

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

D.B., Appellant)	
)	
)	
and)	Docket No. 25-0501
)	Issued: June 2, 2025
U.S. POSTAL SERVICE, DOMINICK V. DANIELS PROCESSING & DISTRIBUTION CENTER, Kearny, NJ, Employer)	
)	
)	

Appearances:

Appellant, pro se

Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge

PATRICIA H. FITZGERALD, Deputy Chief Judge

VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On April 23, 2025 appellant filed a timely appeal from a February 24, 2025 nonmerit decision of the Office of Workers' Compensation Programs (OWCP). As more than 180 days has elapsed from the last merit decision, dated July 13, 2020 to the filing of this appeal, pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board lacks jurisdiction to review the merits of this case.²

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that, following the February 24, 2025 decision, OWCP received additional evidence. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

ISSUE

The issue is whether OWCP properly denied appellant's request for a prerecoupment hearing as untimely filed.

FACTUAL HISTORY

On October 12, 2006 appellant, then a 50-year-old mail handler, filed a traumatic injury claim (Form CA-1) alleging that on October 5, 2006 she injured her lower back when pushing a wire container full of bundled magazines while in the performance of duty. She stopped work on October 12, 2006. OWCP accepted the claim for lumbar radiculopathy. It paid appellant wage-loss compensation on the supplemental rolls commencing November 26, 2006, and on the periodic rolls commencing September 30, 2007.

On January 13, 2025 OWCP advised appellant of its preliminary overpayment determination that she had received an overpayment of compensation in the amount of \$51,896.44 for the period October 1, 2022 through November 2, 2024 because she concurrently received FECA wage-loss compensation and Social Security Administration (SSA) age-related retirement benefits without an appropriate offset. It also made a preliminary determination that she was without fault in the creation of the overpayment. OWCP requested that appellant submit a completed overpayment recovery questionnaire (Form OWCP-20), along with supporting financial documentation, to determine a reasonable recovery method, and advised her that she could request waiver of recovery of the overpayment. Additionally, it provided an overpayment action request form and notified her that, within 30 days of the date of the letter, she could request a final decision based on the written evidence or a prerecoupment hearing.

In an overpayment action request form dated January 30, 2025, and postmarked February 13, 2025, appellant requested a prerecoupment hearing before a representative of OWCP's Branch of Hearings and Review.

By decision dated February 24, 2025, OWCP's Branch of Hearings and Review denied appellant's prerecoupment hearing request, finding that it was not made within 30 days of the January 13, 2025 preliminary overpayment determination and was therefore untimely filed.

LEGAL PRECEDENT

OWCP's regulations provide that a claimant may request a prerecoupment hearing with respect to an overpayment.³ The date of the request is determined by the postmark or other carrier's date marking, or the date received in the Employees' Compensation Operations and Management Portal (ECOMP).⁴ Failure to request the prerecoupment hearing within 30 days shall

³ 20 C.F.R. § 10.432.

⁴ *Id.* at §§ 10.439, 10.616(a); *see also* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Hearings and Reviews of the Written Record*, Chapter 2.1601.4a (February 2024).

constitute a waiver of the right to a hearing.⁵ The only right to a review of a final overpayment decision is with the Board.⁶ The hearing provisions of section 8124(b) of FECA do not apply to final overpayment decisions.⁷

ANALYSIS

The Board finds that OWCP properly denied appellant's request for a prerecoupment hearing as untimely filed.

OWCP issued its preliminary overpayment determination on January 13, 2025. It advised appellant that she had 30 days to request a prerecoupment hearing. In an overpayment action request form postmarked February 13, 2025, appellant requested a prerecoupment hearing before a representative of OWCP's Branch of Hearings and Review. The 30th day following OWCP's January 13, 2025 preliminary overpayment determination was February 12, 2025. There is no provision in FECA or its regulations which allows an exception to the 30-day time limitation for requesting a prerecoupment hearing.⁸ Since the February 13, 2025 request for a prerecoupment hearing was made more than 30 days after the January 13, 2025 preliminary overpayment determination, it was untimely.⁹ OWCP thus properly denied appellant's request for a prerecoupment hearing.¹⁰

CONCLUSION

The Board finds that OWCP properly denied appellant's request for a prerecoupment hearing as untimely filed.

⁵ *Id.* at § 10.432; *see also* D.C., Docket No. 21-0913 (issued December 8, 2023); C.L., Docket No. 22-0349 (issued August 20, 2022); C.R., Docket No. 15-0525 (issued July 20, 2015); *Willie C. Howard*, 55 ECAB 564 (2004).

⁶ *Id.* at § 10.440(b).

⁷ *Id.*

⁸ *Supra* note 6; D.R., Docket No. 19-1885 (issued April 24, 2020).

⁹ 20 C.F.R. §§ 10.439, 10.616(a); *see D.C., supra* note 5; S.G., Docket No. 22-0476 (issued August 11, 2022); A.B., Docket No. 18-1172 (issued January 15, 2019).

¹⁰ *See S.D.*, Docket No. 25-0125 (issued March 5, 2025); E.G., Docket No. 19-0176 (issued February 23, 2021); E.V., Docket No. 17-1328 (issued December 11, 2017). *See also R.U.*, Docket No. 16-0027 (issued March 24, 2017); *Ronald E. Morris*, Docket No. 05-1553 (issued November 23, 2005).

ORDER

IT IS HEREBY ORDERED THAT the February 24, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 2, 2025
Washington, DC

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

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

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board