

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JUANITA HERNANDEZ,)	
)	
Plaintiff,)	
)	
v.)	No. 4:11CV120 HEA
)	
U.S. DEPARTMENT OF LABOR,)	
)	
Defendant.)	

OPINION, MEMORANDUM AND ORDER

This matter is before the Court upon its own motion. Plaintiff has filed this action against the United States Department of Labor for denial of workers compensation benefits. The complaint shall be dismissed for lack of jurisdiction.

Under Rule 12(h)(3) of the Federal Rules of Civil Procedure, the Court is required to dismiss an action if it appears that subject matter jurisdiction is lacking. Under 5 U.S.C. § 8128(b), the decision of the Secretary of Labor to grant or deny compensation is final and is not subject to review by this Court. As a result, this Court lacks subject matter jurisdiction over the complaint. *Brumley v. U.S. Dept. of Labor*, 28 F.3d 746, 747 (8th Cir. 1994).

Accordingly,

IT IS HEREBY ORDERED that plaintiff’s motion to proceed in forma pauperis is **GRANTED**.

IT IS FURTHER ORDERED that plaintiff's complaint is **DISMISSED** for lack of jurisdiction.

An Order of Dismissal shall accompany this Memorandum and Order.

Dated this 25th day of February, 2011.

A handwritten signature in cursive script, reading "Henry Edward Autrey", positioned above a horizontal line.

HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE