

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

D.C., Appellant)	
)	
and)	Docket No. 21-0703
)	Issued: November 19, 2021
U.S. POSTAL SERVICE, CINCINNATI-)	
CORRYVILLE STATION, Cincinnati, OH,)	
Employer)	
)	

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

On April 1, 2021 appellant, through counsel, sought an appeal from a purported January 25, 2021 final adverse decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned Docket No. 21-0703.

The Board, having duly considered the matter, notes that the Board has jurisdiction to review final adverse decisions of OWCP issued under the Federal Employees' Compensation Act.² This jurisdiction encompasses any final decision issued by OWCP within 180 days of the date appellant filed the appeal.³ Counsel indicated that the appeal was filed with regard to a January 25,

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 an 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 5 U.S.C. § 8101 *et seq.*; *id.* at §§ 501.2(c) and 501.3(a).

³ *Id.* at § 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 OWCP."

2021 OWCP decision. However, the January 25, 2021 OWCP decision was not a final adverse decision, rather, it was a preliminary overpayment determination. Section 501.2 (c)(2) of the Board's *Rules of Procedure* provides: "There will be no appeal with respect to any interlocutory matter decided (or not decided) by OWCP during the pendency of a case."⁴ Consequently, the case record as transmitted to the Board does not contain a final adverse decision of OWCP issued within 180 days from the date of docketing of the current appeal.⁵ As there is no final adverse decision issued by OWCP over which the Board may properly exercise jurisdiction, the Board concludes that the appeal docketed as No. 21-0703 must be dismissed.⁶ Accordingly,

IT IS HEREBY ORDERED THAT the appeal docketed as No. 21-0703 is dismissed.

Issued: November 19, 2021
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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

⁴ *Id.* at § 501.2(c)(2).

⁵ *Id.* The Board notes that an appeal from OWCP decisions dated April 6, 2021 and May 7, 2021 will proceed under Docket No. 21-0954.

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).