



BRB No. 17-0606
OWCP Nos. 01-306023 and 01-306025

MICHAEL S. SANDREY)	
)	
Claimant-Respondent)	
)	
v.)	
)	DATE ISSUED: <u>Dec. 6, 2017</u>
ELECTRIC BOAT CORPORATION)	
)	
Self-Insured)	
Employer-Petitioner)	
)	
DIRECTOR, OFFICE OF WORKERS')	
COMPENSATION PROGRAMS, UNITED)	
STATES DEPARTMENT OF LABOR)	
)	
Party-in-Interest)	ORDER

Employer has filed a timely notice of appeal of the July 14, 2017 Memorandum of Informal Conference of District Director David Groeneveld. This appeal is assigned the docket number BRB No. 17-0606. All future correspondence pertaining to this appeal must bear this number. 20 C.F.R. §802.210.

We dismiss employer’s appeal because a memorandum of informal conference is not appealable to the Board. *Craven v. Director, OWCP*, 604 F.3d 902, 44 BRBS 31(CRT) (5th Cir. 2010); *see* 33 U.S.C. §921(b)(3); 20 C.F.R. §802.201(a). The memorandum of informal conference contains the recommendation of the district director concerning the distance claimant is required to travel for a medical examination. It does not purport to be a final decision that resolves the claim or this issue. *See* 33 U.S.C. §919(e) (a “compensation order” is one that rejects the claim or makes an award); 33 U.S.C. §921(a) (“compensation orders” become final unless appealed to the Board); *see Maria v. Del Monte/Southern Stevedore*, 22 BRBS 132 (1989) (en banc); *Anweiler v. Avondale Shipyards, Inc.*, 21 BRBS 271 (1988). Rather, the regulations contemplate further action after the issuance of a memorandum of informal conference. If the parties are in agreement after the informal conference, the district director may issue a

compensation order based on the parties’ stipulations. 20 C.F.R. §702.315. If the parties are not in agreement, the district director is to transfer the case to the Office of Administrative Law Judges (OALJ) upon the request of any party or on his own initiative

if he believes further informal proceedings would be futile. 20 C.F.R. §702.316. In addition, the district director has the authority to issue final orders on issues which are reserved to him by statute or regulation. *See, e.g.,* 33 U.S.C. §907(d)(2); *Healy Tibbitts Builders, Inc. v. Cabral*, 201 F.3d 1090, 33 BRBS 209(CRT) (9th Cir.), *cert. denied*, 531 U.S. 956 (2000); *Jackson v. Universal Maritime Service Corp.*, 31 BRBS 103 (1997) (Brown, J., concurring); 20 C.F.R. §§702.406-408. In this case, the district director did not issue an order but merely recommended a course of action, with which the parties were free to disagree and pursue a hearing. *Craven*, 604 F.3d 902, 44 BRBS 31(CRT).

Employer states that this case has been referred to the OALJ, but “wishes to preserve its appellate rights on this issue in the event the ALJ” determines the issue is not properly before him. Thus, employer asks the Board to stay its appeal pending resolution of the case before the administrative law judge. As the district director’s memorandum of informal conference is not appealable, employer’s motion to stay the proceedings is denied. Any party adversely affected or aggrieved by the administrative law judge’s final decision may file an appeal to the Board within 30 days of the date the decision is filed by the district director. 33 U.S.C. §921(b)(3); 20 C.F.R. §802.201(a).

Accordingly, as the district director’s memorandum of informal conference is not a final appealable order, employer’s appeal is dismissed and its motion to stay the proceedings is denied.

SO ORDERED.

BETTY JEAN HALL, Chief
Administrative Appeals Judge

RYAN GILLIGAN
Administrative Appeals Judge

JONATHAN ROLFE
Administrative Appeals Judge