

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

M.E., Appellant)

and)

DEPARTMENT OF JUSTICE,)
FEDERAL BUREAU OF PRISONS,)
El Reno, OK, Employer)

Docket No. 22-0996
Issued: December 29, 2022

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

Case Submitted on the Record

ORDER DISMISSING APPEAL

Before:

ALEC J. KOROMILAS, Chief Judge

JANICE B. ASKIN, Judge

JAMES D. MCGINLEY, Alternate Judge

On June 8, 2022¹ appellant filed an appeal from a December 9, 2021 merit decision of the Office of Workers' Compensation Programs (OWCP).² The Clerk of the Appellate Boards assigned Docket No. 22-0996.

¹ Under the Board's *Rules of Procedure*, an appeal must be filed within 180 days from the date of the last OWCP decision. An appeal is considered filed upon receipt by the Clerk of the Appellate Boards. See 20 C.F.R. § 501.3(e)(f). One hundred and eighty days from December 9, 2021, the date of OWCP's last decision, was June 7, 2022. Since using June 13, 2022, the date the appeal was received by the Clerk of the Appellate Boards, would result in the loss of appeal rights, the date of the postmark is considered the date of filing. See 20 C.F.R. § 501.3(f)(1).

² The Board notes that appellant submitted additional evidence on appeal. 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.*

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.³ The Board's *Rules of Procedure* provide that "Any notice of appeal must be filed within 180 days from the date of issuance of a decision of OWCP."⁴ The 180th day following the most recent OWCP decision, which was dated December 9, 2021, was June 7, 2022. As appellant's appeal request was postmarked June 8, 2022, the appeal docketed as No. 22-0996 is untimely filed. The Board is, therefore, without jurisdiction to review the appeal. Appellant has not offered a reason to explain her failure to timely file an appeal with supporting documentation sufficient to establish compelling circumstances. As there is no final adverse decision issued by OWCP within 180 days of the filing of this appeal over which the Board may properly exercise jurisdiction, the Board concludes that the appeal docketed as No. 22-0996 must be dismissed. Accordingly,

IT IS HEREBY ORDERED THAT the appeal docketed as No. 22-0996 is dismissed.

Issued: December 29, 2022
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

James D. McGinley, Alternate Judge
Employees' Compensation Appeals Board

³ 5 U.S.C. § 8101 *et seq.*; 20 C.F.R. §§ 501.2(c) and 501.3(a).

⁴ *Id.* at § 501.3(e).