

**THE MONTH IN PENNSYLVANIA WORKERS' COMPENSATION:  
JULY 2016 AT A GLANCE  
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**ATTORNEY FEES/APPEAL/ LITIGATION COSTS/COLLATERAL ESTOPPEL**

- An award of attorney's fees and litigation costs to a prevailing claimant is not automatic. Therefore, even if the absence of an award of attorney's fees was inadvertent, the mistake goes to the merits of the case rather than to the satisfaction of the award, and it cannot be corrected by way of a Petition to Review under Section 413 of the Act.

The claimant would need to remedy the failure to receive attorney fees and litigation costs by filing an appeal, even if the claimant prevailed on the merits of the case.

- It is true that generally, a party who prevailed in a proceeding below is not an aggrieved party and, consequently, has no standing to appeal. However, courts allow a party to appeal where the remedy awarded is claimed to be insufficient.

In this matter, although Claimant prevailed before the WCAB in his appeal of the suspension order, he only prevailed in part; because the Board did not address his request for costs and attorney's fees. As a result, and because an award of attorney's fees is not automatic, Claimant was adversely affected by the WCAB's decision, and thus, he was aggrieved. Claimant's proper remedy was to request reconsideration by the Board or file an appeal to the Commonwealth Court.

Claimant failed to do either. Since the WCAB's order that failed to award litigation costs and attorney fees was final the claimant was not permitted to collaterally attacked by a the WCAB's final order by filing a Petition to Review that sought reimbursement of attorney fees and litigation costs.

*Byfield v. WCAB (Philadelphia Housing Authority), No. 2002 C.D.  
2015(Decision by Judge Wojcik, July 26, 2016) 7/16*