

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

C.B., Appellant	)	
	)	
and	)	<b>Docket No. 19-0089</b>
	)	<b>Issued: October 17, 2019</b>
<b>PEACE CORPS, MEDICAL SERVICES</b>	)	
<b>DIVISION, Mombo, Tanzania, Employer</b>	)	
	)	

*Appearances:* *Case Submitted on the Record*  
*Robert E. Irvin, D.O., for the appellant*<sup>1</sup>  
*Office of Solicitor, for the Director*

**ORDER REMANDING CASE**

Before:  
PATRICIA H. FITZGERALD, Deputy Chief Judge  
JANICE B. ASKIN, Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge

On August 6, 2018 appellant, through her representative, filed a timely appeal from a March 26, 2018 nonmerit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards docketed the appeal as No. 19-0089.

On March 5, 2018 appellant requested reconsideration and submitted an authorization designating her physician, Dr. Robert Irvin, a neuromusculoskeletal medicine specialist, to represent her before OWCP.

By decision dated March 26, 2018, OWCP denied appellant's request for reconsideration of the merits of her claim. It did not send a copy of that decision to her authorized representative.

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<sup>1</sup> In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

OWCP's regulations and Board case law require OWCP to send a copy of its decision to the authorized representative.<sup>2</sup> The Board has held that a decision under the Federal Employees' Compensation Act<sup>3</sup> is not properly issued unless both appellant and the authorized representative have been sent copies of the decision.<sup>4</sup> As OWCP did not send the March 26, 2018 decision to appellant's authorized representative, the Board concludes that the decision was not properly issued. The Board will, therefore, set aside the March 26, 2018 decision and remand that case for an appropriate and properly issued decision on the relevant issue. Accordingly,

**IT IS HEREBY ORDERED THAT** the March 26, 2018 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this order of the Board.

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<sup>2</sup> See 20 C.F.R. § 10.127, which provides in pertinent part: "A copy of the decision shall be mailed to the employee's last known address. If the employee has a designated representative before OWCP, a copy of the decision will also be mailed to the representative." See *M.R., Order Remanding Case*, Docket No. 11-0632 (issued September 28, 2011) (the Board found that OWCP did not properly issue its decision where it did not send a copy of that decision to appellant's authorized representative); *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. The Director of OWCP conceded a procedural error and advised that a merit review would be conducted on remand to preserve the claimant's appeal rights). Cf. *R.W.*, Docket No. 15-1886 (issued February 4, 2016) (where the Board set aside OWCP's hearing abandonment decision and remanded the case as it did not serve the notice of hearing on appellant's authorized representative).

<sup>3</sup> 5 U.S.C. § 8101 *et seq.*

<sup>4</sup> *Travis L. Chambers*, 55 ECAB 138 (2003) (the Board held 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 regulation would be inconsistent with the clear language of its initial provisions); see also *M.R. and George R. Bryant*, *supra* note 2.

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