

**United States Department of Labor
Employees' Compensation Appeals Board**

R.C., Appellant)

and)

DEPARTMENT OF THE AIR FORCE,)
NATIONAL GUARD BUREAU, Mansfield, OH,)
Employer)

Docket No. 19-0845
Issued: February 3, 2020

Appearances:

Connie Cassaro, for the appellant¹
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On March 11, 2019 appellant, through his representative, filed a timely appeal from a February 13, 2019 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act² (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.³

¹ In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

² 5 U.S.C. § 8101 *et seq.*

³ The Board notes that following the February 13, 2019 decision, OWCP received additional evidence. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

ISSUES

The issues are: (1) whether appellant received an overpayment of compensation in the amount of \$4,930.86 for the period December 1, 2011 through February 8, 2014 because he concurrently received FECA wage-loss and Social Security Administration (SSA) age-related retirement benefits, for which he was without fault; (2) whether OWCP properly denied waiver of recovery of the overpayment; and (3) whether OWCP properly required recovery of the overpayment by deducting \$300.00 from appellant's continuing compensation payments every 28 days.

FACTUAL HISTORY

This case has previously been before the Board.⁴ The facts and circumstances as presented in the prior Board decision are incorporated herein by reference. The relevant facts are as follows.

On July 12, 1991 appellant, then a 45-year-old aircraft pneudraulic systems mechanic, injured his back while installing a brake assembly on an aircraft. OWCP accepted his claim for lumbosacral strain and paid appellant wage-loss compensation benefits on the periodic compensation rolls as of October 29, 1991.⁵

In a letter dated April 6, 2010, the employing establishment informed OWCP that appellant was receiving SSA benefits. It noted that appellant was a Federal Employees Retirement System (FERS) employee and requested that OWCP verify the amount of appellant's SSA benefits so that he would not receive an overpayment of compensation.

On April 15, 2010 OWCP requested additional information from appellant regarding his SSA benefits. Appellant responded on April 23, 2010 and indicated that he had been receiving SSA benefits, specifically Social Security Disability Insurance (SSDI) benefits, beginning in January 1992. He indicated that he did not receive a regular retirement check, or a disability retirement check, but that he received a monthly military retirement check.

On June 13, 2011 OWCP expanded the acceptance of the claim to include the additional conditions of aggravation of degenerative disc disease at L4-5 and L5-S1 and aggravation of herniated bulging disc at L4-5 as due to appellant's July 12, 1991 employment injury. On July 18, 2011 it accepted major depressive disorder and panic disorder with agoraphobia as due to the July 12, 1991 work injury. On January 11, 2012 OWCP expanded appellant's accepted conditions to include post-traumatic stress disorder.

⁴ Docket No. 17-0058 (issued August 3, 2017); *Order Dismissing Appeal*, Docket No. 09-0505 (issued August 21, 2009).

⁵ On July 18, 1994 appellant returned to part-time work in the private sector. By decision dated August 4, 1994, OWCP reduced his compensation benefits based on his actual earnings on July 24, 1994 as a retail cashier clerk. Appellant stopped work in January 1996. On April 24, 2002 OWCP accepted that he sustained a recurrence of disability on November 19, 2001. It reduced appellant's wage-loss compensation in a March 18, 2004 decision. A representative of OWCP's Branch of Hearings and Review set aside the March 18, 2004 decision on October 18, 2004 and reinstated compensation. On December 12, 2008 appellant appealed to the Board. However, the Board found that there was no OWCP decision over which it had jurisdiction. On August 21, 2009 the Board dismissed the appeal. *Order Dismissing Appeal*, Docket No. 09-0505 (issued August 21, 2009).

On April 20, 2012 OWCP requested information from SSA regarding appellant's dual benefits. On July 16, 2012 appellant indicated that he was eligible for FERS retirement benefits, but could not receive these benefits as he was receiving FECA benefits. He indicated that he was receiving benefits from SSA and provided the amount of his monthly SSA benefits.

On December 14, 2012 appellant completed a Form EN1032 and indicated that he was not receiving benefits from SSA as part of an annuity for federal service. He completed a Form EN1032 on December 12, 2013 and again indicated that he was not receiving benefits from SSA as part of an annuity for federal service.

