

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

A.J., Appellant)	
)	
and)	Docket No. 22-1336
)	Issued: May 15, 2023
DEPARTMENT OF VETERANS AFFAIRS, VA)	
MEDICAL CENTER, Battle Creek, MI,)	
Employer)	
)	

Appearances:
Alan J. Shapiro, Esq., for the appellant¹
Office of Solicitor, for the Director

Case Submitted on the Record

ORDER DISMISSING APPEAL

Before:
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

On September 21, 2022 appellant, through counsel, filed a timely appeal from an August 17, 2022 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned the appeal Docket No. 22-1336.

The Board, having duly considered this matter, notes that the Board and OWCP may not simultaneously exercise jurisdiction over the same issue(s) in a case on appeal.² The August 17, 2022 OWCP decision affirmed a January 19, 2022 merit decision, finding that appellant forfeited her entitlement to compensation. However, on May 2, 2022, appellant filed an appeal with the Board from a February 25, 2022 overpayment determination that was based on the same

¹ 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.

² 20 C.F.R. §§ 501.2(c)(3), 10.626; *Douglas E. Billings*, 41 ECAB 880 (1990). See also *Order Dismissing Appeal, M.H.*, Docket No. 22-0880 (issued November 4, 2022).

January 19, 2022 forfeiture decision. As the issue of whether OWCP properly determined that appellant forfeited her entitlement to compensation was pending before the Board in Docket No. 22-0820 when OWCP issued its August 17, 2022 decision, the August 17, 2022 decision is null and void.³

As OWCP's August 17, 2022 decision is null and void, there is no final adverse decision issued by OWCP over which the Board may properly exercise jurisdiction. The Board, therefore, concludes that the appeal docketed as No. 22-1336 must be dismissed. Accordingly,

IT IS HEREBY ORDERED THAT the appeal docketed as No. 22-1336 is dismissed.

Issued: May 15, 2023
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board

³ *Id.*; see also *G.W.*, Docket No. 19-0260 (issued July 10, 2020); *Cathy B. Millin*, 51 ECAB 331 (2000).