

National Reassessment Program. By decision dated June 2, 2011, OWCP denied her claim for compensation. It denied modification of this decision in a decision dated September 16, 2011.

Regulations and Board case law require OWCP to send a copy of its decision to the authorized representative.¹ The Board has held that, under the Federal Employees Compensation Act,² a decision is not properly issued unless both appellant and the authorized representative have been sent copies of the decision.³ Accordingly, the Board finds that the November 19, 2009 loss of wage-earning capacity decision was improperly issued and is *void ab initio*, i.e., void from its inception. As the November 19, 2009 decision was not valid, the subsequent decisions by OWCP dated June 2 and September 16, 2011 are also invalid as they were based on a nonexistent decision. Thus, the Board must set aside these decisions and remand the case for an appropriate and properly issued merit decision on all relevant issues.

¹ See 20 C.F.R. § 10.127. The Board held in *Travis L. Chambers*, 55 ECAB 138 (2003) that section 10.127 requires that a copy of an OWCP decision be sent to the authorized representative and that any other interpretation of the language of the regulations would be inconsistent with the clear language of its initial provisions. In *George R. Bryant*, Docket No. 03-2241 (issued April 19, 2005), the Board found that OWCP did not properly issue its June 18, 2003 decision when it did not send a copy of that decision to the authorized representative on that date; OWCP conceded a procedural error and advised that a merit review would be provided on remand to preserve appellant's rights. In *James Consentino*, Docket No. 04-1774 (issued October 21, 2004), the Board found that OWCP improperly issued a decision terminating compensation because it did not mail the decision to appellant's representative and declared the termination decision null and void. Although OWCP subsequently denied modification of the termination, the Board found that the merit reviews "did not resuscitate the termination" as OWCP had prejudiced appellant by denying his representative the opportunity to assist in post-deprivation remedies, including a timely hearing under 5 U.S.C. § 8124.

² 5 U.S.C. § 8101 *et seq.*

³ See *Travis L. Chambers and James Consentino*, *supra* note 1.

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated September 16 and June 2, 2011 are set aside and the case is remanded for further proceedings consistent with this order.

Issued: June 25, 2012
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

Alec J. Koromilas, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board