On January 21 and 23, 2014 SSA provided OWCP with two different calculations of appellant's SSA benefits. On March 14, 2014 OWCP informed SSA of the receipt of two calculation forms with varying sums and requested a correct calculation. On March 26, 2014 appellant informed OWCP that the benefit amounts provided by SSA to OWCP were different than the amounts which appeared on his benefits statements for the periods in question. OWCP contacted SSA by telephone and was instructed that the January 15, 2014 form, received by it on January 23, 2014, was correct. It notified appellant on April 3, 2014.

On July 30, 2014 OWCP made a preliminary determination that appellant received a \$5,532.37 overpayment of compensation during the period December 1, 2011 through February 8, 2014 because he was receiving SSA age-related retirement benefits while receiving FECA benefits.

Appellant requested a prerecoupment hearing from OWCP's Branch of Hearings and Review on August 19, 2014 on the issues of fault and possible waiver. On March 24, 2015 appellant testified at the oral hearing before an OWCP hearing representative. By decision dated June 9, 2015, OWCP's hearing representative set aside the July 30, 2014 preliminary overpayment determination. She found that due to the discrepancies in the information provided by SSA, OWCP must request written clarification of appellant's actual entitlement. Following this, OWCP's hearing representative directed that OWCP provide appellant with a new preliminary overpayment determination.

On October 19, 2015 and December 7, 2015 OWCP requested clarification of appellant's actual entitlement to SSA benefits from SSA. On December 10, 2015 SSA responded and provided a third set of handwritten computations.

On December 16, 2015 OWCP revised the preliminary overpayment determination finding that a \$3,868.45 overpayment of compensation was created because appellant received SSA age-related retirement benefits as a FERS employee while receiving FECA benefits. It provided appropriate appeal rights.

By decision dated September 27, 2016, OWCP finalized its preliminary determination and found that appellant had received an overpayment of compensation in the amount of \$3,868.45 for the period December 1, 2011 through February 8, 2014, for which he was at fault, as he knew or should have known that he was not entitled to dual benefits. It further found that appellant had not contested the finding or submitted financial information and that recovery of the overpayment would be made by withholding \$300.00 from appellant's future compensation benefits.

Appellant appealed this decision to the Board and on August 3, 2017, the Board found that the case was not in posture for decision given the three various rates of offset amounts provided

by SSA. It directed OWCP to obtain clarification from SSA regarding which of the three rates provided was correct and why. Following the directed development, OWCP was to issue a *de novo* decision.⁶

In a letter dated November 1, 2017, OWCP requested that the SSA provide detailed calculations and supporting documentation of appellant's dual benefits for the period December 1, 2011 to February 8, 2014. It afforded 14 days for a response. On November 10, 2018 SSA responded and asserted that this request was beyond the scope of its required actions.

On March 8, 2018 OWCP provided a listing of the previous calculations and again requested that SSA provide a dual benefits calculation. In a subsequent letter dated April 18, 2018, it again requested that SSA provide a dual benefits calculation. In a May 9, 2018 form with handwritten calculations, SSA advised that beginning December 2011, appellant's SSA rate with FERS was \$1,481.20 and without FERS was \$1,296.40. Beginning December 2012, the SSA rate with FERS was \$1,506.30 and without FERS was \$1,318.40. Beginning December 2013, appellant's SSA rate with FERS was \$1,528.80 and without FERS was \$1,338.10. Beginning December 2014 the SSA rate with FERS was \$1,554.70 and without FERS was \$1,360.80. SSA noted, "Based on our procedure, we are unable to provide any info[rmation] other than SSA rates w[ith] and w[ith]o[ut] FERS. For any additional info[rmation], please contact liaison(s) for SSA and DOL."

On June 1, 2018 a SSA management support specialist and acting program analyst, completed a calculation sheet. He repeated the calculations provided on May 9, 2018 and reported that his figures matched this response. The SSA management support specialist noted that SSA had recovered an overpayment from appellant which further reduced the payment he actually received during the period February 2013 through January 2016. He opined that the original erroneous computations occurred as the technician failed to include appellant's military earnings prior to 1967 when calculating the SSA rate without FERS.

