

On August 9, 2021 appellant filed a notice of recurrence (Form CA-2a) alleging that she sustained a recurrence of the need for medical treatment, causally related to her accepted bilateral hand and wrist condition. She did not report a date of the recurrence.

OWCP, by decision dated November 18, 2021, denied appellant's recurrence claim, finding that the medical evidence of record was insufficient to establish a recurrence of the need for medical treatment due to the worsening of her accepted bilateral hand and wrist condition, without intervening cause.

On November 24, 2021 appellant, through counsel, requested a telephonic hearing before a representative of OWCP's Branch of Hearings and Review, which was held on March 10, 2022.

Subsequently, in letters dated March 10 and April 21, 2022, appellant, through counsel, requested that the acceptance of her claim be expanded to include bilateral wrist post-traumatic osteoarthritis and bilateral hand pain based on accompanying medical evidence.

By decision dated May 13, 2022, an OWCP hearing representative affirmed the November 18, 2021 decision, finding that the medical evidence of record was insufficient to establish a recurrence of a medical condition on August 9, 2021, causally related to appellant's accepted bilateral hand and wrist condition. The hearing representative instructed OWCP to administratively combine OWCP File Nos. xxxxxx597 and xxxxxx738 upon return of the case record.³

On June 6, 2022 appellant, through counsel, appealed OWCP's May 13, 2022 decision to the Board. The Clerk of the Appellate Boards assigned that appeal Docket No. 22-0952.

In a November 16, 2022 letter, appellant through counsel, requested that the Board dismiss her appeal.

Also on November 16, 2022, appellant, through counsel, requested reconsideration of the May 13, 2022 recurrence decision.

During the pendency of the appeal in Docket No. 22-0952, on November 30, 2022 OWCP issued a merit decision, denying modification of the May 13, 2022 decision.

The Board finds that this appeal in Docket No. 23-0254 must be dismissed as the November 30, 2022 decision, which is the subject of this appeal, is null and void.

The Board's *Rules of Procedure*, at section 501.2(c)(3), provides:

"The Board and OWCP may not exercise simultaneous jurisdiction over the same issue in a case on appeal. Following the docketing of an appeal before the Board,

³ OWCP has administratively combined OWCP File Nos. xxxxxx597 and xxxxxx738, with the latter serving as the master file.

OWCP does not retain jurisdiction to render a further decision regarding the issue on appeal until after the Board relinquishes jurisdiction.”⁴

Similarly, section 10.626 of OWCP’s regulations provides in pertinent part:

“While a case is on appeal to the [the Board], OWCP has no jurisdiction over the claim with respect to issues which directly relate to the issue or issues on appeal. [It] continues to administer the claim and retains jurisdiction over issues unrelated to the issue or issues on appeal and issues which arise after the appeal as a result of ongoing administration of the case.”⁵

The Board, having duly considered this matter, notes that, in a November 30, 2022 decision, OWCP denied modification of its May 13, 2022 merit decision. However, once appellant filed the Board appeal on June 6, 2022 of the same May 13, 2022 decision, OWCP had no jurisdiction to issue its November 30, 2022 decision.⁶ Further, the Board notes that OWCP’s November 30, 2022 decision was also issued prior to the Board’s December 13, 2022 order dismissing appellant’s appeal of the May 13, 2022 decision at counsel’s request. For these reasons, the November 30, 2022 decision is null and void.⁷

Pursuant to 5 U.S.C. § 8149 and 20 C.F.R. §§ 501.2(c) and 501.3(a), the Board’s jurisdiction is limited to the review of final adverse decisions of OWCP issued under the Federal Employees’ Compensation Act. As the November 30, 2022 OWCP decision is null and void, the appeal assigned Docket No. 23-0254 does not contain a final adverse decision over which the Board may properly take jurisdiction. Therefore, the Board finds that the appeal docketed as No. 23-0254 is dismissed.⁸ Accordingly,

⁴ 20 C.F.R. § 501.2(c)(3). *See also Order Dismissing Appeal, T.T.*, Docket No. 20-0864 (issued December 17, 2020); *M.S.*, Docket Nos. 19-1090 & 20-0408 (issued April 20, 2020); *J.W.*, Docket No. 19-1688 (issued March 18, 2020); *George Simpson*, Docket No. 93-0452 (issued February 18, 1994); *Douglas E. Billings*, 41 ECAB 880 (1990).

⁵ 20 C.F.R. § 10.626.

⁶ *Douglas E. Billings*, *supra* note 4; *see also D.F.*, Docket No. 19-1257 (issued July 14, 2020).

⁷ *Id.* *See also M.H.*, Docket No. 22-0880 (issued November 4, 2022); *G.W.*, Docket No. 19-0260 (issued July 10, 2020); *Cathy B. Millin*, 51 ECAB 331 (2000).

⁸ 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).

IT IS HEREBY ORDERED THAT the appeal docketed as No. 23-0254 is dismissed.

Issued: May 11, 2023
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

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

James D. McGinley, Alternate Judge
Employees' Compensation Appeals Board