

BRB No. 04-0601 BLA
Case No. 03-BLA-5250

THOMAS A. REED)	
)	
Claimant-Petitioner)	DATE ISSUED: <u>October 29, 2004</u>
)	
v.)	
)	
UNITED COAL COMPANY)	
)	
Employer-Respondent)	
)	
DIRECTOR, OFFICE OF WORKERS')	
COMPENSATION PROGRAMS, UNITED)	
STATES DEPARTMENT OF LABOR)	
)	
Party-in-Interest)	ORDER

By letter dated October 15, 2004, claimant forwarded his Motion for Modification filed in the Office of the District Director in the captioned case. Since claimant is seeking modification, the Board dismisses this appeal and remands this case to the district director for modification proceedings. After the request for modification is processed by the district director, the case may be transferred to an administrative law judge for a hearing pursuant to the regulations and a decision.

The case will be reinstated by the Board only if the 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 issued and must be identified by the Board's docket number assigned to the case. 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 administrative law judge's decision and order issued on April 2, 2004.

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 denial of modification was erroneous, a Notice of Appeal of the decision denying modification must be filed, in addition to the request for reinstatement. The Notice of Appeal must also be filed with the Board within thirty (30) days of the date the decision on modification is issued. 20 C.F.R. §§802.205, 802.301(c). The appeal of the decision on modification will be assigned a new docket number and will be consolidated with the appeal of the original decision.

In the event an administrative law judge grants modification, any party aggrieved by the

decision granting modification must 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.

NANCY S. DOLDER, Chief
Administrative Appeals Judge

ROY P. SMITH
Administrative Appeals Judge

BETTY JEAN HALL
Administrative Appeals Judge