

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

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<b>B.S., Appellant</b>	)	
	)	
<b>and</b>	)	
	)	<b>Docket No. 23-0393</b>
	)	<b>Issued: April 23, 2026</b>
<b>U.S. POSTAL SERVICE, VALLEY STREAM</b>	)	
<b>POST OFFICE, Valley Stream, NY, Employer</b>	)	
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*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 January 25, 2023 appellant filed a timely appeal from November 22, 2022 and January 6, 2023 merit decisions of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.<sup>2</sup>

**ISSUES**

The issues are: (1) whether OWCP properly determined that appellant forfeited her entitlement to compensation for the period April 6, 2019 through August 13, 2022 because she knowingly failed to report her employment earnings and activities, pursuant to 5 U.S.C.

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

<sup>2</sup> The Board notes that following the January 6, 2023 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.*

§ 8106(b)(2); (2) whether appellant received an overpayment of compensation in the amount of \$107,905.57 for the period April 6, 2019 through August 13, 2022, as she forfeited her entitlement to compensation for that period; (3) whether OWCP properly found appellant at fault in the creation of the overpayment, thereby precluding waiver of recovery of the overpayment; and (4) whether OWCP properly required recovery of the overpayment by deducting \$500.00 from appellant's continuing compensation payments, every 28 days.

### **FACTUAL HISTORY**

On February 4, 2019 appellant, then a 28-year-old carrier technician, filed a traumatic injury claim (Form CA-1) alleging that on that date she sustained knee and back injuries when she tripped and fell over a raised curb while delivering mail in the performance of duty. She stopped work on February 5, 2019. OWCP accepted the claim for abrasion of the left knee; and sprains of the left shoulder, knee, ankle; and strains of the left ankle, knee, shoulder, and lumbar spine. It paid appellant wage-loss compensation on the supplemental rolls effective March 25, 2019, and on the periodic rolls effective June 23, 2019.

Appellant filed claims for compensation (Form CA-7) on April 19, May 6, 17, and 31, and June 14, 2019 for intermittent disability from work during the period April 6 through June 14, 2019. Each Form CA-7 included a section for the injured worker to report any and all earnings from employment (outside of their federal job), including any employment for which a salary, wages, income, sales commissions, or payment of any kind was received during the period claimed. The forms expressly advised that fraudulently concealing employment, or failing to report income, may result in forfeiture of compensation benefits and/or criminal prosecution. In response to whether appellant had worked outside of her federal job during the period of disability claimed, appellant checked "No." She then signed, certifying the truthfulness of her statements under penalty of criminal prosecution.

Appellant also completed and signed a financial disclosure statement (Form EN-1032) on July 24 and August 17, 2020, September 7, 2021, and July 25, 2022, regarding her earnings and employment activity for the preceding 15-month periods. The forms instructed her to report all employment for which she received a salary, wages, income, sales commissions, piecework, or payment of any kind. Appellant was directed to report all self-employment or involvement in business enterprises, including (but not limited to) farming, sales work, operating a business, and providing services in exchange for money, goods, or other services. The forms contained strongly-worded certification clauses informing her of the consequences of not accurately reporting her employment activities, including criminal penalties and forfeiting compensation received during the period covered by the form. On the July 24 and August 17, 2020, and September 7, 2021 EN-1032 forms, appellant marked "Yes" in response to the question of whether she worked for any employer during the past 15 months and indicated that she worked for an online retailer. On the July 24, 2020 Form EN-1032, she again marked "Yes" in response to the question of whether she worked for any employer during the past 15 months and indicated that she worked one day at the online retailer. Appellant's reported pay rate was illegible. She filled in and then crossed out the amount that she earned. On the August 17, 2020 Form EN-1032, appellant reported an hourly pay rate of \$15.25 and earnings of \$172.00 at the online retailer. On the September 7, 2021 Form EN-1032, she indicated that she worked two days at the online retailer, based on a pay rate of \$16.55 per hour, with actual earnings of \$205.55. On the July 25, 2022 Form EN-1032, appellant marked

“No” in response to whether she worked for any employer or was self-employed or involved in any business enterprise during the prior 15 months. On the above-noted EN-1032 forms, she also marked “No” in response to the question whether she was self-employed or involved in any business.

