

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

D.B., Appellant)	
)	
and)	Docket No. 22-0894
)	Issued: June 26, 2023
DEPARTMENT OF VETERANS AFFAIRS, VA)	
MEDICAL CENTER, Waco, TX, Employer)	
)	

Appearances:
Appellant, pro se
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
JAMES D. MCGINLEY, Alternate Judge

JURISDICTION

On May 28, 2022 appellant filed a timely appeal from December 3, 2021 and May 19, 2022 merit decisions of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.²

ISSUES

The issues are: (1) whether OWCP properly determined that appellant received an overpayment of compensation in the amount of \$15,366.62 during the period March 1, 2018 through April 24, 2021, for which he was without fault, as he concurrently received Social Security

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that, following the May 19, 2022 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.*

Administration (SSA) age-related retirement benefits and FECA wage-loss compensation benefits, without an appropriate offset; (2) whether OWCP properly denied waiver of recovery of the overpayment; (3) whether OWCP properly required recovery of the overpayment by deducting \$262.44 from appellant's continuing compensation payments every 28 days; and (4) whether OWCP properly reduced appellant's wage-loss compensation pursuant to 5 U.S.C. 8113(b) and 20 C.F.R. § 10.519 effective May 19, 2022 for failure to cooperate with vocational rehabilitation without good cause.

FACTUAL HISTORY

This case has previously been before the Board on a different issue.³ The facts and circumstances as set forth in the Board's prior order are incorporated herein by reference. The relevant facts are as follows.

On May 5, 2008 appellant, a 56-year-old housekeeping aid, filed a traumatic injury claim (Form CA-1) alleging that on May 3, 2008 he sustained a lower back and left muscle sprain while lifting a bucket of water and throwing laundry into a hamper in the performance of duty. OWCP accepted the claim for a lumbar sprain, and subsequently expanded the acceptance of the claim to include thoracic or thoracolumbar intervertebral disc degeneration and chronic pain syndrome. The claim form indicated that appellant's retirement system was the Federal Employees' Retirement System (FERS). OWCP paid him wage-loss compensation on the supplemental rolls commencing December 6, 2008 and on the periodic rolls commencing December 21, 2008.

On November 1, 2019 OWCP referred appellant, together with a statement of accepted facts (SOAF), the medical record, and a series of questions, to Dr. Jack H. Henry, a Board-certified orthopedic surgeon, for a second opinion evaluation to determine whether appellant had any remaining residuals or disability due to his accepted May 3, 2008 employment injury.

Dr. Henry, in a report dated December 19, 2019, diagnosed lumbar sprain, chronic pain syndrome, and thoracic or thoracolumbar intervertebral disc degeneration. Regarding appellant's physical examination findings, he reported restricted lower lumbar range of motion (ROM), bilateral lower extremity weakness, continued chronic lower back pain, and persistent lower lumbar paraspinal muscles tenderness and spasm. Dr. Henry opined that appellant could return to work in a light-duty position. Based on his review of a functional capacity evaluation (FCE) conducted at his request, he found that appellant was able to perform light-duty work with restrictions as noted on the attached Form OWCP-5c. In the Form OWCP-5c dated January 6, 2020, Dr. Henry found that appellant was capable of performing light-duty work with restriction of up to two hours of walking, standing, twisting, and bending/stooping, no squatting, kneeling, or climbing, and up two hours of lifting, pushing, and pulling no more than 20 pounds.

On February 24 and June 4, 2020 OWCP requested appellant's treating physician, Dr. Adam Spjute, a physician Board-certified in anesthesiology and pain medicine, review Dr. Henry's report and provide an opinion on whether he agreed or disagreed with Dr. Henry's opinion and findings. No response was received from Dr. Spjute.

³ *Order Reversing Case*, Docket No. 11-0926 (issued February 27, 2012).

On May 10, 2021 OWCP referred appellant, together with a SOAF, the medical record, and a series of questions, to Dr. Vinod Kumar Panchbhavi, a Board-certified orthopedic surgeon, for a second opinion evaluation to determine whether appellant had any remaining residuals and disability due to his accepted May 3, 2008 employment injury.

On April 22, 2021 OWCP received a FERS/SSA dual benefits form, completed by SSA on that date. It reported appellant's SSA age-related retirement benefit rates with FERS as follows: \$1,188.70 effective March 2018; \$1,221.90 effective December 2018; \$1,241.40 effective December 2019; and \$1,257.50 effective December 2020. The form further reported SSA age-related retirement benefit rates without FERS as follows: \$793.60 effective March 2018; \$818.50 effective December 2018; \$831.50 effective December 2019; and \$842.30 effective December 2020.