In a letter dated June 27, 2018, OWCP made a preliminary determination that appellant was overpaid compensation in the amount of \$4,930.86 for the period December 1, 2011 through February 8, 2014 because it failed to offset his compensation payments by the portion of his SSA age-related retirement benefits that were attributable to his federal service. It provided a calculation of the overpayment noting that from December 1, 2011 through November 30, 2012 appellant received SSA benefits of \$1,481.20. Of that amount appellant was entitled to receive \$1,296.40 given the FERS offset of \$184.80 per month or \$170.58 every 28 days. OWCP calculated the total FERS offset amount for the period December 1, 2011 through November 30, 2012, 366 days, with a daily rate of \$6.09 which, when multiplied by 366 days, resulted in an overpayment in the amount of \$2,229.78. It calculated the total FERS offset amount for the period December 1, 2012 through November 30, 2013, 365 days, with a daily rate of \$6.19 which, when multiplied by 365 days, resulted in an overpayment in the amount of \$2,260.99. For the period December 1, 2013 through February 8, 2014, 70 days, with a daily rate of \$6.29 which, when multiplied by 70 days, resulted in an overpayment in the amount of \$440.08. OWCP added these amounts for the complete period December 1, 2011 through February 8, 2014 to reach a total overpayment of \$4,930.86. It made the preliminary determination that appellant was at fault in

⁶ *Supra* note 4.

the creation of this overpayment. OWCP provided him with appeal rights and requested that he complete an overpayment recovery questionnaire (Form OWCP-20).

On July 6, 2018 appellant responded to the preliminary determination of overpayment and alleged that his basic life insurance (BLI) premiums should have stopped after he turned 65 years old on December 31, 2010, but that these deductions continued through February 2014 resulting in additional monies owed by OWCP to him. He referenced a June 19, 2014 memorandum from OWCP which indicated that it incorrectly deducted \$578.96 for BLI from appellant's continuing compensation benefits for the period December 31, 2010 through February 8, 2014. Appellant requested that the amount OWCP overcharged him for BLI be used to offset the \$4,930.86 overpayment. OWCP considered this letter to be a request for a precoupment hearing and on October 12, 2018 the Branch of Hearings and Review scheduled an oral hearing for December 14, 2018.

Along with a letter dated November 28, 2018, appellant provided OWCP with documentation of his confusion regarding dual SSA and FERS benefits as well as his medical treatment.

During the hearing held on December 14, 2018 appellant's representative asserted that appellant was unaware that he was receiving prohibited dual benefits. She alleged that appellant's SSA benefits based on his earnings from the private sector for the period of 23 years were higher than the SSA benefits for his time in the federal workforce, which was for 6 years during the period 1985 through July 11, 1991. Appellant's representative noted that appellant was receiving SSA benefits and military retirement benefits along with FECA benefits in 2011. She further contended that OWCP continued to deduct appellant's BLI premiums from his wage-loss compensation after he reached 65 years old in January 2011 through February 2014 which resulted in an overpayment to OWCP in the amount of \$578.96. Appellant's representative requested that this amount be deducted from the current overpayment. OWCP's hearing representative requested that appellant complete an overpayment recovery questionnaire (Form OWCP-20) and provide supportive documentation. She afforded appellant 30 days for a response.

On January 2, 2019 appellant submitted a completed overpayment recovery questionnaire (Form OWCP-20) dated December 27, 2018 along with supporting financial documentation. He listed his total monthly income as \$6,573.61 and his total monthly expenses as \$6,464.44. Appellant listed his total assets as \$12,761.75 including cash, checking, and savings account balances. He also indicated that he spent \$300.00 a month in Christmas, graduation, birthday, and wedding gifts for his 5 children, 15 grandchildren, and 8 great-grandchildren.

On February 12, 2019 appellant provided an April 10, 2008 letter from the employing establishment informing him that he could receive both SSA benefits and compensation benefits at the same time. It noted that if at any time during his working years, outside of his federal employment, he made regular contributions to SSA he was entitled to those benefits. Appellant indicated on April 13, 2015 that he worked from 1962 through 1985 in the private sector and that his SSA benefits should have been based on this employment.