On November 7, 2022 OWCP received a copy of a November 2, 2022 report from the employing establishment’s Office of Inspector General (OIG) regarding an investigation of appellant’s failure to report her earnings and employment activities, and misrepresentation of her disability from work. The OIG report related that, on August 12, 2022, it had received a State of New Jersey Report of Wages Paid (WR-30) documenting that appellant had worked for the online retailer for a total of eight weeks in 2020 and 2021, and that she had earned \$193.70 in 2020 and \$5,213.19 in 2021. On September 12, 2022 subpoenaed records were received from the online retailer that confirmed appellant’s employment during 2020 and 2021. The report included copies of her earnings statements from the online retailer, which showed gross pay of: May 31 through June 6, 2020, \$193.70; July 25 through 31, 2021, \$690.35; August 1 through 7, 2021, \$776.90; August 8 through 14, 2021, \$870.94; August 15 through 21, 2021, \$492.32; August 22 through 27, 2021, \$49.84; August 22 through 28, 2021, \$753.74; August 29 through September 4, 2021, \$378.29; September 5 through 11, 2021, \$775.70; September 12 through 18, 2021, \$283.71; and October 10 through 16, 2021, \$141.40. Undated letters confirmed appellant’s termination of employment with the online retailer as June 13, 2020 and October 16, 2021. The OIG report also included copies of appellant’s Internal Revenue Service (IRS) Wage and Tax statements (Form W-2), which showed earnings from the online retailer of \$193.70, and the 2021 Form W-2 showed earnings of \$5,215.42.

The OIG report further found that, during 2020 and 2021, appellant owned and operated a business identified as QC’s Bounce Box, LLC, that rented bounce houses and other party accessories. The report included the August 3, 2021 business registration filing from the State of New Jersey for QC’s Bounce Box, LLC, which revealed that appellant was the sole registered agent for the business located at her home address. The report also included a certificate from the Treasurer of the State of New Jersey certifying that QC Bounce Box, LLC was registered on August 3, 2021, with appellant as the last registered agent, and was expunged on December 21, 2021. The OIG’s report also included information regarding QC Bounce Box, LLC business website and social media page, as well as appellant’s personal social media page, which noted appellant’s affiliation with and ownership of the business. Screenshots of appellant’s social media posts on October 10 and 11, and November 21, 2020, and March 21 and 27, June 7, and July 17, 2021, included pictures of moon bounces at children’s parties with the notation, “book me for your next kids party.”

By decision dated November 22, 2022, OWCP found that appellant had forfeited her entitlement to compensation for the period April 6, 2019 through August 13, 2022, pursuant to section 8106(b)(2) of FECA,<sup>3</sup> because she knowingly failed to report earnings and employment activity on CA-7 and EN-1032 forms covering this period. It found that she was employed by the online retailer and was also self-employed as the owner of a bounce house business during the

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<sup>3</sup> 5 U.S.C. § 8106(b)(2).

relevant period, noting that the strongly-worded CA-7 and EN-1032 forms advised her of the requirement to report all earnings and employment activity for that period.

Also on November 22, 2022, OWCP notified appellant of its preliminary overpayment determination that she received an overpayment of compensation in the amount of \$107,905.57 for the period April 6, 2019 through August 13, 2022, because she had forfeited her entitlement to compensation for that period. It further advised her of its preliminary determination that she was at fault in the creation of the overpayment. OWCP also forwarded an overpayment action request form and an overpayment recovery questionnaire (Form OWCP-20) and requested that appellant submit supporting financial documentation, including income tax returns, bank account statements, bills and cancelled checks, pay slips, and any other records to support her reported income and expenses. Additionally, it 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 precoupment hearing.

