

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

E.E., Appellant)	
)	
and)	Docket No. 23-0945
)	Issued: July 25, 2023
DEPARTMENT OF VETERAN AFFAIRS,)	
VETERANS ADMINISTRATION MEDICAL)	
CENTER, San Antonio, TX, Employer)	
)	

Appearances:
Dr. Anthony Rogers, for the appellant¹
Office of Solicitor, for the Director

Case Submitted on the Record

ORDER DISMISSING APPEAL

Before:
ALEC J. KOROMILAS, Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge
JAMES D. MCGINLEY, Alternate Judge

On June 30, 2023 appellant, through his representative, filed an appeal from July 27 and December 27, 2022 merit decisions of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned Docket No. 23-0945.

The Board has duly considered the matter and notes that the Board has jurisdiction to review final adverse decisions of OWCP issued under the Federal Employees' Compensation Act.² For final adverse decisions of OWCP issued on or after November 19, 2008, the Board's review

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

authority is limited to appeals which are filed within 180 days from the date of issuance of OWCP's decision.³

The 180th day following the December 27, 2022 decision was June 25, 2023. As appellant did not file an appeal with the Board until June 30, 2023, more than 180 days after the December 27, 2022 OWCP decision, the Board finds that the appeal docketed as No. 23-0945 is untimely filed. The Board is without jurisdiction to review the appeal. Appellant has not offered a reason to explain his failure to timely file an appeal with supporting documentation sufficient to establish compelling circumstances. Because there is no final adverse decision issued by OWCP within 180 days of the filing of the instant appeal, the Board concludes that the appeal docketed as No. 23-0945, must be dismissed.⁴ Accordingly,

IT IS HEREBY ORDERED THAT the appeal docketed as No. 23-0945 dismissed.

Issued: July 25, 2023
Washington, DC

Alec J. Koromilas, Chief 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 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."

⁴ 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).