

FACTUAL HISTORY

On November 20, 1996 appellant, then a 49-year-old letter carrier, filed a claim for compensation for an occupational disease of osteoarthritis of both hands, his left knee and his right foot that he attributed to repetitive activities in his employment. The Office accepted bilateral shoulder impingement, aggravation of osteoarthritis of the left hand, carpal tunnel syndrome and a right rotator cuff tear.

On May 4, 2004 the Office issued a preliminary finding that appellant received an overpayment of compensation in the amount of \$844.00 that occurred because basic life insurance premiums were not deducted from compensation payments for the period October 22, 1998 through August 9, 2003. The Office also preliminarily found that appellant was without fault in creating the overpayment and allotted him 30 days to request waiver and submit financial information.

By decision dated June 4, 2004, the Office found that appellant received an overpayment of compensation in the amount of \$844.00 that occurred because basic life insurance premiums were not deducted from compensation payments for the period October 22, 1998 through August 9, 2003. The Office found that appellant was without fault in creating the overpayment, but denied waiver of recovery of the overpayment on the basis that it had not received any information from appellant to justify waiver. On June 11, 2004 the Office received appellant's overpayment recovery questionnaire, which was dated June 1, 2004.

LEGAL PRECEDENT -- ISSUE 1

Under the Federal Employees' Group Life Insurance (FEGLI) Program,¹ most civilian employees of the federal government are eligible to participate in basic life insurance and one or more of the options. The coverage for basic life insurance is effective unless waived and the premiums for basic and optional life coverage are withheld from the employee's pay. At separation from the employing establishment, the FEGLI program will either terminate or be continued under "compensationeer" status. If the compensationeer chooses to continue basic and optional life insurance coverage, the schedule of deductions made will be used to withhold premiums from his or her compensation payments. When an underwithholding of life insurance premiums occurs, the entire amount is deemed an overpayment of compensation because the Office must pay the full premium to the Office of Personal Management upon discovery of the error.²

The Office's procedure manual provides that, when an overpayment is identified and calculated, the Office must release, within 30 days, a letter advising the claimant of the fact and amount of the overpayment. The procedure manual states: "The reason that the overpayment

¹ 5 U.S.C. § 8701 *et seq.*

² *Keith H. Mapes*, 56 ECAB ____ (Docket No. 03-1747, issued October 20, 2004).

occurred must be clearly stated in the preliminary decision and the [Office] should provide a clearly written explanation indicating how the overpayment was calculated.”³

ANALYSIS -- ISSUE 1

The Board finds that appellant received an overpayment of compensation that occurred because basic life insurance premiums were not deducted from his compensation payments from October 22, 1998 to December 27, 2003. The case record contains an account of the payments made to appellant for the period November 30 to December 27, 2003 and December 28, 2003 to January 24, 2004, showing no deduction for basic life insurance premium in the earlier payment and a deduction for this premium in the later payment.

The Board further finds that the Office’s May 4, 2004 preliminary determination did not comply with the requirements of the Office’s procedure manual, particularly the requirement of “a clearly written explanation indicating how the overpayment was calculated.” The calculation of the amount of the overpayment is contained in the case record, but there is no indication that this calculation was provided to appellant with the preliminary determination of the overpayment, thereby precluding him from assessing whether the amount of the overpayment stated by the Office was correct. The case will be remanded to the Office for issuance of a new preliminary determination that should include how the overpayment was calculated.

CONCLUSION

The Board finds that appellant received an overpayment of compensation that occurred because basic life insurance premiums were not deducted from his compensation payments from October 22, 1998 to December 27, 2003, but the case is remanded to the Office for issuance of a new preliminary determination that should include how the overpayment was calculated.⁴

³ Federal (FECA) Procedure Manual, Part 6 -- Debt Management, *Initial Overpayment Actions*, Chapter 6.200.4a (May 2004).

⁴ As this new preliminary determination will allow appellant to request waiver and present financial information in support thereof, the Board will not address the issue of whether waiver was properly denied.

ORDER

IT IS HEREBY ORDERED THAT the June 4, 2004 decision of the Office of Workers' Compensation Programs is affirmed with regard to the existence of an overpayment of compensation. The June 4, 2004 Office decision is set aside with regard to all other issues and the case remanded to the Office for action consistent with this decision of the Board.

Issued: March 1, 2005
Washington, DC

Colleen Duffy Kiko
Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member