In an overpayment action request form dated November 30, 2022, appellant requested a decision based on the written evidence. She disagreed with the amount of the overpayment, contending that she was employed at the online retailer for only a short period, and that she had informed OWCP that she worked for the online retailer in 2021. Appellant explained that she had forgotten about her bounce house rental business, as she had opened the business in August 2021 but “did not do anything with it.” She thought that she had not earned any income from the business. Appellant noted that she did not realize the amount of her earnings because she did not have any pay stubs. In an accompanying statement, she contended that she did not fail to report her employment and earnings, noting that her completed EN-1032 forms were accurate regarding her employment. Appellant completed a Form OWCP-20 wherein she reported that she had no income and no assets, but total monthly expenses of approximately \$5,100.00. She submitted supporting financial documentation.

By decision dated January 6, 2023, OWCP finalized its preliminary overpayment determination, finding that appellant received an overpayment of compensation in the amount of \$107,905.57 for the period April 6, 2019 through August 13, 2022, because she forfeited her entitlement to wage-loss compensation for that period. It found that she was at fault in the creation of the overpayment because she failed to report employment earnings and activities, thereby precluding waiver of recovery of the overpayment. OWCP required recovery of the overpayment by deducting \$500.00 from appellant’s continuing compensation payments, every 28 days.

### **LEGAL PRECEDENT – ISSUE 1**

Section 8106(b) of FECA<sup>4</sup> provides that an employee who fails to make an affidavit or report when required or knowingly omits or understates any part of his or her earnings, forfeits his or her right to compensation with respect to any period for which the affidavit or report was required.<sup>5</sup>

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<sup>4</sup> *Supra* note 1.

<sup>5</sup> 5 U.S.C. § 8106(b)(1) and (2), respectively.

Section 10.529 of OWCP's implementing regulations provides as follows:

“(a) If an employee knowingly omits or understates any earnings or work activity in making a report, he or she shall forfeit the right to compensation with respect to any period for which the report was required. A false or evasive statement, omission, concealment or misrepresentation with respect to employment activity or earnings in a report may also subject an employee to criminal prosecution.”<sup>6</sup>

An employee, however, can only be subjected to the forfeiture provision of 5 U.S.C. § 8106 if he or she knowingly failed to report employment or earnings. It is not enough to merely establish that there were unreported earnings.<sup>7</sup> OWCP's procedures recognize that, forfeiture is a penalty,<sup>8</sup> and, as a penalty provision, it must be narrowly construed.<sup>9</sup> The term knowingly is defined within OWCP's regulations as with knowledge, consciously, willfully, or intentionally.<sup>10</sup>

OWCP's regulations define earnings from employment or self-employment as: (1) gross earnings or wages before any deductions and includes the value of subsistence, quarters, reimbursed expenses and any offer goods or services received in kind as remuneration; or (2) a reasonable estimate of the cost to have someone else perform the duties of an individual who accepts no remuneration.<sup>11</sup> Neither lack of profits nor the characterization of the duties as a hobby removes an unremunerated individual's responsibility to report the estimated cost to have someone else perform his or her duties.<sup>12</sup>

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

The Board finds that OWCP improperly determined that appellant forfeited her entitlement to compensation for the periods April 6 through 23, 2019 and July 26 through August 13, 2022.

The Board notes initially that appellant filed CA-7 forms for wage-loss compensation during the period April 6 through June 14, 2019. Each Form CA-7 included a section for the injured worker to certify any employment earnings/activity. On her CA-7 forms, appellant marked the “No” boxes indicating no earnings or employment activity during the relevant time period. However, there is no evidence of record that appellant had unreported or underreported earnings or employment activity from April 6 through 23, 2019. Additionally, the last complete EN-1032

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<sup>6</sup> 20 C.F.R. § 10.529.

