

at T8, T11, L4 and L5 and posterior annular tears L4-5 and L5-S1. The Board reversed a July 30, 2003 termination of compensation for refusal of suitable work under 5 U.S.C. § 8106(c)(2), finding the medical evidence did not establish the offered position as suitable.² Appellant continued to receive compensation for wage loss. She periodically completed Form EN1032 questionnaires regarding employment activity and receipt of other benefits. In a EN1032 signed on March 3, 2010, appellant indicated that she had earnings as a babysitter of approximately \$500.00 a week.

On June 2, 2010 OWCP received evidence regarding an investigation by the Office of the Inspector General (OIG) for the employing establishment and the Social Security Administration (SSA). In a report dated August 5, 2009, the SSA's OIG reported that appellant admitted she began babysitting in July 2006 and currently earned \$500.00 a week, with an additional \$50.00 if she stayed overnight. The record contains a May 27, 2010 report from the employing establishment's OIG summarizing the results of the investigation. According to the court documents of record, an information was filed in U.S. District Court charging that on or about March 5, 2007 appellant knowingly made false statements on an EN1032 regarding her self-employment.³ In a plea agreement signed by appellant on April 12, 2010, and signed by a U.S. Attorney on May 5, 2010, she acknowledged she was guilty of the offenses charged. The guilty pleas were entered on May 25, 2010.

OWCP initially issued a preliminary determination of an overpayment dated June 3, 2010, finding an overpayment of \$2,486.86 had occurred from May 5 to June 5, 2010. In a preliminary determination dated June 18, 2010, it found the overpayment was \$932.57 from May 25 to June 5, 2010. The calculation provided stated that appellant was paid \$2,176.00 from May 9 to June 5, 2010 and should have been paid \$932.57 from May 9 to 25, 2010.

In an amended preliminary determination dated June 28, 2010, OWCP again found the overpayment was \$932.57 from May 25 to June 5, 2010. The calculation provided in the accompanying memorandum indicated that for the period May 9 to June 5, 2010 appellant was paid \$2,176.00, but she should have received \$1,243.43 for the period May 9 to 25, 2010. In explaining its decision OWCP stated that on May 5, 2010 appellant pled guilty in open court to having earnings of approximately \$500.00 a week since 2006. It also made a preliminary finding that appellant was at fault in creating the overpayment, as she had accepted compensation to which she was not entitled. The cover letter stated, "According to [regulations], a claimant is not entitled to compensation once he/she files a pleading in court."

In a decision dated July 28, 2010, OWCP finalized its determination as to a \$932.57 overpayment of compensation and its finding of fault.

² Docket No. 05-82 (issued April 12, 2005).

³ Appellant was also charged with making false statements on an SSA benefit form.

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It is a well-established principle that OWCP must make proper findings of fact and a statement of reasons in its final decisions.⁴ When OWCP fails to properly explain its findings, the case will be remanded for a appropriate decision.⁵

ANALYSIS

In this case OWCP found an overpayment of \$932.57 occurred from May 25 to June 5, 2010. It issued three different preliminary determinations regarding the overpayment. It appears that OWCP has made a finding that appellant was not entitled to compensation after May 25, 2010 as a result of a guilty plea entered on that date. There is, however, no identification as to the specific regulations involved, no attempt to quote or summarize the specific language of the regulations and no attempt to explain how the specific facts in this case are relevant to the regulations. Appellant was provided only with the general assertion that there was a regulation with respect to the filing of a “pleading in court” that would prohibit entitlement to compensation.

The case will be remanded to OWCP for a proper decision with complete findings of fact and a statement of reasons on the issue presented. After such further development as is deemed necessary, OWCP should issue an appropriate decision.

In view of the Board’s holding, the issue of fault will not be addressed in detail. The Board notes that OWCP provided no clear explanation as to what specific evidence of record established that appellant knew or should have known the June 5, 2010 payment was incorrect.

CONCLUSION

The Board finds that OWCP did not provide an appropriate decision with findings of fact and a statement of reasons on the issues presented.

⁴ See *Arietta K. Cooper*, 5 ECAB 11 (1952); 20 C.F.R. § 10.126.

⁵ See *T.B.*, Docket No. 10-1570 (issued June 28, 2011).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated July 28, 2010 is set aside. The case is remanded for further action consistent with this decision of the Board.

Issued: September 21, 2011
Washington, DC

Alec J. Koromilas, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board