

File Number: D-O

U.S. DEPARTMENT OF LABOR

RECEIVED FEB 08 2019

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

February 5, 2019

Date of Injury:  
Employee:

Dear

This is in reference to our Office's January 30, 2019, decision finalizing the proposed reduction of your compensation. Since the decision we made is erroneous due to computation error, your claim has been reopened under 5 U.S.C. Section 8128 and the January 30, 2019, decision has been vacated.

Please see the enclosed Notice of Decision for further information.

Sincerely,

Assistant District Director

Enclosure: Notice of Decision

PAUL H FELSER  
FELSER LAW FIRM, P.C.  
7393 HODGSON MEMORIAL DRIVE  
SUITE 102  
SAVANNAH, GA 31406

File Number:

Employee:

## NOTICE OF DECISION

### ISSUE:

The issue for determination is whether the January 30, 2019 decision should be reopened under 5 U.S.C. Section 8128 and vacated.

### REQUIREMENTS FOR ENTITLEMENT:

Section 5 U.S.C. § 8128 (a) states: The Secretary of Labor may review an award for or against payment of compensation at any time on his own motion or on application. The Secretary, in accordance with the facts found on review, may—

- (1) end, decrease, or increase the compensation previously awarded; or
- (2) award compensation previously refused or discontinued.

(b) The action of the Secretary or his designee in allowing or denying a payment under this subchapter is—

- (1) final and conclusive for all purposes and with respect to all questions of law and fact; and
- (2) not subject to review by another official of the United States or by a court by mandamus or otherwise."

This authority includes rescission of claims as a whole, or of specific entitlements. When the OWCP has accepted a claim and paid benefits, and it is later determined that those benefits were accepted or paid in error, the OWCP has the burden of proof to rescind the entitlement. OWCP will provide written notice of the proposed action and allow 30 days to submit relevant evidence or argument to support ongoing benefit entitlement.

### BACKGROUND:

You were employed by the \_\_\_\_\_, as a \_\_\_\_\_  
 You filed a timely Form CA-1, Notice of Traumatic Injury stating that on \_\_\_\_\_ you  
 pushed a tray of mail and injured your lower back.

Your case was accepted for intervertebral disc disorder with myelopathy, thoracic region.

### DISCUSSION OF EVIDENCE:

We issued a proposal to reduce your compensation for wage loss based on the capacity to earn wages as a Receptionist following your participation in our vocational rehabilitation program. We allowed you 30 days to submit additional evidence or argument regarding your capacity to earn wages as a Receptionist.

As your argument was found insufficient to alter the proposed reduction, a decision was issued on January 30, 2019 finalizing the proposed reduction.

### BASIS FOR DECISION:

The computation of compensation based on the constructed position as a Receptionist has been further reviewed. It has been determined that our Office erred in that the computation was not based on the correct current pay rate for the job and step when injured. Specifically, you averaged 18 hours of work per week at date of injury; therefore current pay for your date of injury job should be computed based on 18 hours per week, not a 40 hour week. Therefore, our Office will reinstate your compensation benefits on the periodic roll effective February 3, 2019, and issue a corrected proposed reduction of compensation for wage loss based on the corrected computation.

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**CONCLUSION:** The decision of January 30, 2019, is hereby vacated. A new proposed reduction of compensation for wage loss will be issued shortly.

Claims Examiner  
February 4, 2019

Assistant District Director  
February 4, 2019