<sup>7</sup> *T.G.*, Docket No. 19-0051 (issued August 20, 2019); *P.H.*, Docket No. 17-1362 (issued March 13, 2018).

<sup>8</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Forfeiture*, Chapter 2.1402.8 (May 2012). *See also M.G.*, Docket No. 20-0735 (issued October 23, 2020); *T.P.*, Docket No. 17-0717 (issued April 11, 2018); *Christine P. Burgess*, 43 ECAB 449 (1992).

<sup>9</sup> *Christine P. Burgess, id.*

<sup>10</sup> 20 C.F.R. § 10.5(n); *K.P.*, Docket No. 20-0127 (issued August 10, 2021); *R.A.*, Docket No. 18-0406 (issued January 28, 2019); *I.S.*, Docket No. 17-0897 (issued April 9, 2018); *Anthony A. Nobile*, 44 ECAB 268 (1992).

<sup>11</sup> *Id.* at § 10.5(g).

<sup>12</sup> *Id.*

of record is dated July 25, 2022 and covers the period April 25, 2021 through July 25, 2022. Therefore, there is no evidence of record that appellant had unreported or underreported earnings or employment activity from July 26 through August 13, 2022.

As noted above, OWCP has the burden of proof to establish that a claimant did, either with knowledge, consciously, willfully, or intentionally, fail to report employment earnings or work activity.<sup>13</sup> Its procedures recognize that, forfeiture is a penalty, and as a penalty provision, it must be narrowly construed.<sup>14</sup> There is no evidence of record that appellant knowingly omitted or understated any earnings or employment activity prior to the filing of her July 24, 2020 EN-1032 form which covered the period April 24, 2019 through July 24, 2020 or after the filing of her July 25, 2022 EN-1032 form which covered the period April 25, 2021 through July 25, 2022. The Board thus finds that OWCP improperly determined that she forfeited her entitlement to wage-loss compensation for the periods April 6 through 23, 2019 and July 26 through August 13, 2022.<sup>15</sup>

The Board further finds, however, that OWCP properly determined that appellant forfeited her entitlement to wage-loss compensation for the period April 24, 2019 through July 25, 2022, because she knowingly failed to report her employment earnings and activities, pursuant to 5 U.S.C. § 8106(b)(2).

Appellant completed a Form EN-1032 on July 24, 2020, which covered the period April 24, 2019 through July 24, 2020. She indicated that she had worked for the online retailer on one day during the relevant period and she included an illegible pay rate. Appellant completed a second Form EN-1032 on August 17, 2020, which covered the period May 17, 2019 through August 17, 2020. On this form, she reported that she had earned \$172.00 during the relevant period. The OIG report included copies of appellant's earnings statements from the online retailer during the relevant period, which showed earnings from May 31 through June 6, 2020 of \$193.70. On the September 7, 2021 Form EN-1032, which covered the period June 7, 2020 through September 7, 2021, she reported that she worked two days for an online retailer and had earnings of \$205.55. On the July 25, 2022 Form EN-1032, which covered the period April 25, 2021 to July 25, 2022, appellant indicated that she had neither employment earnings nor employment activity. On the above-noted EN-1032 forms, she also marked "No" in response to the question whether she was self-employed or involved in any business enterprise. The evidence of record, however, demonstrates that appellant had employment earnings and activity working for the online retailer and running her bounce house business. Her earnings statements attached to the OIG report showed the following pay periods and earnings during the June 7, 2020 through September 7, 2021 time period: July 25 through 31, 2021, \$690.35; August 1 through 7, 2021, \$776.90; August 8 through 14, 2021, \$870.94; August 15 through 21, 2021, \$492.32; August 22 through 27, 2021, \$49.84; August 22 through 28, 2021, \$753.74; August 29 through September 4, 2021, \$378.29; and September 5 through 11, 2021, \$775.70. The OIG report also showed that appellant registered QC's Bounce Box, LLC with the State of New Jersey on August 3, 2021. The OIG's report included screenshots of appellant's social media posts on October 10 and 11 and November 21,

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<sup>13</sup> *Supra* note 6.

