

BRB No. 04-234 BLA  
Case No. 01-BLA-0818

ESTILL H. HATFIELD )

Claimant-Petitioner )

v. )

MCCOY-ELKHORN COAL )  
CORPORATION )

Employer-Respondent )

DIRECTOR, OFFICE OF WORKERS' )  
COMPENSATION PROGRAMS, )  
UNITED STATES DEPARTMENT )  
OF LABOR )

Party-in-Interest )

DATE ISSUED:  
02/24/2004 February 24, 2004

ORDER

By Order dated January 30, 2004, the Board returned claimant's brief dated December 23, 2003, and advised claimant of modification procedures. In response, counsel for employer filed a letter dated February 4, 2004, requesting that the Board forward a copy of claimant's brief dated December 23, 2003.

Subsequently, on February 12, 2004, the Board received claimant's letter indicating that he filed a request for modification with the Office of the District Director. Claimant also enclosed a copy of his brief dated December 23, 2003, with his letter. A copy of claimant's filing is being forwarded to counsel for employer and the Director with this Order. 20 C.F.R. §802.216.

This case is, therefore, dismissed and remanded to the Office of the District Director for modification proceedings.

This case will be reinstated by the Board only if claimant requests reinstatement. The request for reinstatement must be filed with the Board within thirty (30) days from the date the Order on modification is filed and must be identified by the Board's docket number 04-234 BLA. The request for reinstatement must be served on all parties. If reinstatement is requested, the Board will consider only the issues raised in claimant's appeal of the original decision.

Once the district director processes the request for modification, the case may be transferred to an administrative law judge for a hearing pursuant to the regulation. In the event the administrative law judge denies modification and claimant wishes the Board to consider not only the original appeal, but also whether the administrative law judge erred in denying modification a Notice of Appeal of the Order denying modification must be filed in addition to the request for reinstatement within thirty (30) days of the date the Order on modification is filed. 20 C.F.R. §802.205.

In the event an administrative law judge grants modification, any party who is aggrieved by the decision granting modification may file an appeal with the Board within thirty (30) days of the date the decision granting modification is issued. 20 C.F.R. §§802.205, 802.301.

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NANCY S. DOLDER, Chief  
Administrative Appeals Judge

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ROY P. SMITH  
Administrative Appeals Judge

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REGINA C. McGRANERY  
Administrative Appeals Judge