

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

S.P., Appellant	)	
	)	
and	)	Docket No. 24-0099
	)	Issued: February 28, 2024
DEPARTMENT OF HOMELAND SECURITY,	)	
TRANSPORTATION SECURITY	)	
ADMINISTRATION, Houston, TX, Employer	)	
	)	

*Appearances:*  
Linda Humphrey, 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 November 15, 2023 appellant, through her representative, sought an appeal from a October 26, 2023 notice of proposed modification of loss of wage-earning capacity (LWEC) determination by the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned the appeal Docket No. 24-0099.

The Board, having duly considered this matter, notes that it has jurisdiction to review final adverse decisions of OWCP issued under the Federal Employees' Compensation Act.<sup>2</sup> This

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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).

jurisdiction encompasses any final adverse decision issued by OWCP within 180 days of the date appellant filed the appeal.<sup>3</sup>

On October 26, 2023, OWCP proposed to modify appellant's LWEC determination issued on April 21, 2020. It afforded appellant 30 days to submit evidence and argument challenging the proposed modification. The October 26, 2023 notice, therefore does not constitute a final adverse decision regarding modification of appellant's LWEC determination. Section 501.2(c)(2) of the Board's *Rules of Procedure* provides: "There will be no appeal with respect to any interlocutory matter decided (or not decided) by OWCP during the pendency of a case."<sup>4</sup>

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 Docket No. 24-0099 must be dismissed.<sup>5</sup> Accordingly,

**IT IS HEREBY ORDERED THAT** the appeal docketed as Docket No. 24-0099 is dismissed.

Issued: February 28, 2024  
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), which provides in pertinent part: "Any notice of appeal must be filed within 180 days from the date of issuance of a decision of OWCP."

<sup>4</sup> *Id.* at § 501.2(c)(2).

<sup>5</sup> The Board's decisions and orders are "final upon the expiration of 30 days from the date of their issuance." 20 C.F.R. § 501.6(d).