

OWCP overpayments



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The basic premise of workers' compensation insurance is that an injured worker should be no better or no worse had the injury never occurred. The Office of Workers' Compensation Programs (OWCP) pays compensation for lost wages and medical expenses to mitigate the effects of an injury. To correctly determine wage-loss benefits, OWCP relies on the injured worker and their employing agency to provide accurate information on the employee's wages and hours worked.

The injured worker is responsible for informing OWCP about any eligible dependents and outside sources of income, including benefits paid by the Department of Veterans Affairs (DVA) and the Social Security Administration. The Postal Service is responsible for certifying the injured worker's pay rate and work hours. Payment of wage-loss compensation often is delayed when Postal Service officials fail to provide timely and accurate pay rate information to OWCP. If the pay-rate information provided to OWCP is incorrect, the injured worker may receive less or more compensation than he or she is entitled to.

OWCP regularly audits wage-loss compensation cases in search of payment errors. Overpayments occur when an injured worker receives more money than the law allows for. The cause of an overpayment, whether by incorrect information supplied by an injured worker, by the employing agency or by OWCP, makes little difference.

Receiving an overpayment is not like winning the lottery—you do not get to keep the money. *The law is clear: If you receive more compensation than you are entitled to, you must pay it back even if it was not your fault.*

The fact that OWCP may have erred in making the overpayment, or that the overpayment may have resulted from an error by the Postal Service, does not by itself relieve the individual who received the overpayment from liability for repayment, especially if the individual also was at fault in accepting the overpayment.

OWCP may find that the individual was not at fault if failure to report an event affecting compensation benefits or the acceptance of an incorrect payment occurred because the individual relied on misinformation given in writing by the OWCP or the Postal Service.

Many injured workers take it personally when OWCP finds the injured worker was at fault in an overpayment, especially when the error was caused by incorrect actions by either OWCP or the Postal Service. That's easy to understand. No one wants to be found at fault for another person's mistakes.

However, OWCP's policy is that an injured worker should know when he or she is being overcompensated for lost wages. That would be most evident if a worker returned to full duty and OWCP kept paying wage-loss compensation.

Other cases may be less obvious, such as when OWCP fails to deduct dual benefits from Social Security or veterans benefits, or when the Postal Service provided inaccurate pay rate information.

In those cases, the injured worker may be found at fault because OWCP presumed that the injured worker knew he or she was receiving more benefits than he or she was entitled to. Regardless of the finding of fault, the injured worker must reimburse OWCP for the overpayment.

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OWCP procedures require that a claims examiner mail a Preliminary Overpayment Determination within 30 days of the overpayment identification. The letter should contain a memorandum outlining the specific circumstances of the case and the existence of the overpayment.

The memorandum normally states the period and the amount of the benefit overpaid. The memorandum should detail specifically how the overpayment was calculated so that it is clear to the overpaid individual how the final overpayment amount was determined.

And finally, the memorandum should state whether the overpaid individual is with or without fault in the creation of the overpayment and explain how the fault determination was made.

The Preliminary Overpayment Determination should also explain how the injured worker can respond, including repayment of the overpayment, requesting a waiver of recovery and requesting a pre-recoupment hearing with the Branch of Hearings and Review.

Preliminary Overpayment Determinations will normally include an OWCP-20 form, Overpayment Recovery Questionnaire, for the injured worker to address fault and/or waiver or to determine a reasonable method for collection, if applicable.

Overpayments of \$300 or less may be eligible for administrative termination if the anticipated costs of collection would exceed the expected recovery. For overpayments between \$300 and \$1,000, a Preliminary Overpayment Determination must be issued. In follow-up to such a finding for a debt greater than or equal to \$300 and less than \$1,000, the claims examiner will consider, in a case-by-case basis, whether the debt can be administratively terminated.

The overpaid individual is afforded 30 days to submit a response to the Preliminary Overpayment Determination. If the injured worker disagrees that an overpayment has occurred, or believes that the amount of the overpayment is incorrect, he or she should request a pre-recoupment hearing to fully develop the facts of the case.