



for tear of the right shoulder and sprain of the right shoulder. Commencing June 15, 2014 appellant was compensated on the supplemental rolls and commencing June 26, 2016 he was compensated on the periodic rolls.

In a January 24, 2019 preliminary notice, OWCP advised appellant of its determination that he had received an overpayment of compensation in the amount of \$33,823.43 because he received Social Security Administration (SSA) age-related retirement benefits for his federal service, as well as Federal Employees' Compensation Act (FECA) benefits for the period from June 15, 2014 through January 5, 2019 without an appropriate offset. It also informed him of its preliminary determination that he was at fault in the creation of the overpayment because he accepted payments, which he knew or should reasonably have known were incorrect.

Appellant contested the preliminary determination as to the fact and amount of the overpayment and the finding of fault.

By decision dated February 28, 2019, OWCP finalized its determination that appellant received a \$33,823.43 overpayment of compensation for the period from June 15, 2014 through January 5, 2019 because he received a prohibited dual benefit due to his receipt of FECA benefits, while also receiving SSA age-related retirement benefits without an appropriate FERS offset. It found that he was at fault in the creation of the overpayment, thereby precluding waiver of recovery of the overpayment.

The Board notes that OWCP determined that appellant received an overpayment of compensation based on information provided by SSA in its December 14, 2018 FERS/SSA offset calculation worksheet. The worksheet outlined the effective dates pertaining to the offset, noting that, effective December 2014, SSA rate with FERS was \$915.00 and SSA rate without FERS was \$280.40, amounting to a monthly offset of \$634.60 and an overpayment of \$7,636.12 for the year beginning December 1, 2014. However, the record reflects that a September 10, 2015 SSA/FERS dual benefits calculation worksheet documented appellant's December 2014 SSA rate with FERS was \$915.10 and SSA rate without FERS was \$886.30. Therefore, the record does not support that the overpayment was calculated correctly as previously submitted documentation from SSA provides differing rates for the same period.

The Board has held that, in overpayment cases, it is essential that OWCP provide the recipient of compensation with a clear statement showing how the overpayment was calculated.<sup>3</sup> OWCP's procedures place the responsibility on the claims examiner to carefully review the file in situations where a dual benefit might possibly occur, including the responsibility of contacting the Office of Personnel Management.<sup>4</sup> With respect to the fact and amount of overpayment, the Board finds that OWCP has not adequately explained how the amount of the overpayment was determined in light of the different rates provided by SSA pertaining to SSA age-based retirement benefits with and without FERS when determining the offset amount.<sup>5</sup> On remand OWCP should

---

<sup>3</sup> *J.M.*, Docket No. 18-1505 (issued June 21, 2019); *Teresa A. Ripley*, 56 ECAB 528 (2005).

<sup>4</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Dual Benefits*, Chapter 2.1000.3 (February 1995).

<sup>5</sup> *K.H.*, Docket No. 18-0171 (issued August 2, 2018).

further clarify the applicable rates with SSA to determine the fact and amount of overpayment.<sup>6</sup> The Board therefore finds that the overpayment determination must be set aside and the case remanded for further development of the evidence to be followed by a *de novo* decision.<sup>7</sup>

**IT IS HEREBY ORDERED THAT** the February 28, 2019 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further action consistent with this order of the Board.

Issued: April 8, 2020  
Washington, DC

Christopher J. Godfrey, Deputy Chief Judge  
Employees' Compensation Appeals Board

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge  
Employees' Compensation Appeals Board

---

<sup>6</sup> C.C., Docket No. 18-0079 (issued May 2, 2018).

<sup>7</sup> A.S., Docket No. 17-1459 (issued December 22, 2017).