In a FERS offset overpayment calculation worksheet completed on April 23, 2021 and certified on April 26, 2021, OWCP determined the overpayment amount by multiplying the daily FERS offset amount by the number of days in each period March 1, 2018 through April 24, 2021, which resulted in a total overpayment of \$15,366.62. It explained that, from March 1 through November 30, 2018, appellant received an overpayment of \$3,581.95; from December 1, 2018 through November 30, 2019 an overpayment of \$4,854.10; from December 1, 2019 through November 30, 2020 an overpayment of \$4,945.83; and from December 1, 2020 through April 24, 2021 an overpayment of \$1,984.75.

In an April 26, 2021 preliminary overpayment determination, OWCP found that appellant had received an overpayment of compensation in the amount of \$15,366.62⁴ for the period March 1, 2011 through April 24, 2021, for which he was without fault, because his wage-loss compensation payments had not been reduced to offset his SSA age-related retirement benefits attributable to federal service. It requested that he submit a completed overpayment recovery questionnaire (Form OWCP-20) to determine a reasonable repayment method. OWCP advised appellant that he could request a waiver of recovery of the overpayment, if he believed that recovery of the overpayment would defeat the purpose of FECA, or would be against equity and good conscience. It further requested supporting financial information, including copies of income tax returns, bank account statements, bills, pay slips, and any other records to support income and expenses. OWCP further notified appellant that, within 30 days of the date of the letter, he could request a final decision based on the written evidence or a precoupment hearing.

In a letter of even date, OWCP advised appellant, effective April 25, 2021, his compensation benefits would be offset by his SSA benefits attributable to his federal service. It indicated that his net wage-loss compensation every 28 days would be \$1,049.74.

On May 3, 2021 appellant requested a precoupment hearing before a representative of OWCP's Branch of Hearings and Review. In an attached Form OWCP-20, he advised that his monthly income totaled \$5,199.00. Appellant further advised that his monthly expenses totaled

⁴ OWCP noted the amount of overpayment as \$15,336.62; however, this appears to be a typographical error the correct total is \$15,366.62.

\$5,199.00. He indicated that he had no assets. No financial documentation supporting appellant's reported income or expenses was received.

In a report dated May 7, 2021, Dr. Panchbhavi diagnosed lumbar sprain, chronic pain syndrome, and thoracic or thoracolumbar intervertebral disc degeneration. He detailed appellant's examination and ROM findings, which included restricted thoracic and lumbar ROM, lower back aching pain. Dr. Panchbhavi noted that degenerative conditions usually never resolved and progressed over time. He opined that appellant's lumbar sprain had resolved, but that the conditions of chronic pain syndrome and thoracic or thoracolumbar intervertebral disc degeneration had not resolved. Dr. Panchbhavi opined that appellant was capable of light-duty work and referred appellant for an FCE for a determination of his work restrictions/limitations. In an attached Form OWCP-5c dated May 14, 2021, he found that appellant was capable of performing light-duty work with restrictions of up to two hours of walking and standing; no twisting, bending/stooping, squatting, kneeling, or climbing; and up two hours of lifting, pushing, and pulling no more than 20 pounds.

On May 14, 2021 Dr. Panchbhavi reviewed the FCE performed that day. He concluded that appellant could not perform the duties of his date-of-injury job as a housekeeping aid, but was capable of performing a light-duty job.

On July 29, 2021 OWCP referred appellant to a certified vocational rehabilitation counselor based on Dr. Panchbhavi's opinion that appellant was capable of performing light-duty work.

A prerecoupment hearing was held before the Branch of Hearings and Review on August 10, 2021. The hearing representative noted that appellant completed part of the Form OWCP-20, but that no financial documentation had been submitted. She afforded him 30 days to submit such documentation.

On September 14, 2021 OWCP received another Form OWCP-20 dated August 29, 2021 wherein appellant noted income totaling \$4,216.42. Appellant noted expenses for food of \$300.00 monthly and clothing \$400.00. He also listed medical expenses for his girlfriend. Appellant indicated that he had no assets. He attached documentation related to a credit union account and a credit card account, and medical bills for his daughter and girlfriend.

By decision dated October 27, 2021, OWCP's hearing representative finalized the preliminary determination that appellant received an overpayment of compensation in the amount of \$15,366.62⁵ for the period March 1, 2018 through April 24, 2021, because he concurrently received SSA age-related retirement benefits and FECA wage-loss compensation without an appropriate offset. She found that he was without fault in the creation over the overpayment, but denied waiver of recovery of the overpayment. The hearing representative required recovery of the overpayment by deducting \$262.44 from appellant's continuing compensation payments every 28 days.

