



received an overpayment of compensation for which she was at fault.<sup>2</sup> The Board affirmed OWCP's finding that she received an overpayment of \$13,319.36 when it electronically transferred compensation owed to another claimant into her bank account. The Board determined, however, that appellant was not at fault in creating the overpayment and remanded the case for OWCP to consider whether she was entitled to waiver of recovery of the overpayment based on current financial information. The facts and circumstances as set forth in the prior decision are incorporated herein by reference.

On June 15, 2015 OWCP requested that appellant submit an overpayment recovery questionnaire (Form OWCP-20) with supporting documentation so that it could evaluate whether she was entitled to waiver of recovery of the overpayment. It did not provide a deadline for submission of the information. OWCP indicated that it was enclosing a blank Form OWCP-20 with its letter.

In a decision dated August 10, 2015, OWCP denied waiver of the \$13,319.36 overpayment of compensation. It found that appellant had not responded to its request for current financial information. OWCP determined that it would recover the overpayment by deducting \$200.00 from her continuing compensation payments.

On appeal appellant contends that OWCP's June 15, 2015 letter did not advise her that she only had 30 days to submit the requested information. She asserts that repaying the overpayment would cause severe financial hardship.

### **LEGAL PRECEDENT -- ISSUE 1**

OWCP's regulations provide that, before seeking to recover an overpayment or adjust benefits, it will advise the individual in writing that the overpayment exists and the amount of the overpayment.<sup>3</sup> The written notification must also include a preliminary finding regarding whether the individual was at fault in the creation of the overpayment.<sup>4</sup> OWCP must inform the individual of his or her right to challenge the fact or amount of the overpayment, the right to contest the preliminary finding of fault in the creation of the overpayment, if applicable, and the right to request a waiver of recovery of the overpayment.<sup>5</sup> OWCP's procedures provide that a preliminary finding of overpayment must be provided within 30 days and must clearly identify the reason that the overpayment occurred and the basis for any fault finding.<sup>6</sup>

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<sup>2</sup> Docket No. 14-1730 (issued April 13, 2015). OWCP accepted that on September 13, 2011 appellant, then a 50-year-old city carrier, sprained her left ankle in the performance of duty. It paid her disability compensation beginning October 29, 2011.

<sup>3</sup> 20 C.F.R. § 10.431(a).

<sup>4</sup> *Id.* at § 10.431(b).

<sup>5</sup> *Id.* at § 10.431(d).

<sup>6</sup> Federal (FECA) Procedure Manual, Part 6 -- Debt Management, *Initial Overpayment Actions*, Chapter 6.200.4(a)(1) (May 2004).

OWCP's procedures provide, "*If the claimant is determined to be without fault, Form CA-2202 must be released (along with an OWCP-20) within 30 days of the date the overpayment is identified.*"<sup>7</sup> (Emphasis in the original.)

OWCP's procedures further specify, "Form CA-2202 also informs the claimant of the right to submit additional evidence and argument, if the claimant disagrees with the fact or amount of the overpayment and if the claimant feels the overpayment should be waived. Additional evidence and arguments must be submitted by the claimant within 30 days of the date of the letter."<sup>8</sup>

### **ANALYSIS -- ISSUE 1**

On prior appeal, the Board set aside OWCP's finding that appellant was at fault in the creation of an overpayment of \$13,319.36. The Board remanded the case for OWCP to consider waiver of the overpayment after obtaining current financial information.

In a letter dated June 15, 2015, OWCP requested that appellant complete and return an enclosed overpayment recovery questionnaire (Form CA-20) with supporting documentation so that it could consider waiver of the overpayment. It, however, did not inform her that, in accordance with its procedures, she must submit any evidence or argument in support of waiver within 30 days.<sup>9</sup> Consequently, as OWCP did not comply with its procedures, the case will be remanded for OWCP to provide appellant with a Form OWCP-20 with notice of the 30-day time limitation prior to determining whether she is entitled to waiver of recovery of the overpayment.

### **CONCLUSION**

The Board finds that the case is not in posture for decision regarding whether OWCP properly denied waiver of the overpayment.<sup>10</sup>

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<sup>7</sup> *Id.*

<sup>8</sup> *Id.* at Chapter 6.200.4(a)(2) (May 2004).

<sup>9</sup> *Id.*

<sup>10</sup> In view of the Board's determination regarding waiver of the overpayment, it is premature to address whether OWCP properly determined that the overpayment should be repaid by withholding \$200.00 per month from continuing compensation.

**ORDER**

**IT IS HEREBY ORDERED THAT** the August 10, 2015 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this opinion of the Board.

Issued: May 3, 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