<sup>14</sup> *Supra* notes 8 and 9.

<sup>15</sup> *See G.B.*, Docket No. 20-0536 (issued January 20, 2023); *K.W.*, Docket No. 22-1088 (issued December 7, 2022).

2020, and March 21 and 27, June 7, and July 17, 2021, showing that she was operating this business during the 15-month time period reported on the EN-1032 form dated September 7, 2021 and the EN-1032 form dated July 25, 2022. Appellant’s business license for QC’s Bounce Box, LLC was not dissolved until December 21, 2021.

As explained above, OWCP’s regulations provide that, if an employee knowingly omits or understates earnings or work activity in making a report, he or she shall forfeit the right to compensation with respect to any period for which the report was required.<sup>16</sup> The Board has held that if a claimant has any employment, including self-employment or involvement in a business enterprise, during a period covered by a Form EN-1032 which he or she fails to report, the claimant is not entitled to compensation for any portion of the period covered by the report, even though he or she may not have had earnings during a portion of that period.<sup>17</sup>

As such, the Board finds that OWCP properly determined that appellant forfeited her entitlement to wage-loss compensation for the period April 24, 2019 through July 25, 2022, as she knowingly failed to report her employment earnings and activities for that period, pursuant to 5 U.S.C. § 8106(b)(2).

### **LEGAL PRECEDENT -- ISSUE 2**

Under 5 U.S.C. § 8106(b), compensation forfeited under this subsection, if already paid, shall be recovered under section 8129 of this title, unless recovery is waived under that section.<sup>18</sup>

Section 10.529 (b) of OWCP’s implementing regulations provides as follows: “(b) Where the right to compensation is forfeited, OWCP shall recover any compensation already paid for the period of forfeiture pursuant to 5 U.S.C. § 8129 and other relevant statutes.”<sup>19</sup>

### **ANALYSIS -- ISSUE 2**

The Board finds that appellant received an overpayment of compensation for the period April 24, 2019 through July 25, 2022 as she forfeited her entitlement to compensation for this period.

As found above, appellant forfeited her right to compensation for the period April 24, 2019 through July 25, 2022. OWCP may declare an overpayment of compensation for any

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<sup>16</sup> 20 C.F.R. § 10.529(b); *see A.A.*, Docket No. 22-1313 (issued June 5, 2023); *Harold F. Franklin*, 57 ECAB 287 (2006).

<sup>17</sup> *See D.O.*, Docket No. 25-0221 (issued February 20, 2025).

<sup>18</sup> 20 C.F.R. § 10.5(n); *R.A.*, Docket No. 18-0406 (issued January 28, 2019); *I.S.*, Docket No. 17-0897 (issued April 9, 2018); *Anthony A. Nobile*, *supra* note 10.

<sup>19</sup> *Id.* at § 10.529; *see also G.G.*, Docket No. 14-1848 (issued August 4, 2016).

compensation already paid for the period of a forfeiture of compensation. The Board, accordingly, finds that fact of the overpayment has been established.<sup>20</sup>

The Board further finds, however, that the case is not in posture for decision with regard to the amount of the overpayment as the period of the overpayment is modified from April 6, 2019 through August 13, 2022 to April 24, 2019 through July 25, 2022. The case must, therefore, be remanded for OWCP to recalculate the amount of the overpayment of compensation.<sup>21</sup> It shall then issue a *de novo* preliminary overpayment determination, with an overpayment action request form, a Form OWCP-20, and instructions for appellant to provide supporting financial documentation.

