

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

F.D., Appellant)	
)	
and)	Docket No. 19-1831
)	Issued: December 17, 2020
DEPARTMENT OF AGRICULTURE,)	
AGRICULTURAL MARKETING SERVICE,)	
Bronx, NY, Employer)	
)	

Appearances:
Capp Taylor, Esq., for the appellant¹
Office of Solicitor, for the Director

Case Submitted on the Record

ORDER DISMISSING APPEAL

Before:
CHRISTOPHER J. GODFREY, Deputy Chief Judge
JANICE B. ASKIN, Judge
PATRICIA H. FITZGERALD, Alternate Judge

On August 28, 2019 appellant, through counsel, filed a timely appeal from a May 17, 2019 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned Docket No. 19-1831.

On March 22, 2019 appellant, through counsel, filed a prior appeal to the Board from a February 25, 2019 OWCP decision which denied a merit review on whether appellant's claim should be expanded to include additional conditions. The Clerk of the Appellate Boards docketed that appeal as No. 19-0890. Counsel asserted on appeal that the accepted conditions of the claim should have been expanded to include cervical conditions.

During the pendency of the appeal in Docket No. 19-0890, by decision dated May 17, 2019, OWCP denied appellant's request to expand the acceptance of his claim to include the additional conditions of intervertebral disc degeneration, lumbosacral region; radiculopathy, cervical region;

¹ 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.

radiculopathy, lumbosacral region; other spondylosis with radiculopathy; cervical region disc herniations at C3-4, C4-5, C5-6; and bulging disc at C2-3.

The Board finds, as OWCP issued its May 17, 2019 decision regarding the issue of claim expansion during the pendency of the appeal in Docket No. 19-0890, that decision is null and void as the Board and OWCP may not simultaneously have jurisdiction over the same issue.² The Board's jurisdiction is limited to the review of final adverse OWCP decisions issued under FECA.³ The Board's review authority is further limited to final adverse decisions issued within 180 days prior to the date of the appeal.⁴ Because OWCP issued its May 17, 2019 decision after appellant had filed his appeal to the Board on the same issue in Docket No. 19-0890, there is no final adverse decision over which the Board may take jurisdiction and appellant's appeal in Docket No. 19-1831 must be dismissed.⁵

ORDER

IT IS HEREBY ORDERED THAT the appeal in Docket No. 19-1831 is dismissed.

Issued: December 17, 2020
Washington, DC

Christopher J. Godfrey, Deputy Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board

² See *G.W.*, Docket No. 19-0260 (issued July 10, 2020); *B.S.*, Docket No. 19-0378 (issued July 10, 2019); *K.C.*, Docket No. 16-1526 (issued June 4, 2018); *Terry L. Smith*, 51 ECAB 182 (1999); *Arlonia B. Taylor*, 44 ECAB 591 (1993); *Russell E. Lerman*, 43 ECAB 770 (1992); *Douglas E. Billings*, 41 ECAB 880 (1990).

³ See 20 C.F.R. §§ 501.2(c) and 501.3(a).

⁴ *Id.*

⁵ The Board's decisions and orders are "final upon the expiration of 30 days from the date of their issuance." *Id.* at § 501.6(d).