



wrist and forearm and traumatic synovitis of both knees. Effective August 29, 2001 appellant was placed on the periodic compensation rolls in receipt of compensation for temporary total disability.

Appellant submitted a completed copy of Office Form EN1032, dated July 14, 2002, regarding her employment for the previous 15 months. She indicated that she had not worked for any employer or was self-employed for that period. In a Form EN1032 dated February 21, 2003, appellant indicated that she had been employed as a custodian by the Prince George's County, Maryland school system from July 2001 to September 2002. She indicated that she was employed by the Washington Metropolitan Area Transit Authority beginning September 2002.

On March 1, 2004 appellant pled guilty in federal court to making false statements to obtain federal employee compensation under 18 U.S.C. § 1920.

By decision dated September 2, 2004, the Office terminated appellant's compensation and medical benefits effective March 1, 2004, the date of her conviction. It found that she was not entitled to receive such benefits under 5 U.S.C. § 8148 because she had been convicted of fraud relating to her receipt of compensation benefits.

Appellant requested an oral hearing which was held on July 13, 2005.

By decision dated September 27, 2005, an Office hearing representative affirmed the September 2, 2004 decision.

### **LEGAL PRECEDENT**

Section 8148(a) of the Act<sup>1</sup> states:

“Any individual convicted of a violation of section 1920 of [T]itle 18 or any other Federal or State criminal statute relating to fraud in the application for or receipt of any benefit under this subchapter or subchapter III of this chapter, shall forfeit (as of the date of such conviction) any entitlement to any benefit such individual would otherwise be entitled to under this subchapter or subchapter III of this chapter for any injury occurring on or before the date of such conviction. Such forfeiture shall be in addition to any action the Secretary may take under section 8106 or 8129.”

Section 10.17 of the implementing federal regulation provides as follows:

“When a beneficiary pleads guilty to or is found guilty on either Federal or State criminal charges of defrauding the Federal Government in connection with a claim for benefits, the beneficiary's entitlement to any further compensation

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<sup>1</sup> 5 U.S.C. § 8148(a).

benefits will terminate effective the date of either the guilty plea is accepted or a verdict of guilty is returned after trial.”<sup>2</sup>

Public Law 103-112, 107 Stat. 1089, enacted on October 21, 1993, prohibits individuals who have been convicted of fraud related to their compensation claims from receiving further benefits paid under the Act. Subsequently, Public Law 103-333, enacted on September 30, 1994, added section 8148, which provides for: (a) the termination of benefits payable to beneficiaries who have been convicted of defrauding the program; and (b) the suspension of benefits payable to beneficiaries imprisoned as a result of a felony conviction.<sup>3</sup>

Office procedures require that, to support termination or suspension of benefits under section 8148, the evidence must establish: (1) the individual was convicted; and (2) the conviction is related to the claim for or receipt of benefits under the Act.<sup>4</sup> The effective date of termination in fraud cases under section 8148(a) is the date of conviction, which is the date of the verdict or, in cases of a plea agreement, the date the claimant made the plea in open court (not the date of sentencing or when court papers were signed).<sup>5</sup> Due to the nature of the termination involving fraud, no pretermination notice is required before issuing a final decision.<sup>6</sup>

### ANALYSIS

The record establishes that appellant pled guilty on March 1, 2004 in federal court to committing fraud in connection with her receipt of benefits under the Act in violation of 18 U.S.C. § 1920. The Board notes that, under the terms of the statute, appellant forfeited her entitlement to compensation benefits following her March 1, 2004 guilty plea. For this reason, the Office properly terminated appellant’s compensation benefits under section 8148(a) of the Act.

### CONCLUSION

The Board finds that the Office properly terminated appellant’s compensation effective March 1, 2004, the date of her conviction for fraud, under section 8148 of the Act.

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<sup>2</sup> 20 C.F.R. § 10.17.

<sup>3</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Disallowances*, Chapter 2.1400.12(a) (March 1997). *See* 5 U.S.C. § 8148.

<sup>4</sup> *Id.* at Chapter 2.1400.12(d).

<sup>5</sup> *Id.* at Chapter 2.1400.12(e)(1).

<sup>6</sup> *Terry A. Keister*, 56 ECAB \_\_\_\_ (Docket No. 04-1136, issued May 23, 2005); *Jorge E. Sotomayor*, 52 ECAB 105 (2000).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated September 27, 2005 is affirmed.

Issued: July 13, 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