

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

_____)
K.A., Appellant)

and)

DEPARTMENT OF THE TREASURY, OFFICE)
OF THE COMPTROLLER OF THE)
CURRENCY, Downers Grove, IL, Employer)
_____)

Docket No. 21-0408
Issued: November 22, 2021

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

Case Submitted on the Record

ORDER DISMISSING APPEAL

Before:

JANICE B. ASKIN, Judge
PATRICIA H. FITZGERALD, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

On January 23, 2021 appellant sought appeal from a September 8, 2020 merit decision of the Office of Workers' Compensation Programs (OWCP).¹ The Clerk of the Appellate Boards assigned Docket No. 21-0408.

The Board, having duly considered this matter, notes that its jurisdiction is limited to the review of final adverse OWCP decisions issued under the Federal Employees' Compensation Act (FECA)² and 20 C.F.R. §§ 501.2(c) and 501.3. This jurisdiction encompasses any final decision issued by OWCP within 180 days of the date appellant filed her appeal.³ Although the case record as transmitted to the Board does contain a September 8, 2020 decision by a representative of

¹ The Board notes that, following the September 8, 2020 decision, OWCP received additional evidence. However, the Board's *Rules of Procedure* provides: "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. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

² 5 U.S.C. § 8101 *et seq.*

³ 20 C.F.R. § 501.3(e) provides in pertinent part: "Any notice of appeal must be filed within 180 days from the date of issuance of a decision of the OWCP."

OWCP's Branch of Hearings and Review, that decision set aside OWCP's February 28, 2020 decision and remanded the case for further development of the evidence by OWCP. As such, it is not an adverse decision as the case was in an interlocutory posture.⁴ The case record as transmitted to the Board does not contain a final adverse decision of OWCP over which the Board has jurisdiction.

Because there were no final, adverse decisions issued by OWCP within 180 days of the October 29, 2020 filing of the instant appeal, the Board lacks jurisdiction over the appeal.⁵ Accordingly,

IT IS HEREBY ORDERED THAT the appeal docketed as No. 21-0408 is dismissed.⁶

Issued: November 22, 2021
Washington, DC

Janice B. Askin, 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 See section 501.2(c)(2) of the Board's *Rules of Procedure* (20 C.F.R. § 501.2(c)(2)), which provides, "There will be no appeal with respect to any interlocutory matter decided (or not decided) by OWCP during the pendency of a case."

⁵ 20 C.F.R. § 501.3(e), (f).

⁶ The Board's decisions and orders are "final upon the expiration of 30 days from the date of their issuance." 20 C.F.R. § 501.6(d).