



did not meet its burden of proof that appellant forfeited compensation for the period July 19, 2001 to July 13, 2002.<sup>1</sup>

On remand, the Office calculated the amount of the overpayment for the period April 19, 2000 to July 19, 2001. On September 2, 2005 it issued a preliminary finding that an overpayment in compensation in the amount of \$34,589.82 had been created.<sup>2</sup> The Office explained its calculation of the overpayment, showing that from April 19 to 22, 2000 appellant received compensation in the amount of \$299.43, from April 23, 2000 to March 24, 2001, \$25,152.00, from March 25 to July 14, 2001, \$8,668.00, and from July 15 to 19, 2001, \$386.96, with additional compensation of \$60.86 and \$22.57 for cost-of-living increases, to total \$34,589.82.<sup>3</sup> Appellant disagreed with the preliminary finding and submitted a September 10, 2005 letter in which a certified public accountant, Orville E. Abrams, Jr., recalculated the overpayment for the period April 19 through July 19, 2000. By decision dated October 4, 2005, the Office finalized the overpayment decision.

### **LEGAL PRECEDENT**

Section 8102(a) of the Federal Employees' Compensation Act provides that the United States shall pay compensation as specified by this subchapter for the disability or death of an employee resulting from personal injury sustained while in the performance of his duty.<sup>4</sup> A claimant, however, is not entitled to receive temporary total disability and actual earnings for the same period.<sup>5</sup> The Office procedures provide that an overpayment in compensation is created when a claimant returns to work and continues to receive compensation.<sup>6</sup>

### **ANALYSIS**

The only issue in this case is whether the Office properly determined that the amount of overpayment in compensation for the period April 19, 2000 to July 19, 2001 was \$34,589.92.

Regarding appellant's argument that the period of the overpayment is incorrect, the Board notes that the prior February 11, 2005 decision contains typographical errors regarding the

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<sup>1</sup> Docket No. 04-1735.

<sup>2</sup> The Office had previously issued both preliminary and final overpayment decisions on June 29 and July 29, 2005 respectively that were apparently mailed to an incorrect address. On August 17 and 24, 2005 the Office issued preliminary findings that an overpayment in the amount of \$34,593.32 had been created. In the preliminary determination dated September 2, 2005, the amount of the overpayment was reduced to \$34,589.82.

<sup>3</sup> The Office also found appellant at fault in the creation of the overpayment. The Board, in its February 11, 2005 decision, found that appellant was at fault in the creation of an overpayment in compensation for the period April 19, 2000 to July 19, 2001.

<sup>4</sup> 5 U.S.C. § 8102(a).

<sup>5</sup> *Donna M. Rowan*, 54 ECAB 698 (2003).

<sup>6</sup> Federal (FECA) Procedure Manual, Part 6 -- Debt Management, *Initial Overpayment Actions*, Chapter 6.200.2(a) (September 1994).

dates of the forfeiture periods. However, the Board found that the period of forfeiture was from April 19, 2000 to July 19, 2001.

Computer print-outs in the record demonstrate that for the period April 19, 2000 to July 19, 2001, appellant received total compensation of \$34,589.82, specifically showing that from April 19 to 22, 2000 he received compensation in the amount of \$299.43, from April 23, 2000 to March 24, 2001, \$25,152.00, from March 25 to July 14, 2001, \$8,668.00, and from July 15 to 19, 2001, \$386.96, with additional compensation of \$60.86 and \$22.57 for cost-of-living increases, to total \$34,589.82. The Board previously affirmed the Office finding that appellant had forfeited compensation for this period and thus received an overpayment in compensation for which he was at fault. The record supports that the amount of compensation appellant received for this period totaled \$34,589.82. The Board finds that the Office properly determined that an overpayment in compensation in the amount of \$34,589.82 was created.<sup>7</sup>

### **CONCLUSION**

The Board finds that the Office properly found that an overpayment in the amount of \$34,589.82 had been created for the period April 19, 2000 to July 19, 2001.

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<sup>7</sup> See Federal (FECA) Procedure Manual, *supra* note 6.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated October 4, 2005 be affirmed.

Issued: July 7, 2006  
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