

prerecoupment hearing. Instead, on September 9, 2011 it held a telephone conference with a claims examiner. By decision dated September 9, 2011, OWCP determined that appellant received an overpayment of compensation in the amount of \$4,080.50 because it did not deduct health benefit premiums from May 31, 2010 through July 22, 2011. It further determined that he was at fault creating the overpayment and thus it could not be waived.

OWCP is required to follow certain procedures in overpayment cases. Section 10.432 provides that the recipient of an alleged overpayment may present evidence in response to OWCP's preliminary notice, either in writing or at a prerecoupment hearing requested within 30 days.² As appellant timely requested a telephone prerecoupment hearing within 30 days of the August 2, 2011 preliminary determination and OWCP issued its September 9, 2011 final overpayment decision without properly addressing his request, the Board concludes that the September 9, 2011 decision was premature.³ The case must be remanded to OWCP to respond to his request for a prerecoupment hearing regarding the overpayment of compensation.⁴ Following this and such other development as deemed necessary, OWCP shall issue a *de novo* decision.

² 20 C.F.R. § 10.432.

³ The Board notes that OWCP, in the September 9, 2011 decision, inappropriately changed its preliminary finding that appellant was without fault to a finding that he was at fault without providing proper notice; *see* 20 C.F.R. § 10.431(b). OWCP further changed the amount and period of the overpayment; however, it appears that may have been a typographical error.

⁴ *See Willie C. Howard*, 55 ECAB 564 (2004).

IT IS HEREBY ORDERED THAT the September 9, 2011 decision of the Office of Workers' Compensation Programs is set aside and the case remanded for further proceedings consistent with this order of the Board.

Issued: May 9, 2012
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