

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

C.G., Appellant)

and)

SOCIAL SECURITY ADMINISTRATION,)
OFFICE OF HEARINGS & APPEALS,)
Boston, MA, Employer)

Docket No. 13-1145
Issued: May 22, 2014

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

Case Submitted on the Record

ORDER REMANDING CASE

Before:

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

On April 11, 2013 appellant filed an application for review of a December 21, 2012 decision of the Office of Workers' Compensation Programs (OWCP) denying waiver of an overpayment of compensation for which she was not at fault. The appeal was docketed as number 13-1145.

Having reviewed the case record submitted by OWCP, the Board finds that this case is not in posture for a decision. On September 5, 2012 OWCP issued a preliminary finding of overpayment in the amount of \$3,072.00 for the period May 6 to July 28, 2012 because appellant received wage-loss compensation after she returned to work full time.¹ It advised appellant that she could request a telephone conference, a final decision based on the written evidence only, or a hearing within 30 days of the date of the letter if she disagreed as to the fact or amount of the overpayment, the finding of fault with regards to the overpayment, or if she believed that recovery of the overpayment should be waived.

On October 1, 2012 OWCP received a signed overpayment action request form from appellant dated September 24, 2012. Appellant requested a telephone conference on the issues

¹ On May 6, 2012 appellant returned to work full time with no restrictions. Beginning May 6, 2012, OWCP disbursed periodic rolls payments, which covered the following periods: May 6 to June 2; June 3 to 30; and July 1 to 28, 2012. Each payment was in the net amount of \$1,024.00. For the period May 6 to July 28, 2012, appellant received net wage-loss compensation totaling \$3,072.00.

of fault and possible waiver of the overpayment. She included a completed overpayment recovery questionnaire, as well as bank statements and credit reports. The Board notes that a telephone conference was not conducted. On December 4, 2012 OWCP received additional financial information from appellant including social security and rent records. It issued a final decision on December 5, 2012 finding that appellant had not submitted financial information to support a request for waiver. By decision dated December 21, 2012, OWCP voided its December 5, 2012 decision. It again denied waiver finding that appellant had not provided proof of financial obligations, other than rent.

The Board finds that this case is not in posture for a decision with regard to the issue of waiver of overpayment of compensation as OWCP's December 21, 2012 overpayment decision was improperly issued.² In the case of *William A. Couch*,³ the Board held that, when adjudicating a claim, OWCP is obligated to consider all evidence properly submitted by a claimant and received by OWCP before the final decision is issued. In the present case, OWCP has not reviewed the financial information appellant submitted on October 1, 2012, which included bank and credit bureau statements. For this reason, the case will be remanded to OWCP for findings regarding all of the financial information. After such further development as deemed necessary, OWCP shall issue an appropriate decision.

IT IS HEREBY ORDERED THAT the December 21, 2012 overpayment decision of the Office of Workers' Compensation Programs be set aside. The case is remanded for further action consistent with this order of the Board.⁴

Issued: May 22, 2014
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge
Employees' Compensation Appeals Board

² See *D.G.*, Docket No. 11-650 (issued September 28, 2011).

³ 41 ECAB 548 (1990).

⁴ Richard J. Daschbach, Chief Judge, who participated in the preparation of this order, was no longer a member of the Board after May 16, 2014.