

found that appellant had abandoned her request for a hearing. The decision noted that the record contained no indication that she contacted OWCP either prior or subsequent to the scheduled hearing to explain her failure to appear.

On appeal, appellant asserts that she did not receive the notice of hearing. The Board has duly considered the matter and finds that the case is not in posture for decision as the record supports that the Branch of Hearings and Review failed to properly issue the notice of hearing.

OWCP regulations and procedures provide that the Branch of Hearing and Review shall mail appropriate written notice 30 days prior to a scheduled hearing.² Under the mailbox rule, it is presumed, in the absence of evidence to the contrary, that a notice properly mailed to an individual in the ordinary course of business was received by that individual. This presumption arises where it appears from the record that the notice was properly addressed and duly mailed.³ The presumption of receipt does not apply where a notice is sent to an incorrect address.⁴ As the January 2, 2014 notice of hearing, was not properly mailed (lacking the zip code), the Board finds that appellant was not provided proper notice of her hearing under section 10.617(b) of its regulations.

Thus, the case will be remanded to reschedule the hearing, giving her proper notice.⁵

² 20 C.F.R. § 10.622(c); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Determining Pay Rates*, Chapter 2.1601.6.b (March 2011).

³ *M.U.*, Docket No. 09-526 (issued September 14, 2009).

⁴ *Id.*

⁵ The Board notes that, based on the posture of this order, it would be premature to address the merits of appellant's recurrence claim.

IT IS HEREBY ORDERED THAT the March 11, 2014 decision of the Office of Workers' Compensation Programs is set aside and the case remanded to OWCP for further action in conformance with this order of the Board.

Issued: November 25, 2014
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board