



March 19, 2012 final overpayment decision, it stated that the appropriate amount of the overpayment was \$8,665.99 and that the period for the overpayment was December 8, 2008 through May 10, 2010. OWCP further stated:

“As advised in the original final determination of October 25, 2010, after carefully studying your case and fully considering any additional evidence or arguments submitted (you did provide [F]orm OWCP-20, with supporting financial documentation, as required), we have decided not to waive the overpayment, as the evidence in file does not suggest that you are entitled to waiver, nor that collection of the overpayment would defeat the purpose of the FECA, nor that you cannot repay the debt. The financial documentation and [F]orm OWCP-20 show income of \$4,976.39 and expenses of \$4,836.36, with a net income of \$140.02 per month. According to this office’s procedures, your claim of hardship is not shown. An individual is deemed to need substantially all of his or her income to meet current ordinary and necessary living expenses if monthly income does not exceed monthly expenses by more than \$50.00. As such, we must consider that you have \$90.00 available, per month, for debt repayment.

“The overpayment is still being recovered in the manner stated in the enclosed Form EN2225 (as advised in the original final determination of October 25, 2010). . . .”

The Board finds that OWCP failed to follow the majority of the instructions issued by this Board in the September 22, 2011 decision remanding the case for additional development. As OWCP has not issued a new preliminary overpayment determination, appellant has not had the opportunity to submit new financial information and OWCP has not adequately evaluated appellant’s current financial situation to determine whether waiver of recovery of the overpayment is appropriate.

On remand, OWCP should issue a new preliminary overpayment determination providing appellant with new appeal rights including the request for a prerecoupment hearing, and the opportunity to submit current financial information which OWCP will evaluate to properly determine whether the overpayment should be waived. OWCP shall insure that the record contains probative evidence supporting its findings regarding the amount of the overpayment and authorized documentation regarding the proper amount of the health and life insurance premiums for each specific year and specific period so that appellant may be able to determine if the calculation of the overpayment was correct. After this development consistent with this Order Remanding Case and the Board’s September 22, 2011 decision, OWCP shall issue an appropriate final overpayment decision on the issues of amount, period, waiver and recovery of the overpayment which the Board previously determined exists.

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated March 19, 2012 is set aside and the case remanded for further development consistent with this order of the Board.

Issued: November 13, 2012  
Washington, DC

Richard J. Daschbach, Chief Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge  
Employees' Compensation Appeals Board