

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

_____)	
T.E., Appellant)	
)	
and)	Docket No. 23-1062
)	Issued: December 21, 2023
DEPARTMENT OF VETERANS AFFAIRS,)	
JOHN J. PERSHING VA MEDICAL CENTER,)	
Poplar Bluff, MO, Employer)	
_____)	

Appearances:
Scotty White, for the appellant¹
Office of Solicitor, for the Director

Case Submitted on the Record

ORDER DISMISSING APPEAL

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

On August 7, 2023 appellant sought an appeal from a purported May 23, 2023 final adverse decision of the Office of Workers' Compensation Programs (OWCP).² The Clerk of the Appellate Boards assigned the appeal Docket No. 23-1062.

By decision dated May 23, 2023, OWCP accepted the claim for chronic sinusitis and allergic rhinitis.

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 On appeal, appellant, through her representative, argued that she is entitled to wage-loss compensation causally related to the accepted October 1, 2018 injuries. The record reflects that, on May 31, 2023, she filed a claim for compensation (Form CA-7) for leave buy back for the period October 1, 2018 through May 26, 2023. The Board notes that OWCP has not yet adjudicated appellant's entitlement to wage-loss compensation during the claimed period.

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 This jurisdiction encompasses any final decision issued by OWCP within 180 days of the date appellant filed the appeal.⁴

Although the May 23, 2023 decision is within 180 days of appellant's August 7, 2023 appeal, it is not adverse to appellant, and, therefore, it is not subject to 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. 23-1062, must be dismissed.⁶ Accordingly,

IT IS HEREBY ORDERED THAT the appeal docketed as No. 23-1062 is dismissed.

Issued: December 21, 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

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) provides in pertinent part: Any notice of appeal must be filed within 180 days from the date of issuance of a decision of OWCP.

⁵ *Id.* at § 501.3(a).

⁶ The Board's decisions and orders are final upon the expiration of 30 days from the date of their issuance. *Id.* at § 501.6(d).