

§ 30.513

20 CFR Ch. I (4-1-11 Edition)

§ 30.513 Under what circumstances may OWCP waive recovery of an overpayment?

(a) OWCP may consider waiving recovery of an overpayment only if the recipient was not at fault in accepting or creating the overpayment. Recipients of benefits paid under EEOICPA are responsible for taking all reasonable measures to ensure that payments received from OWCP are proper. The recipient must show good faith and exercise a high degree of care in reporting events which may affect entitlement to or the amount of benefits. A recipient who has done any of the following will be found to be at fault with respect to creating an overpayment:

(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. (This provision applies only to the overpaid individual.)

(b) Whether or not OWCP determines that a recipient was at fault with respect to the creation of an overpayment depends on the circumstances surrounding the overpayment. The degree of care expected may vary with the complexity of those circumstances and the recipient's capacity to realize that he or she is being overpaid.

§ 30.514 If OWCP finds that the recipient of an overpayment was not at fault, what criteria are used to decide whether to waive recovery of it?

If OWCP finds that the recipient of an overpayment was not at fault, repayment will still be required unless:

(a) Adjustment or recovery of the overpayment would defeat the purpose of the Act (see § 30.516); or

(b) Adjustment or recovery of the overpayment would be against equity and good conscience (see § 30.517).

§ 30.515 Is a recipient responsible for an overpayment that resulted from an error made by OWCP?

(a) The fact that OWCP may have erred in making the overpayment does

not by itself relieve the recipient of the overpayment from liability for repayment if the recipient also was at fault in accepting the overpayment.

(b) However, OWCP may find that the recipient was not at fault if failure to report an event affecting compensation benefits, or acceptance of an incorrect payment, occurred because:

(1) The recipient relied on misinformation given in writing by OWCP regarding the interpretation of a pertinent provision or EEOICPA of this part; or

(2) OWCP erred in calculating either the percentage of impairment or wage-loss under Part E of EEOICPA.

§ 30.516 Under what circumstances would recovery of an overpayment defeat the purpose of the Act?

Recovery of an overpayment will defeat the purpose of the Act if such recovery would cause hardship to the recipient because:

(a) The recipient from whom OWCP seeks recovery needs substantially all of his or her current income to meet current ordinary and necessary living expenses; and

(b) The recipient's assets do not exceed two months' expenditures as determined by OWCP using the Bureau of Labor Statistics Consumer Expenditure Survey tables.

§ 30.517 Under what circumstances would recovery of an overpayment be against equity and good conscience?

(a) Recovery of an overpayment is considered to be against equity and good conscience when the recipient would experience severe financial hardship in attempting to repay the debt.

(b) Recovery of an overpayment is also considered to be against equity and good conscience when the recipient, in reliance on such payments or on notice that such payments would be made, gives up a valuable right or changes his or her position for the worse. In making such a decision, OWCP does not consider the recipient's current ability to repay the overpayment.

(1) To establish that a valuable right has been relinquished, it must be shown that the right was in fact valuable, that it cannot be regained, and