

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

D.E., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Battle Creek, MI, Employer**

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**Docket No. 21-0531
Issued: June 16, 2021**

Appearances:

Alan J. Shapiro, Esq., for the appellant¹

Office of Solicitor, for the Director

Case Submitted on the Record

ORDER DISMISSING APPEAL

Before:

ALEC J. KOROMILAS, Chief Judge

PATRICIA H. FITZGERALD, Alternate Judge

VALERIE D. EVANS-HARRELL, Alternate Judge

On February 22, 2021 appellant, through counsel, filed an appeal from a July 27, 2020 decision of the Office of Workers' Compensation Programs (OWCP).² The Clerk of the Appellate Boards assigned Docket No. 21-0531.

The Board has duly considered the matter and notes that the Board has jurisdiction to review final adverse decisions of OWCP issued under the Federal Employees' Compensation Act.³

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.

² Counsel did not appeal from OWCP's February 3, 2021 hearing decision, which affirmed OWCP's July 27, 2020 decision. He identified only the July 27, 2020 on the application for review (Form AB-1). Therefore, the Board will not consider the February 3, 2021 OWCP decision in this appeal. *See* 20 C.F.R. § 501.3; *see also L.J.*, Docket No. 19-0211 (issued July 10, 2019). Appellant has 180 days from the date of that decision to file an appeal with the Board. *Id.*

³ 5 U.S.C. § 8149; 20 C.F.R. §§ 501.2(c) and 501.3(a) (2009).

For final adverse decisions of OWCP issued on or after November 19, 2008, the Board's review authority is limited to appeals which are filed within 180 days from the date of issuance of OWCP's decision.⁴

The 180th day following the July 27, 2020 decision was January 23, 2021. As appellant did not file an appeal with the Board until February 22, 2021, more than 180 days after the July 27, 2020 OWCP decision, the Board finds that the appeal docketed as No. 21-0531 is untimely filed. The Board is without jurisdiction to review the appeal. Appellant has not offered a reason to explain the failure to timely file an appeal with supporting documentation sufficient to establish compelling circumstances.

The Board's decisions and orders are "final upon the expiration of 30 days from the date of their issuance."⁵

IT IS HEREBY ORDERED THAT the appeal docketed as No. 21-0531 is dismissed.

Issued: June 16, 2021
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

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

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board

⁴ *Id.* at § 501.3(e).

⁵ *Id.* at § 501.6(d). Appellant may file a petition for reconsideration of this order prior to the expiration of the 30 days. *See id.* at 501.7(a).