2017, claimant filed a Motion for Remand. Claimant informs the Board that the district director issued a Proposed Decision and Order on Modification on August 28, 2017, wherein he granted claimant's request that the commencement date of claimant's benefits be modified from July 2008 to March 2004. As a result, claimant asserts that an overpayment no longer exists. Claimant therefore requests that this appeal

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<sup>1</sup> Claimant filed a claim for benefits on February 13, 2004. The district director initially approved the claim, and instituted the payment of benefits by the Black Lung Disability Trust Fund (the Trust Fund) from the filing date of the claim. After further litigation, the Board ultimately affirmed the award of benefits, but modified the benefits commencement date to July 2008. *Milam v. Peabody Coal Co.*, BRB No. 12-0575 BLA (Sept. 20, 2013) (unpub.). In 2014, the district director instituted the instant case to recover the benefits paid to claimant from February 2004 to June 2008. Meanwhile, in March of 2016, claimant requested modification of the Board's 2013 determination that claimant's benefits did not commence until July 2008.

be dismissed, and the case remanded to the district director for further processing. The Director, Office of Workers' Compensation Programs (the Director), agrees that an overpayment no longer exists and informs the Board that he "is no longer requesting repayment." Director's Response to Claimant's Motion to Remand at 2. The Director, therefore, agrees that claimant's appeal should be dismissed.<sup>2</sup>

In view of the above, the Board grants claimant's motion, dismisses this appeal, and remands this case to the district director for further processing.

BETTY JEAN HALL, Chief  
Administrative Appeals Judge

JUDITH S. BOGGS  
Administrative Appeals Judge

JONATHAN ROLFE  
Administrative Appeals Judge

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<sup>2</sup> The Director, Office of Workers' Compensation Programs, acknowledges that the Trust Fund is responsible for the payment of claimant's benefits, as the responsible operator has been dismissed from the case. Director's Response to Claimant's Motion to Remand at 2 n.1.