

**United States Department of Labor
Employees' Compensation Appeals Board**

J.L., Appellant

and

**DEPARTMENT OF AGRICULTURE, FOREST
SERVICE, Alturas, CA, Employer**

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**Docket No. 13-1529
Issued: September 3, 2013**

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

ORDER REMANDING CASE

Before:

RICHARD J. DASCHBACH, Chief Judge
COLLEEN DUFFY KIKO, Judge
PATRICIA HOWARD FITZGERALD, Judge

On June 12, 2013 appellant filed an appeal from a May 2, 2013 letter from the Office of Workers' Compensation Programs (OWCP) which declined appellant's request to reopen his case and informed him that his case was permanently closed. The Board docketed this appeal as No. 13-1529.

The Board, having duly considered the matter, notes that its jurisdiction is limited to the review of final adverse decisions issued under the Federal Employees' Compensation Act (FECA).¹ While the May 2, 2013 letter from OWCP was not accompanied by appeal rights, the Board finds that it is a final adverse decision. This letter related that appellant's prior claim file had been retrieved, that his request to reopen his case was denied, and concluded that the case was permanently closed. Given the circumstances of this case, the Board concludes that the May 2, 2013 letter was a final adverse decision.

The Board finds that this case must be remanded for consolidation of the case record. While OWCP related that appellant's original claim file had been retrieved, the file was not

¹ 5 U.S.C. § 8149; 20 C.F.R. §§ 501.2(c) and 501.3(a).

consolidated with this claim. The Board is therefore unable to review the record pertinent to the claim or review OWCP's finding that this claim could not be reopened.²

Following consolidation of the case records, OWCP shall follow the regulatory requirements, pursuant to 20 C.F.R. § 10.121. This regulation states that if the claimant submits factual evidence, medical evidence, or both, but OWCP determines that this evidence is not sufficient to meet the burden of proof, OWCP will inform the claimant of the additional evidence needed. The claimant will be allowed at least 30 days to submit the evidence required. Accordingly,

IT IS HEREBY ORDERED THAT this case be remanded for issuance of an appropriate decision consistent with this order of the Board.

Issued: September 3, 2013
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

² 20 C.F.R. § 501.2(c)(1) provides that the Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision.