

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

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**D.B., Appellant** )

**and** )

**DEFENSE AGENCIES, DEFENSE LOGISTICS** )  
**AGENCY-DISTRIBUTION SUSQUEHANNA,** )  
**New Cumberland, PA, Employer** )  
\_\_\_\_\_ )

**Docket No. 23-0956**  
**Issued: September 7, 2023**

*Appearances:*

*Randolph Aldon Elliott, Jr., for the appellant<sup>1</sup>*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**ORDER DISMISSING APPEAL**

Before:

PATRICIA H. FITZGERALD, Deputy Chief Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge  
JAMES D. MCGINLEY, Alternate Judge

On July 10, 2023 appellant, through his representative, filed an appeal from a November 9, 2022 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned the appeal Docket No. 23-0956.

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

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<sup>1</sup> 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.

<sup>2</sup> 5 U.S.C. § 8101 *et seq.*; 20 C.F.R. §§ 501.2(c) and 501.3(a).

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

The 180<sup>th</sup> day following the November 9, 2022 decision was May 8, 2023. As appellant did not file an appeal with the Board until July 10, 2023, more than 180 days after the November 9, 2022 OWCP decision, the Board finds that the appeal docketed as No. 23-0956 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. 23-0956, must be dismissed.<sup>4</sup> Accordingly,

**IT IS HEREBY ORDERED THAT** the appeal docketed as No. 23-0956 is dismissed.

Issued: September 7, 2023  
Washington, DC

Patricia H. Fitzgerald, Deputy 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

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<sup>3</sup> 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."

<sup>4</sup> 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).