IN THE INTERMEDIATE COURT OF APPEALS OF WEST VIRGINIA

FILED
November 10, 2026
ASHLEY N. DEEM, CHIEF DEPUTY CLERK
INTERMEDIATE COURT OF APPEALS
OF WEST VIRGINIA

CHARLES SPAULDING,
Claimant Below, Petitioner

v.) No. 26-ICA-160 (JCN: 2023003599)

WAYNE COUNTY BOARD OF EDUCATION,
Employer Below, Respondent

MEMORANDUM DECISION

Petitioner Charles Spaulding appeals the March 24, 2026, order of the Workers' Compensation Board of Review ("Board"). Respondent Wayne County Board of Education ("WCBOE") filed a response.[1] Mr. Spaulding did not reply. The issue on appeal is whether the Board erred in affirming, by rule, the claim administrator's order, which denied a reopening of the claim for temporary total disability ("TTD") benefits.

This Court has jurisdiction over this appeal pursuant to West Virginia Code § 51-11-4 (2026). After considering the parties' arguments, the record on appeal, and the applicable law, this Court finds no substantial question of law and no prejudicial error. For these reasons, a memorandum decision affirming the Board's order is appropriate under Rule 21 of the West Virginia Rules of Appellate Procedure.

On August 28, 2025, Mr. Spaulding requested that his claim be reopened for additional TTD benefits. The claim administrator issued an order on October 22, 2025, denying a reopening of the claim. On November 20, 2025, Mr. Spaulding's counsel submitted a protest of this order on his behalf. On December 11, 2025, the Board issued an Acknowledgment and Automatic Time Frame Order, giving Mr. Spaulding a deadline of February 9, 2026, to submit his evidence or his argument in lieu of evidence. Mr. Spaulding failed to submit evidence or argument to the Board within this time frame. On February 23, 2026, the Board issued an Order to Show Cause Before Claim Administrator's Order Affirmed, notifying Mr. Spaulding that the Board had not identified any evidence, relevant documents relating to the protest, or explanation of the basis for the protest that had been submitted. The Order gave him fifteen days to notify the Board of any error in the identification of the record. Mr. Spaulding failed to respond to this order. On March 24, 2026, the Board issued an order affirming the claim administrator's order, by rule, based

[1] Mr. Spaulding is represented by Paula L. Harbour, Esq. WCBOE is represented by Jeffrey M. Carder, Esq.

on a finding that none of the required documents in support of the protest had been received pursuant to West Virginia Code of State Rules §102-1-10.4 (2022).

On March 24, 2026, the Board affirmed, by rule, the claim administrator's order, which denied a reopening of the claim for TTD benefits. Mr. Spaulding now appeals the Board's order.

Our standard of review is set forth in West Virginia Code § 23-5-12a(b) (2022), in part, as follows:

> The Intermediate Court of Appeals may affirm the order or decision of the Workers' Compensation Board of Review or remand the case for further proceedings. It shall reverse, vacate, or modify the order or decision of the Workers' Compensation Board of Review, if the substantial rights of the petitioner or petitioners have been prejudiced because the Board of Review's findings are:
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> (1) In violation of statutory provisions;
> (2) In excess of the statutory authority or jurisdiction of the Board of Review;
> (3) Made upon unlawful procedures;
> (4) Affected by other error of law;
> (5) Clearly wrong in view of the reliable, probative, and substantial evidence on the whole record; or
> (6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

Syl. Pt. 2, *Duff v. Kanawha Cnty. Comm'n*, 250 W. Va. 510, 905 S.E.2d 528 (2024).

Mr. Spaulding argues that he should not be penalized because his counsel made an error in submitting evidence to the Board's online portal. Mr. Spaulding's counsel alleges that she mistakenly submitted the evidence to the opposing party rather than to the Board.

West Virginia Code of State Rules §102-1-10.4 provides: "[i]f the protesting party fails to show that evidence or argument has been timely filed, or if there is no response to the show cause order, the Board of Review shall issue a decision affirming the claim administrator's order."

The Board issued an order affirming the claim administrator's order by rule, pursuant to West Virginia Code of State Rules §102-1-10.4, based on a finding that none of the required documents in support of the protest had been received.

Upon review, we conclude that the Board was not clearly wrong in affirming the claim administrator's order pursuant to West Virginia Code of State Rules §102-1-10.4, as Mr. Spaulding failed to submit any documents in support of his protest. We note the explanation of this failure given by Mr. Spaulding's counsel; however, we do not conclude that the Board was clearly wrong in its conclusion that the explanation did not excuse this failure. Further, we note that Mr. Spaulding's counsel failed to acknowledge the Board's Order to Show Cause, nor did she explain her failure to respond to the same.

Accordingly, we affirm the Board's March 24, 2026, order.

Affirmed.

ISSUED: November 10, 2026

CONCURRED IN BY:

Chief Judge Daniel W. Greear
Judge Charles O. Lorensen
Judge S. Ryan White