

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

B.M., Appellant)	
)	
and)	Docket No. 13-1949
)	Issued: January 13, 2014
U.S. POSTAL SERVICE, POST OFFICE, Houston, TX, Employer)	
)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
RICHARD J. DASCHBACH, Chief Judge
PATRICIA HOWARD FITZGERALD, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On August 23, 2013 appellant filed a timely appeal from the August 13, 2013 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether OWCP properly determined the method of recovery for the \$25,846.55 overpayment of compensation received by appellant.

FACTUAL HISTORY

OWCP accepted that on November 6, 2001 appellant, then a 37-year-old letter carrier, sustained lumbar and cervical strains and aggravation of degenerative disc disease of the thoracic and thoracolumbar spine due to delivering mail. Appellant alternatively received wage-loss compensation on the supplemental and periodic rolls for various periods.

¹ 5 U.S.C. §§ 8101-8193.

In a July 10, 2013 letter, OWCP made a preliminary determination that appellant received a \$25,846.55 overpayment of compensation because she returned to work for eight hours a day on August 29, 2008 (after working six hours per day) but continued to receive wage-loss compensation for two hours a day through March 9, 2013. It also made a preliminary determination that she was at fault in the creation of the overpayment because she knew or should have known that she could not receive such dual payments. OWCP provided appellant 30 days from the date of the letter to challenge the overpayment and requested that she complete and return a financial questionnaire. Appellant requested waiver of the overpayment and submitted a completed overpayment questionnaire which was received by OWCP on August 1, 2013.

In an August 13, 2013 decision, OWCP determined that appellant received a \$25,846.55 overpayment of compensation because she received a dual payment of wage-loss compensation after returning to full-time work. It found that she was at fault in the creation of the overpayment, thereby precluding waiver of recovery of the overpayment. Regarding the method of recovery of the overpayment, OWCP stated:

“Please forward payment for the full amount of \$25,846.55. Payment is due within 30 days from the date of this letter. If you are unable to refund the entire overpayment immediately, please contact this office within 30 days so that appropriate arrangements for recovery (such as installment payments) can be made.”

LEGAL PRECEDENT

The Board’s jurisdiction over recovery of an overpayment is limited to reviewing those cases where OWCP seeks recovery from continuing compensation under FECA.² Section 10.441(a) of the regulations provide:

“When an overpayment has been made to an individual who is entitled to further payments, the individual shall refund to [OWCP] the amount of the overpayment as soon as the error is discovered or his or her attention is called to same. If no refund is made, [OWCP] shall decrease later payments of compensation, taking into account the probable extent of future payments, the rate of compensation, the financial circumstances of the individual, and any other relevant factors, so as to minimize any hardship.”³

ANALYSIS

On appeal, appellant has not contested her overpayment of compensation with respect to the findings pertaining to fact, amount, fault or denial of waiver. Rather, she has contested the method of recovery of the overpayment indicating that she is unable to repay “the full amount at one time.”

² *Lorenzo Rodriguez*, 51 ECAB 295 (2000).

³ 20 C.F.R. § 10.441(a).

At the time of OWCP's overpayment determination appellant was not receiving compensation from OWCP. She last received OWCP compensation on March 9, 2013. Therefore, the Board does not have jurisdiction over the issue of whether OWCP properly determined the method of recovery for the \$25,846.55 overpayment received by appellant.⁴ Furthermore, OWCP's August 13, 2013 decision does not make a final determination regarding repayment of the overpayment.

CONCLUSION

The Board finds that the Board does not have jurisdiction over the issue of whether OWCP properly determined the method of recovery for the \$25,846.55 overpayment of compensation received by appellant.

ORDER

IT IS HEREBY ORDERED THAT the August 13, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 13, 2014
Washington, DC

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

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

⁴ See *Levon H. Knight*, 40 ECAB 658 (1989); *Robert N. Vachon*, 36 ECAB 502 (1985).