By decision dated February 13, 2019, OWCP's hearing representative affirmed as modified the June 27, 2018 preliminary overpayment determination. She found that an overpayment in the amount of \$4,930.86 had occurred for the period December 1, 2011 through February 8, 2014 as appellant had received dual benefits from SSA and OWCP. OWCP's hearing

representative further found that appellant was not at fault in the creation of the overpayment in accordance with OWCP's procedures.⁷ She denied waiver of recovery, however, finding that appellant did not meet the criteria for waiver as his monthly income exceeded his monthly expenses by more than \$50.00. OWCP's hearing representative further found that appellant reported funds of \$12,761.75 which exceeded the resource base of \$10,300.00 for an individual with one dependent such that recovery of the overpayment would not defeat the purpose of FECA. She found that appellant had not asserted that he detrimentally relied on the incorrect payments such that recovery would be against equity and good conscience. OWCP's hearing representative determined that appellant had disposable income of \$109.00 per month and that the amount of \$300.00 per month for gifts was not a necessary expense, such that the overpayment should be collected from ongoing compensation benefits in the amount of \$300.00 every 28 days.

LEGAL PRECEDENT - ISSUE 1

Section 8102(a) of FECA provides that the United States shall pay compensation for the disability of an employee resulting from personal injury sustained while in the performance of his or her federal employment.⁸ Section 8116 limits the right of an employee to receive compensation: While an employee is receiving compensation, he or she may not receive salary, pay, or remuneration of any type from the United States.⁹

Section 10.421(d) of the implementing regulations requires that OWCP reduce the amount of compensation by the amount of any SSA age-related retirement benefits that are attributable to federal service of the employee.¹⁰ FECA Bulletin No. 97-09 provides that FECA benefits have to be adjusted for the FERS portion of SSA benefits because the portion of the SSA benefit earned as a federal employee is part of the FERS retirement package, and the receipt of FECA benefits and federal retirement concurrently is a prohibited dual benefit.¹¹

ANALYSIS -- ISSUE 1

The Board finds that OWCP properly determined that appellant received an overpayment of compensation in the amount of \$4,930.86 for the period December 1, 2011 through February 8, 2014 because he concurrently received SSA retirement benefits while receiving FECA benefits without an appropriate offset, for which he was without fault.¹²

In its February 13, 2019 decision, OWCP found that an overpayment of compensation was created for the period December 1, 2011 through February 8, 2014. The overpayment was based on the clarifying evidence received from SSA on May 9 and June 1, 2018 with respect to retirement benefits paid to appellant for the period December 1, 2011 through February 8, 2014. The record

⁷ Federal (FECA) Procedure Manual, Part 6 -- Debt Management, *Initial Determinations in an Overpayment*, Chapter 6.300.4.g(4)(a) (September 2018).

⁸ 5 U.S.C. § 8102(a).

⁹ *Id.* at § 8116.

¹⁰ 20 C.F.R. § 10.421(d); *see T.B.*, Docket No. 18-1449 (issued March 19, 2019).

¹¹ FECA Bulletin No. 97-09 (February 3, 1997); *see also T.B.*, *id.*

¹² *T.B.*, *supra* note 10; *A.F.*, Docket No. 19-0054 (issued June 12, 2019).

indicates that, while he was receiving compensation for total disability under FECA, he was also receiving SSA age-related retirement benefits based upon his federal service. A claimant cannot receive both compensation for wage-loss and SSA age-based benefits attributable to federal service for the same period.¹³ The information provided by SSA established that appellant received age-based SSA benefits that were attributable to federal service during the period December 1, 2011 through February 8, 2014. Consequently, the fact of overpayment has been established.

To determine the amount of the overpayment, the portion of SSA's benefits that were attributable to federal service must be calculated. OWCP received documentation from SSA with respect to the specific amount of SSA age-related retirement benefits that were attributable to federal service. SSA's provided SSA's rate with FERS, and without FERS for specific periods from December 1, 2011 through February 8, 2014. It also explained that the previous erroneous calculations occurred as it had failed to consider both that it had previously recovered an overpayment which reduced the payment appellant actually received during the period February 2013 through January 2016 and that it had failed to include appellant's military earnings prior to 1967 when calculating SSA's rate without FERS. OWCP provided its calculations for each relevant period based on SSA's worksheet. No contrary evidence was provided.

