



2014 decision, OWCP denied appellant's claim for recurrence of disability, finding that the evidence was insufficient to establish the withdrawal of her limited-duty position.

By letter dated February 25, 2015, OWCP advised appellant of a preliminary determination that she had received an overpayment of \$5,289.43 from August 26 to October 19, 2013 as she was paid disability compensation after her return to "full-time" work on August 26, 2013. It stated that she received compensation in the amount of \$2,596.63 for the period August 25 to September 21, 2013 and \$2,692.80 for the period September 22 to October 19, 2013, which yielded an overpayment of \$5,289.43. It found appellant at fault in its creation because she was aware or should have reasonably been aware that she accepted payments for total disability after returning to work. OWCP afforded her 30 days to submit financial information and to request either a telephone conference, decision on the written evidence, or a precoupment hearing.

Appellant did not respond to the preliminary overpayment determination. On April 9, 2015 OWCP finalized the determination that she was at fault in the creation of the \$5,289.43 overpayment because she knew or reasonably should have known that she was not entitled to compensation after returning to work. It noted that appellant had not responded to the preliminary determination. OWCP requested that she repay the full amount of the overpayment within 30 days.

In letters received by OWCP on July 30, 2015, appellant, through counsel, requested a precoupment hearing on the overpayment decision, requested reconsideration of the October 1, 2014 OWCP decision denying appellant's claim for recurrence, and requested a copy of the record. Counsel noted that on August 26, 2013 appellant had only returned to part-time work, four hours a day and that she worked only for about one week before the position was withdrawn. He asserted that the amount of the overpayment would have been nominal as it should have only included four or five days of part-time work.

In an August 26, 2015 decision, OWCP's Branch of Hearings and Review denied appellant's request for a precoupment hearing as untimely. It found that she had not requested a hearing within 30 days after the February 25, 2015 preliminary overpayment determination, and that a final overpayment decision was not subject to the hearing provision of 5 U.S.C. § 8124(b).

The Board finds that the issues concerning the overpayment decision are not in posture for decision. Appellant's claim that she sustained a recurrence of disability, commencing August 29, 2013, bears on the issue of fact and amount of overpayment. On July 30, 2015 appellant requested reconsideration of the October 1, 2014 decision denying her recurrence claim. OWCP had not issued a decision with regard to that request for reconsideration when appellant filed this appeal.

A final decision on the recurrence claim is critical to any decision on fact or amount of overpayment in this case. At the time of the filing of this appeal, the issue on appeal is not ripe for decision.<sup>1</sup> Accordingly, this case will be remanded for further development.

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<sup>1</sup> 20 C.F.R. § 501.2(c)(2).

**IT IS HEREBY ORDERED THAT** the decisions of the Office of Workers' Compensation Programs dated August 25 and April 9, 2015 are set aside and the case is remanded for further action consistent with this order.

Issued: April 18, 2016  
Washington, DC

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

Patricia H. Fitzgerald, Deputy Chief Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board