

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

A.D., Appellant)	
)	
and)	Docket No. 23-0107 &
)	22-0319
DEPARTMENT OF COMMERCE, U.S.)	Issued: April 27, 2023
CENSUS BUREAU, Bethesda, MD, Employer)	
)	

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

Case Submitted on the Record

**ORDER DISMISSING APPEAL IN DOCKET NO. 23-0107
AND DISMISSING PETITION FOR RECONSIDERATION IN DOCKET
NO. 22-0319**

Before:
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge
JAMES D. McGINLEY, Alternate Judge

On October 28, 2022 appellant filed a timely appeal from a purported September 6, 2022 decision of the Office of Workers' Compensation Programs (OWCP).¹ The Clerk of the Appellate Boards assigned Docket No. 23-0107.

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 her appeal.³ However, the September 6, 2022 decision being appealed was a Board decision, assigned Docket No. 22-0319, which affirmed OWCP's July 8 and December 9, 2021

¹ 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.*

² 5 U.S.C. § 8101 *et seq.*; 20 C.F.R. §§ 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 the OWCP."

merit decisions⁴ As there is no final adverse decision issued by OWCP within 180 days of the filing of this appeal,⁵ over which the Board may properly exercise jurisdiction, the Board concludes that the appeal docketed as Docket No. 23-0107 must be dismissed.

To the extent that appellant's October 28, 2022 appeal may be construed as a timely petition for reconsideration of the Board's September 6, 2022 decision in Docket No. 22-0319, the Board notes that its decision became final 30 days after its issuance.⁶ As appellant did not file her disagreement with the Board's September 6, 2022 decision until October 28, 2022, this submission may not be deemed a timely petition for reconsideration as it was filed in excess of 30 days from the date of issuance.⁷ Thus, the petition for reconsideration of the September 6, 2022 Board decision in Docket No. 22-0319 must be dismissed as untimely filed. Accordingly,

IT IS HEREBY ORDERED THAT the appeal docketed as Docket No. 23-0107 is dismissed.

IT IS HEREBY ORDERED THAT the petition for reconsideration docketed as Docket No. 22-0319 is dismissed as untimely filed.⁸

Issued: April 27, 2023
Washington, DC

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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

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

⁴ Docket No. 22-0319 (issued September 6, 2022).

⁵ *Supra* note 3.

⁶ 20 C.F.R. § 501.6(d).

⁷ *See id.* at § 501.7(a).

⁸ The Board's decisions and orders are "final upon the expiration of 30 days from the date of their issuance." *Supra* note 6.