### **LEGAL PRECEDENT – ISSUE 3**

Section 8129(b) of FECA provides that, “[a]djustment or recovery by the United States may not be made when incorrect payment has been made to an individual who is without fault and when adjustment or recovery would defeat the purpose of this subchapter or would be against equity and good conscience.”<sup>22</sup>

Section 10.433 of OWCP’s implementing regulations provides that, in determining whether a claimant is at fault, it will consider all pertinent circumstances. An individual is at fault in the creation of an overpayment who:

“(1) Made an incorrect statement as to a material fact which he or she knew or should have known to be incorrect; or

“(2) Failed to provide information which he or she knew or should have known to be material; or

“(3) Accepted a payment which he or she knew or should have known to be incorrect.”<sup>23</sup>

To determine if an individual was at fault with respect to the creation of an overpayment, OWCP examines the circumstances surrounding the overpayment. The degree of care expected may vary with the complexity of those circumstances and the individual’s capacity to realize that he or she is being overpaid.<sup>24</sup>

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<sup>20</sup> See *A.R.*, Docket No. 22-0750 (issued September 28, 2022); *J.N.*, Docket No. 13-1761 (issued July 1, 2014).

<sup>21</sup> *A.J.*, Docket No. 22-0820 (issued May 9, 2023).

<sup>22</sup> 5 U.S.C. § 8129; see *A.S.*, Docket No. 17-0606 (issued December 21, 2017); *Linda E. Padilla*, 45 ECAB 768 (1994).

<sup>23</sup> 20 C.F.R. § 10.433(a); see also *K.F.*, Docket No. 19-1016 (issued February 14, 2020); *Sinclair L. Taylor*, 52 ECAB 227 (2001).

<sup>24</sup> *Id.* at § 10.433(b); *J.C.*, Docket No. 19-0911 (issued March 25, 2021); *Duane C. Rawlings*, 55 ECAB 366 (2004).

### **ANALYSIS -- ISSUE 3**

The Board finds that OWCP properly determined that appellant was at fault in the creation of the overpayment, thereby precluding waiver of recovery of the overpayment.

As found above, the record establishes that appellant forfeited her entitlement to compensation benefits for the period April 24, 2019 through July 25, 2022. The EN-1032 forms on which she omitted her employment earnings and activity included a strongly-worded certification clause which explicitly advised that failure to report employment earnings/activity may result in forfeiture of compensation benefits and/or criminal prosecution. By signing these forms, appellant is deemed to have acknowledged her duty to report her employment earnings and activity during the period in question. She, however, omitted or underreported her earnings and employment activity, and thus failed to furnish information which she knew or should have known to be material to OWCP.<sup>25</sup> The Board thus finds that appellant is at fault in the creation of the overpayment and is thereby precluded from waiver of recovery.

### **CONCLUSION**

The Board finds that OWCP improperly determined that appellant forfeited her entitlement to compensation for the periods April 6 through 23, 2019, and July 26 through August 13, 2022. The Board further finds, however, that OWCP properly determined that appellant forfeited her entitlement to wage-loss compensation for the period April 24, 2019 through July 25, 2022, because she knowingly failed to report her employment earnings and activities, pursuant to 5 U.S.C. § 8106(b)(2). The Board also finds that appellant received an overpayment of compensation for the period April 24, 2019 through July 25, 2022. However, the case is not in posture for decision with regard to the amount of the overpayment. The Board additionally finds that OWCP properly determined that appellant was at fault in the creation of the overpayment, thereby precluding waiver of recovery of the overpayment.<sup>26</sup>

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<sup>25</sup> See *G.Z.*, Docket No. 16-0892 (issued May 19, 2017).

<sup>26</sup> In light of the Board's disposition of Issue 2, Issue 4 is rendered moot.

**ORDER**

**IT IS HEREBY ORDERED THAT** the November 22, 2022 forfeiture decision of the Office of Workers' Compensation Programs is reversed in part and affirmed in part. The January 6, 2023 overpayment decision of the Office of Workers' Compensation Programs is affirmed in part, as modified, and set aside in part. The case is remanded to OWCP for further proceedings consistent with this decision of the Board.

Issued: April 23, 2026  
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