



BRB No. 17-0642
Case Nos. 2015-LDA-00558, 2015-LDA-00902
OWCP Nos. 06-304143, 02-136397

ERROL WEBB)	
)	
Claimant-Petitioner)	
)	
v.)	
)	
KELLOGG BROWN & ROOT SERVICES)	
)	
and)	
)	
INSURANCE COMPANY OF THE STATE)	DATE ISSUED: <u>Jan. 30, 2018</u>
OF PENNSYLVANIA)	
)	
Employer/Carrier-)	
Respondents)	
)	
DIRECTOR, OFFICE OF WORKERS')	
COMPENSATION PROGRAMS, UNITED)	
STATES DEPARTMENT OF LABOR)	
)	
Party-in-Interest)	ORDER

On September 2, 2017, claimant, who is without legal counsel, filed a notice of appeal with the Board. The Board acknowledged this appeal on September 14, 2017. On October 14, 2017, employer filed a motion to dismiss claimant's appeal on the ground that it was untimely filed. We agree that claimant's appeal must be dismissed.

The following decisions and orders were issued by the administrative law judge:

1. Decision and Order Awarding Compensation and Benefits, dated January 25, 2017 and filed and served by the district director on January 26, 2017.
2. Errata Amending Decision and Order of January 25, 2017, dated February 2, 2017 and filed and served by the district director on February 3, 2017.

3. Second Errata Amending Decision and Order of January 25, 2017, dated February 17, 2017 and filed and served by the district director on February 22, 2017.
4. Supplemental Decision and Order Awarding Attorney Fees, dated May 2, 2017 and filed and served by the district director on May 4, 2017.
5. Order Denying Webb's Motion for Reconsideration, dated June 5, 2017 and filed and served by the district director on June 8, 2017.¹ In this order, the administrative law judge stated that claimant's motion for reconsideration was untimely as to the Second Errata Order. Assuming, for the sake of argument, that claimant's motion was timely, the administrative law judge found that claimant's contention concerning the calculation of his average weekly wage was without merit.

Section 21(a) of the Longshore Act, which is applicable in this Defense Base Act claim, states that an administrative law judge's decision becomes final unless a notice of appeal is filed within 30 days of the date an administrative law judge's compensation order is filed by the district director. 33 U.S.C. §921(a); *see also* 20 C.F.R. §802.205(a); 20 C.F.R. §702.393. If a party files a timely motion for reconsideration, the time for filing a notice of appeal commences 30 days after the date the administrative law judge's order ruling on the motion for reconsideration is filed by the district director. 20 C.F.R. §802.206(a), (b)(1). In this case, assuming for the sake of argument that claimant's motion for reconsideration was timely filed, the administrative law judge's Order denying reconsideration was filed on June 8, 2017, such that the last possible date an appeal could have been timely filed was July 10, 2017.² 20 C.F.R. §802.221(a). As claimant's appeal was not filed until September 2, 2017, claimant's appeal must be dismissed as the Board lacks jurisdiction over an untimely filed appeal. 20 C.F.R. §802.205(c).

¹ Claimant filed this motion without benefit of counsel. Claimant previously was represented by counsel in the proceedings before the administrative law judge.

² The 30th day after June 8, 2017 was Saturday, July 8. Thus, the appeal time was extended to Monday, July 10. 20 C.F.R. §802.221(a).

Accordingly, employer's motion is granted. Claimant's appeal is dismissed with prejudice.³

SO ORDERED.

BETTY JEAN HALL, Chief
Administrative Appeals Judge

RYAN GILLIGAN
Administrative Appeals Judge

JONATHAN ROLFE
Administrative Appeals Judge

³ Claimant should contact the district director if he believes employer is not paying medical benefits as ordered by the administrative law judge. Claimant may file a motion for modification pursuant to 33 U.S.C. §922, within one year of this order, if there has been a change in his physical or economic condition or he believes there is a mistake in a determination of fact in the prior decision.