

BRB Nos. 03-572 BLA
and 03-572 BLA-A
Case No. 02-BLA-05290

DEWEY C. SPARKS)	DATE ISSUED: 01/29/2004
)	
Claimant-Petitioner)	
Cross-Respondent)	
)	
v.)	
)	
CONSOLIDATION COAL COMPANY)	
)	
and)	
)	
ACORDIA EMPLOYERS SERVICE)	
)	
Employer/Carrier-)	
Respondent)	
Cross-Petitioner)	
)	
DIRECTOR, OFFICE OF WORKERS')	
COMPENSATION PROGRAMS,)	
UNITED STATES DEPARTMENT)	
OF LABOR)	
)	
Party-in-Interest)	ORDER

The Board has received claimant's Motion for Modification and Remand, in the captioned case. No objection to the motion has been filed. The Board grants claimant's motion, dismisses this appeal, and remands the case to the Office of the District Director for modification proceedings. In light of the foregoing, employer's cross-appeal, BRB No. 03-572 BLA-A, is dismissed.

Once an administrative law judge issues a final order on modification, the case may be reinstated on the Board's docket if modification is denied. 20 C.F.R. §802.301(c). The Board will reinstate this appeal only if the petitioner seeks reinstatement. The request for reinstatement must be filed with the Board within thirty (30) days of the date the Order on Modification is filed and must be

identified by the Board's docket number, BRB No. 03-572 BLA. If reinstatement is requested the Board will consider only the issues raised in the appeal of the Decision and Order Denying Benefits issued May 7, 2003.

In the event the administrative law judge denies modification and the petitioner 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 also be filed. 20 C.F.R. §802.205. The appeal of the Order on Modification will be assigned a new docket number and will be consolidated with the appeal, BRB No. 03-572 BLA.

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

NANCY S. DOLDER, Chief
Administrative Appeals Judge

ROY P. SMITH
Administrative Appeals Judge

BETTY JEAN HALL
Administrative Appeals Judge