

File Number:  
Opfinalnofaultwaiver-D-FD

U.S. DEPARTMENT OF LABOR

RECEIVED MAR 27 2013

OFFICE OF WORKERS' COMP PROGRAMS  
PO BOX 8300 DISTRICT 6 JAC  
LONDON, KY 40742-8300  
Phone: (904) 366-0100

March 25, 2013

Date of Injury:  
Employee:  
DMS Number:

Dear :

This letter is in further reference to the overpayment of compensation in the amount of \$40,848.93 that was found in your case


Your case has been carefully studied and any additional evidence or arguments submitted have been given full consideration.

You were found without fault in the creation of the overpayment

OWCP has assigned the following debt number to this overpayment:

In addition, I have determined that the circumstances of your case warrant waiver of recovery of the overpayment for the reason(s) described in the attached Memorandum for the File. Since waiver of recovery has been granted, you are released from the responsibility of repaying this debt.

Sincerely,

  
Dana Lomas  
Senior Claims Examiner

Enclosures: Memorandum for the File

PAUL FELSER  
FELSER LAW  
PO BOX 10267  
SAVANNAH, GA 31412

*If you have a disability (a substantially limiting physical or mental impairment), please contact our office/claims examiner for information about the kinds of help available, such as communication assistance (alternate formats or sign language interpretation), accommodations and modifications.*

**MEMORANDUM FOR THE FILE**

**ISSUE:** The issue for determination is whether the Office should waive recovery of the overpayment of compensation for the period 11/17/2008 through 12/15/2009 in the amount of \$40,848.93 because adjustment or recovery would defeat the purpose of the Federal Employees Compensation Act or would be against equity and good conscience.

**BACKGROUND:** On 12/06/2012, the Office of Workers' Compensation Programs (OWCP) issued a preliminary decision finding the claimant without fault in the creation of the overpayment of \$40,848.93. The preliminary decision is incorporated herein by reference.

The claimant is without fault in the creation of the overpayment because the claimant was not or could not have been aware that they were not entitled to the payment(s) received.

**DISCUSSION:** The Office has made a determination that recovery of the overpayment should be waived, as recovery would defeat the purpose of the Federal Employees Compensation Act or would be against equity and good conscience.

Thus, the information provided was sufficient to justify waiving recovery of the overpayment.

**BASIS FOR DECISION:** The financial information received has established the basis for granting waiver of recovery of the overpayment.

"The Office's regulations provide that recovery of an overpayment will defeat the purpose of the Act or be against equity and good conscience if recovery would cause undue hardship by depriving a presently or formerly entitled beneficiary of income and resources needed for ordinary and necessary living expenses under criteria set forth. The regulations outline specific financial circumstances under which recovery may be considered to defeat the purpose of the Act or be against equity and good conscience." (William J. Murphy, 40 ECAB 569 (1989)).

**CONCLUSION:** The Office has determined that the amount of overpayment is correct and that the claimant is without fault in creation of the overpayment. The Office waives recovery of the overpayment as recovery would result in undue financial hardship which would defeat the purpose of the Federal Employees Compensation Act or would be against equity and good conscience.

Dana Lomas  
Senior Claims Examiner  
March 25, 2013