

hearing with the Office's Branch of Hearings and Review. By decision dated May 10, 2010, the Office finalized the preliminary overpayment and fault finding.

The Board has duly considered the matter and finds that the case is not in posture for decision. Following the Office's April 6, 2010 preliminary overpayment finding, appellant timely requested a prerecoumment hearing on April 14, 2010.³ The prerecoumment hearing, however, was not held prior to the issuance of the Office's May 10, 2010 decision.⁴ Under these circumstances, where appellant timely requested a prerecoumment hearing within 30 days and the Office issued its May 10, 2010 final overpayment decision without properly addressing appellant's request, the May 10, 2010 decision was premature. The case must be remanded for the Office to respond to appellant's request for a prerecoumment hearing regarding the overpayment of compensation.⁵

IT IS HEREBY ORDERED THAT the May 10, 2010 decision of the Office of Workers' Compensation Programs be set aside and the case remanded for action consistent with this order of the Board.

Issued: May 25, 2011
Washington, DC

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

Alec J. Koromilas, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

³ See 20 C.F.R. § 10.432.

⁴ After appellant filed her appeal on June 7, 2010, the record indicates that the Office held a prerecoumment hearing on July 30, 2010. On November 16, 2010 the Office issued a new decision finalizing its overpayment and fault determination. Under the principles set forth in *Douglas E. Billings*, 41 ECAB 880 (1990), the Office's November 16, 2010 decision, issued while the Board has jurisdiction over the matter in dispute, is null and void.

⁵ *Willie C. Howard*, 55 ECAB 564, 569 (2004).