The Board has reviewed OWCP's calculation of benefits received by appellant for the period December 1, 2011 through February 8, 2014 and finds that an overpayment of compensation in the amount of \$4,930.86 was created, for which appellant was without fault.

LEGAL PRECEDENT -- ISSUE 2

Section 8129 of FECA provides that an individual who is without fault in creating or accepting an overpayment is still subject to recovery of the overpayment unless adjustment or recovery would defeat the purpose of FECA or would be against equity and good conscience.¹⁴ The waiver or refusal to waive an overpayment of compensation by OWCP is a matter that rests within OWCP's discretion pursuant to statutory guidelines.¹⁵

Recovery of an overpayment will defeat the purpose of FECA if such recovery would cause hardship to a currently or formerly entitled beneficiary because the beneficiary from whom OWCP seeks recovery needs substantially all of his or her current income, including compensation benefits, to meet current ordinary and necessary living expenses, and the beneficiary's assets do not exceed a specified amount as determined by OWCP.¹⁶ Additionally, recovery of an overpayment is considered to be against equity and good conscience when an individual who received an overpayment would experience severe financial hardship in attempting to repay the

¹³ *E.K.*, Docket No. 18-0587 (issued October 1, 2018).

¹⁴ 5 U.S.C. § 8129; 20 C.F.R. §§ 10.433, 10.434, 10.436, and 10.437; *see A.S.*, Docket No. 17-0606 (issued December 21, 2017).

¹⁵ *A.C.*, Docket No. 18-1550 (issued February 21, 2019); *see Robert Atchison*, 41 ECAB 83, 87 (1989).

¹⁶ 20 C.F.R. § 10.436(a)(b). For an individual with no eligible dependents the asset base is \$6,200.00. The base increases to \$10,300.00 for an individual with a spouse or one dependent, plus \$1,200.00 for each additional dependent. Federal (FECA) Procedure Manual, Part 6 -- Debt Management, *Final Overpayment Determinations*, Chapter 6.400.4(a)(2) (September 2018).

debt or when an individual, in reliance on such payment or on notice that such payments would be made, gives up a valuable right or changes his or her position for the worse.¹⁷

OWCP's regulations provide that the individual who received the overpayment is responsible for providing information about income, expenses, and assets as specified by OWCP. This information is needed to determine whether or not recovery of an overpayment would defeat the purpose of FECA or be against equity and good conscience. The information is also used to determine the repayment schedule, if necessary.¹⁸ Failure to submit the requested information within 30 days of the request shall result in a denial of waiver of recovery, and no further request for waiver shall be considered until the requested information is furnished.¹⁹

ANALYSIS -- ISSUE 2

The Board finds that OWCP properly denied waiver of recovery of the \$4,930.86 overpayment of compensation.²⁰

Although OWCP determined that appellant was not at fault in the creation of the overpayment, he has not established that recovery of the overpayment would defeat the purpose of FECA because his assets exceed the resource base of \$10,300.00 for an individual with one dependent as provided in OWCP's procedures.²¹ The supporting financial information of record documents assets in excess of \$12,761.75. Because appellant has not met the second prong of the two-prong test of whether recovery of the overpayment would defeat the purpose of FECA, it is not necessary to consider the first prong of the test, *i.e.*, whether his monthly income exceeded his monthly ordinary and necessary expenses by more than \$50.00.²² Appellant did not establish that he was entitled to waiver on the basis of defeating the purpose of FECA. There is also no evidence to support that appellant gave up a valuable right or changed his position for the worse, in reliance on her FECA compensation. Appellant, therefore, did not establish that recovery of the overpayment was against equity and good conscience.²³

As appellant failed to establish that recovery of the overpayment of compensation would either defeat the purpose of FECA or be against equity and good conscience, the Board finds that OWCP did not abuse its discretion in denying waiver of recovery.²⁴

¹⁷ *Id.* at § 10.437(a)(b).

¹⁸ *Id.* at § 10.438(a); *M.S.*, Docket No. 18-0740 (issued February 4, 2019).

