

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

B.H., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Fort Worth, TX, Employer**

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**Docket No. 15-0878
Issued: September 28, 2016**

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

Case Submitted on the Record

ORDER REMANDING CASE

Before:

PATRICIA H. FITZGERALD, Deputy Chief Judge
COLLEEN DUFFY KIKO, Judge
ALEC J. KOROMILAS, Alternate Judge

On March 13, 2015 appellant filed a timely appeal from October 21, 2014 and November 21, 2014 merit decisions of the Office of Workers' Compensation Programs (OWCP). The appeal was docketed as No. 15-0878.

The Board has reviewed the record and finds that the case is not in posture for decision and must be remanded to OWCP. The record indicates that by decision dated October 21, 2014, OWCP found appellant forfeited compensation as he had pled guilty to making false statements to obtain compensation benefits under 18 U.S.C. § 1920. It referred to appellant filing CA-7 forms in six different OWCP claim numbers. In a separate decision dated October 21, 2014, OWCP found appellant was not entitled to compensation after March 24, 2014, due to his guilty plea. On October 21, 2014 it issued a preliminary determination that an overpayment of \$47,841.70 was created. OWCP referred to five different OWCP claims for which appellant had received compensation in determining the amount of the overpayment. The basis for the overpayment of compensation was a finding that appellant had pled guilty to violating 18 U.S.C. § 1920 and that the plea had been accepted on March 21, 2014. By decision dated November 21, 2014, OWCP finalized a finding that an overpayment of \$47,841.70 was created, and appellant was at fault in creating the overpayment.

While the current OWCP file is a master file with some subsidiary files, not all of the different claim files identified by OWCP had been properly combined under a master file. The record before the Board is incomplete and would not permit an informed adjudication of the case by the Board. It is necessary to review all of the identified claims in order to properly adjudicate the forfeiture and overpayment issues. The Board also notes that while OWCP found the court had accepted the guilty plea, the March 21, 2014 document in the record is a recommendation to accept the plea. On appeal, appellant has indicated that additional action has occurred with respect to legal proceedings.

The case will be remanded to OWCP. On return of the case record, OWCP should administratively combine all of the claims identified in the forfeiture and overpayment decisions. It should consider all of the relevant current evidence, and issue appropriate decisions that protect appellant's appeal rights with respect to forfeiture, termination of compensation, overpayment, and finding of fault.

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated November 21 and October 21, 2014 are set aside and the case remanded to OWCP for further action consistent with this order of the Board.

Issued: September 28, 2016
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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