

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

C.C., Appellant)

and)

U.S. POSTAL SERVICE, MAIN POST OFFICE,)
Island Lake, IL, Employer)

**Docket No. 14-392
Issued: May 13, 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
ALEC J. KOROMILAS, Alternate Judge
MICHAEL E. GROOM, Alternate Judge

On December 9, 2013 appellant filed a timely appeal from a November 25, 2013¹ merit decision of the Office of Workers' Compensation Programs (OWCP) concerning an overpayment of compensation. The Board assigned Docket No. 14-392.

In a November 25, 2013 decision, OWCP found that appellant received an overpayment of compensation in the amount of \$735.82 from August 14 through 24, 2013 because he continued to receive total disability compensation after his return to work. It further found that, although he was without fault in the creation of the overpayment, waiver of recovery of the overpayment was not warranted.² OWCP stated, "The reasons for this decision are explained in

¹ Appellant indicated that he was appealing an October 7, 2013 decision. The Board notes, however, that the record does not contain a final decision issued on October 7, 2013. An October 7, 2013 preliminary determination that appellant was without fault in the creation of an overpayment of compensation is of record thereby demonstrating that the case was in an interlocutory posture as of that date and did not constitute a final adverse OWCP decision issued under the Federal Employees' Compensation Act. *See* 20 C.F.R. §§ 501.2(c)(2) and 501.3(a).

² The Board notes that OWCP also determined that appellant was at fault in the creation of the overpayment because "You knowingly accepted a job offer (signed by you) while in receipt of temporary total compensation for the period of August 14 to 24, 2013 and returned to work on August 14, 2013; this is considered a dual benefit...."

the enclosed memorandum.” However, the attached memorandum did not contain any explanation for why it denied waiver of recovery of the overpayment.

The Board has duly considered the matter and finds that the record does not contain a complete copy of OWCP’s November 25, 2013 decision. As such, the Board cannot review OWCP’s basis for denying waiver of recovery of the overpayment. The Board finds, therefore, that this case is not in posture for decision as the record before it is incomplete and would not permit an informed adjudication of the case by the Board. The case must therefore be remanded to OWCP for reconstruction and proper assemblage of the record, to be followed by a *de novo* decision on the merits of the claim to protect appellant’s appeal rights.

IT IS HEREBY ORDERED THAT the decision of the Office of Workers’ Compensation Programs dated November 25, 2013 is set aside and the case remanded for further proceedings consistent with this order of the Board.

Issued: May 13, 2014
Washington, DC

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

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

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