

overpayment in the amount of \$133,841.58 for the period October 25, 1987 to October 4, 2003. The Board also affirmed the Office's finding that appellant was at fault in creating the overpayment and, therefore, he was not entitled to a waiver of recovery of the overpayment. However, the Board set aside the Office's finding with respect to the method of recovery of the overpayment. The Office had directed appellant to remit a lump-sum payment of \$38,000.00. Additionally, the Office indicated its intention to deduct \$500.00 every four weeks from appellant's continuing compensation. In setting aside this aspect of the Office's May 24, 2005 decision, the Board found that the Office lacked the authority to demand a lump-sum repayment while also reducing benefits prospectively. The Board held that because appellant was receiving continuing compensation benefits, the Office must recover the overpayment by decreasing future compensation benefits. Accordingly, the Board found the demand for a lump-sum payment of \$38,000.00 improper. The Board remanded the case for the Office to revisit its decision to deduct \$500.00 every four weeks from appellant's continuing compensation.

As of May 13, 2006, the Office recovered \$6,000.00 of the \$133,841.58 overpayment. Appellant's outstanding balance was \$127,841.58. By decision dated May 17, 2006, the Office advised appellant that beginning June 11, 2006 it would deduct \$600.00 every four weeks from his continuing compensation.² The Office also indicated that interest would immediately begin to accrue.³

LEGAL PRECEDENT

The Federal Employees' Compensation Act provides for the recovery of an overpayment by decreasing later payments to which the individual is entitled.⁴ In decreasing future payments, the Office will take into account the probable extent of future payments, the rate of compensation, the financial circumstances of the individual and any other relevant factors, so as to minimize any hardship.⁵

ANALYSIS

The record indicates that appellant and his spouse have a combined monthly income of \$3,973.10 and monthly expenses totaling \$3,376.00. Additionally, he has available liquid assets in excess of \$48,000.00. In view of appellant's assets and his monthly income surplus of \$597.10, the Board finds that the Office properly imposed a repayment schedule of \$600.00 every 28 days from appellant's continuing compensation.

² The decision also reiterated the Office's earlier findings regarding the circumstances and amount of the overpayment as well as the prior finding that appellant was at fault in the creation of the overpayment.

³ A May 18, 2006 debt amortization schedule indicated that interest calculated at the rate of two percent would total \$26,707.38 if the remaining overpayment was recovered solely through periodic deductions from continuing compensation. According to the schedule, the entire debt, including interest, would be recovered in 19 years, 10 months.

⁴ 5 U.S.C. § 8129(a) (2000).

⁵ 20 C.F.R. § 10.441(a) (2007).

In papers filed with the Board, appellant's counsel made reference to "interest accumulating on the past amounts...." The record does not indicate that there was a charge for accrued interest. In fact, the \$6,000.00 previously withheld from appellant's compensation was applied entirely to the principal debt of \$133,841.58. With regard to future interest charges, the Office clearly has the authority to assess interest on outstanding debts, such as the current overpayment of benefits.⁶

CONCLUSION

The Office properly ordered that appellant's future compensation payments be reduced by \$600.00 every 28 days in order to repay his \$133,841.58 overpayment.

ORDER

IT IS HEREBY ORDERED THAT the May 17, 2006 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 12, 2007
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

⁶ 31 U.S.C. § 3717(a)(1), (g)(1); *see Jorge O. Diaz*, 51 ECAB 124 (1999).