¹⁹ *Id.* at § 10.438(b).

²⁰ *A.C.*, *supra* note 15.

²¹ Federal (FECA) Procedure Manual, Part 6 -- Debt Management, *Final Overpayment Determinations*, Chapter 6.400.4.a(2) and (3) (September 2018).

²² *Id.*

²³ *M.A.*, Docket No. 18-1666 (issued April 26, 2019); *A.C.*, *supra* note 15.

²⁴ *Id.*

On appeal appellant's representative contends that the overpayment should have been reduced by the amount of \$578.96, which resulted from OWCP's over-reduction of appellant's BLI premiums. Although such an offset appears administratively straightforward, the Board has held that it may circumvent established legal procedures and protections if appellant is entitled to consideration of waiver.²⁵ Such offsets are not allowed, as they permit an unrestricted recovery of the offset portion of the overpayment without regard to the relevant factors set forth in 20 C.F.R. § 10.441(a)²⁶ which denies administrative due process with respect to the amount offset.²⁷

LEGAL PRECEDENT -- ISSUE 3

Section 10.441 of OWCP's regulations provides that, when an overpayment has been made to an individual who is entitled to further payments, the individual shall refund to OWCP the amount of the overpayment as the error is discovered or his or her attention is called to the same. If no refund is made, OWCP shall decrease later payments of compensation, taking into account the probable extent of future payments, the rate of compensation, the financial circumstances of the individual, and any other relevant factors, so as to minimize any hardship.²⁸

ANALYSIS -- ISSUE 3

The Board finds that OWCP properly required recovery of the overpayment by deducting \$300.00 from appellant's continuing compensation payments every 28 days.

OWCP's hearing representative gave due regard to the financial information appellant submitted as well as the factors set forth in section 10.441. As appellant's monthly income exceeded his ordinary and necessary expenses by \$109.00 per month, and as she disallowed as not an ordinary and necessary expense \$300.00 per month in gifts, the hearing representative did not abuse her discretion in requiring recovery by deducting \$300.00 every 28 days from each of appellant's continuing compensation payments.²⁹ The Board thus finds that the hearing representative properly determined recovery of the overpayment in this case.³⁰

CONCLUSION

The Board finds that OWCP properly determined that appellant received an overpayment of compensation in the amount of \$4,930.86 for the period December 1, 2011 through February 8, 2014 because he concurrently received SSA age-related retirement benefits while receiving FECA benefits without an appropriate offset, for which he was without fault. The Board further finds

²⁵ *P.S.*, Docket No. 18-1438 (issued February 1, 2019); *S.P.*, Docket No. 17-1888 (issued July 18, 2018). OWCP should issue a separate decision regarding this matter.

²⁶ 20 C.F.R. § 10.441(a). This section states that in collecting an overpayment of compensation, OWCP shall decrease later payment of compensation by taking into account the probable extent of future payments, the rate of compensation, the financial circumstances of the individual and any other relevant factors, so as to minimize hardship.

²⁷ *R.H.*, Docket No. 17-1933 (issued February 15, 2018); *R.O.*, Docket No. 17-0894 (issued January 26, 2018).

²⁸ 20 C.F.R. § 10.441(a); *A.F.*, *supra* note 12; *Donald R. Schueler*, 39 ECAB 1056, 1062 (1988).

²⁹ *G.C.*, Docket No. 18-1062 (issued December 4, 2018).

³⁰ *A.C.*, *supra* note 15.

that OWCP properly denied waiver of recovery of the \$4,930.86 overpayment of compensation. Additionally, the Board finds that OWCP properly required recovery of the overpayment by deducting \$300.00 from appellant's continuing compensation payments every 28 days.³¹

ORDER

IT IS HEREBY ORDERED THAT the February 13, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 3, 2020
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board

³¹ As previously noted, appellant's representative contends that OWCP has not yet refunded the \$578.96 described in the June 19, 2014 memorandum, which it indicated it had incorrectly deducted for basic life insurance (BLI) from appellant's continuing compensation benefits for the period December 31, 2010 through February 8, 2014. The Board notes that there is no final OWCP decision on this issue reviewable on appeal. 20 C.F.R. § 501.2(c).