

**United States Department of Labor  
Employees' Compensation Appeals Board**

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<b>E.P., Appellant</b>	)	
	)	
<b>and</b>	)	<b>Docket No. 11-1553</b>
	)	<b>Issued: September 27, 2011</b>
<b>DEPARTMENT OF VETERANS AFFAIRS,</b>	)	
<b>VETERANS HEALTH ADMINISTRATION</b>	)	
<b>MEDICAL CENTER, Richmond, VA, Employer</b>	)	
	)	

*Appearances:*  
Theresa Nicole Ferguson, for the appellant  
Office of Solicitor, for the Director

*Case Submitted on the Record*

**ORDER GRANTING REQUEST FOR ORAL ARGUMENT**

Before:  
RICHARD J. DASCHBACH, Chief Judge  
ALEC J. KOROMILAS, Judge  
COLLEEN DUFFY KIKO, Judge

By application postmarked June 15, 2011, appellant filed for review of a December 17, 2010 merit decision in which an Office of Workers' Compensation Programs' (OWCP) hearing representative finalized a preliminary overpayment determination dated April 6, 2010. The Board docketed the appeal as No. 11-1553. Appellant submitted a timely request for oral argument and arguments she believed merited consideration by the Board.

The Board has duly considered the matter and finds that appellant's request for oral argument should be granted. Pursuant to 20 C.F.R. § 501.5(a), oral argument may be held in the discretion of the Board. In the present appeal, appellant's request was timely filed and a need for oral argument was advanced.

On January 9, 1988 appellant sustained an injury to her right leg that was accepted for leg sprain and osteoarthritis. She was placed on the period compensation rolls at the augmented rate. Appellant's husband died on September 2, 2004 and she informed OWCP of his death at that time. On April 10, 2010 OWCP issued a preliminary determination, finding appellant at fault in the creation of an overpayment of \$8,083.40 because she received compensation at the augmented rate for the period September 3, 2004 through August 8, 2008, after the death of her dependent husband. By decision dated December 17, 2010, an OWCP hearing representative

finalized the preliminary determination. She found that as appellant was at fault she was not entitled to waiver, and set a repayment schedule at the rate of \$73.00 each compensation period.<sup>1</sup>

In support of the request for oral argument, appellant stated that she had limited financial means and would like to explain her situation in person. The Board, in its discretion, grants oral argument.

**IT IS HEREBY ORDERED THAT** appellant's request for oral argument in Docket No. 11-1553 be granted.

Issued: September 27, 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

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<sup>1</sup> OWCP had previously issued a preliminary determination on September 12, 2008 in which it found that appellant was without fault in the creation of the overpayment. By decision dated June 24, 2009, an OWCP hearing representative set aside the preliminary determination and remanded the case to OWCP to review the September 12, 2008 preliminary decision on the issue of fault and issue a *de novo* preliminary determination.