

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of JENNIE P. SCIONTI and U.S. POSTAL SERVICE,  
POST OFFICE, Tampa, FL

*Docket No. 03-1189; Submitted on the Record;  
Issued July 24, 2003*

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DECISION and ORDER

Before COLLEEN DUFFY KIKO, DAVID S. GERSON,  
WILLIE T.C. THOMAS

The issue is whether appellant is entitled to augmented compensation on the basis that her mother qualifies as a dependant under 5 U.S.C. § 8110(a)(4).

Appellant has an accepted claim for a left knee injury originally sustained on August 5, 1987. The Office of Workers' Compensation Programs paid appropriate wage-loss compensation and appellant received two schedule awards for a combined 30 percent permanent impairment of her left lower extremity.

On December 2, 2002 the Office made a preliminary finding that appellant received an overpayment in the amount of \$1,186.95 and that she was not at fault in creating the overpayment. Appellant requested a waiver of recovery of the overpayment on the basis of financial hardship. She also claimed entitlement to augmented compensation because of the financial support she provided her 83-year-old mother.

In a decision dated February 28, 2003, the Office found that because appellant's mother received monthly Social Security benefits of \$617.00 she was not considered "wholly dependent" under the Federal Employees' Compensation Act. Accordingly, the Office found that appellant was not entitled to augmented compensation. The Office also advised appellant that her request for a waiver of recovery of the overpayment would be granted. A formal decision waiving recovery of the overpayment was not issued until March 4, 2003.

On April 7, 2003 appellant filed an appeal of the Office's February 28, 2003 decision. Appellant did not appeal the Office's March 4, 2003 decision granting a waiver of recovery of the overpayment.

The Board finds that appellant is not entitled to augmented compensation because her mother did not qualify as a dependent under her section 8110(a)(4) of the Act.

For purposes of determining entitlement to augmented compensation, section 8110(a) of the Act defines “dependent” to include “a parent, while wholly dependent on and supported by the employee.”<sup>1</sup> The applicable regulation at 20 C.F.R. § 10.405(a) also defines “dependents” as including “a wholly dependent parent.”<sup>2</sup>

The Board has interpreted the term “wholly dependent” to mean that the person claiming such dependency status must have no consequential source as means of maintenance other than the earnings of the employee.<sup>3</sup> However, a “wholly dependent” parent may receive a *de minimis* amount of income or property without jeopardizing his or her dependency status.<sup>4</sup>

In the instant case, appellant represented that her 83-year-old mother received monthly Social Security benefits in the amount of \$617.00. The Board has previously held that a parent’s total monthly income of \$597.00, which comprised of \$480.00 in Social Security benefits and \$117.00 of pension benefits, did not constitute a *de minimis* income.<sup>5</sup> Accordingly, appellant’s mother’s monthly income of \$617.00 cannot be considered *de minimis* and, therefore, appellant may not claim her mother as a dependent under the Act.<sup>6</sup> The Office properly determined that appellant was not entitled to augmented compensation.

The February 28, 2003 decision of the Office of Workers’ Compensation Programs is hereby affirmed.

Dated, Washington, DC  
July 24, 2003

Colleen Duffy Kiko  
Member

David S. Gerson  
Alternate Member

Willie T.C. Thomas  
Alternate Member

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<sup>1</sup> 5 U.S.C. § 8110(a)(4).

<sup>2</sup> 20 C.F.R. § 10.405(a) (1999).

<sup>3</sup> *Josephine Bellardita*, 48 ECAB 362 (1997).

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> While appellant’s mother may qualify as a dependent under the Internal Revenue Code, this is not dispositive for purposes of determining dependency status under 5 U.S.C. § 8110(a); see *Peggy R. Thompson*, 52 ECAB 393, 394 (2001).