⁵ The hearing representative noted the amount of overpayment as \$15,336.62; however, this appears to be a typographical error the correct total is \$15,366.62.

By decision dated December 3, 2021, OWCP finalized its preliminary overpayment determination that appellant had received an overpayment of compensation in the amount of \$15,366.62 during the period March 1, 2018 through April 24, 2021. It further found that he was without fault in the creation of the overpayment, but denied waiver of recovery of the overpayment, finding that the evidence was insufficient to support waiver. OWCP required repayment of the overpayment by deducting \$262.44 from appellant's continuing compensation payments every 28 days.

In a letter dated March 25, 2022, the vocational rehabilitation counselor advised appellant that he was expected to participate in the job placement plan, noting the positions of appointment clerk and routing clerk had been identified as suitable. She enclosed a job placement binder for his review, noting that a job placement meeting would be scheduled to discuss it in detail. On April 11, 2022 the vocational rehabilitation counselor noted in a rehabilitation action report (Form OWCP-44) that appellant had obstructed the rehabilitation process by failing to respond to her telephone calls. She indicated that appellant on April 8, 2022 advised that he was partially retired and would not participate in job placement services or look for a job. On April 25, 2022 appellant stated that he did not wish to participate in job placement services.

In an April 11, 2022 letter, OWCP advised appellant that the vocational rehabilitation counselor indicated in her report of even date that appellant indicated that he did not wish to participate in job placement services because he was partially retired. However, it noted that Dr. Panchbhavi advised that appellant was able to perform gainful employment with restrictions. OWCP explained that, pursuant to 5 U.S.C. § 8113(b), if an individual without good cause fails to apply for and undergo vocational rehabilitation when so directed, and OWCP finds that, in the absence of the failure the individual's wage-earning capacity would probably have substantially increased, it may reduce prospectively the compensation based on what probably would have been the individual's wage-earning capacity had they not failed to apply for and undergo vocational rehabilitation. It afforded appellant 30 days to contact the vocational rehabilitation counselor to make a good faith effort to participate in the rehabilitation effort or to provide good reasons for noncompliance. No response was received.

On May 17, 2002 the vocational rehabilitation counselor noted in a rehabilitation action report (Form OWCP-44) that appellant continued to obstruct the rehabilitation process by refusing to participate in job placement meetings and refusing to look for alternate work.

By decision dated May 19, 2022, OWCP suspended appellant's compensation, effective that date, based upon its finding that he had failed to cooperate or undergo vocational rehabilitation when so directed. It explained that, because he had failed to participate in, or obstructed, the approved vocational rehabilitation program, it assumed that he would have been able to earn wages of \$506.00 per week as a routing clerk, DOT # 222.687-022. OWCP advised that the reduction in benefits would continue until appellant in "good faith" participated in vocation rehabilitation or showed good cause for not complying.

LEGAL PRECEDENT -- ISSUE 1

Section 8102 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

duty.⁶ 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.⁷

Section 10.421(d) of the implementing regulations requires that OWCP reduce the amount of compensation by the amount of SSA age-related retirement benefits that are attributable to federal service of the employee.⁸ 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.⁹

ANALYSIS -- ISSUE 1

The Board finds that OWCP has established that appellant received an overpayment of compensation in the amount of \$15,366.62 during the period March 1, 2018 through April 24, 2021, for which he was without fault, as he concurrently received SSA age-related retirement benefits and FECA wage-loss compensation, without an appropriate offset.

As previously noted, a claimant cannot receive both FECA wage-loss compensation and SSA age-related retirement benefits attributable to federal service for the same period, without an appropriate offset.¹⁰ The evidence of record establishes that appellant concurrently received wage-loss compensation and SSA age-related retirement benefits that were attributable to federal service during the period March 1, 2018 through April 24, 2021. Consequently, fact of overpayment has been established.¹¹

To determine the amount of the overpayment, the portion of the SSA age-related retirement benefits that were attributable to federal service must be calculated. OWCP received documentation from SSA with respect to the specific amounts of SSA age-related retirement benefits that were attributable to federal service. SSA provided its rate with FERS and without FERS during the specific period March 1, 2018 through April 24, 2021. In the December 3, 2021 final decision, OWCP provided its calculations for each relevant period based on SSA's FERS overpayment calculation worksheet.

⁶ 5 U.S.C. § 8102(a).

⁷ *Id.* at § 8116.

⁸ 20 C.F.R. § 10.421(d); *see T.T.*, Docket No. 20-1257 (issued July 29, 2022); *L.W.*, Docket No. 19-0787 (issued October 23, 2019); *S.M.*, Docket No. 17-1802 (issued August 20, 2018).

⁹ FECA Bulletin No. 97-09 (issued February 3, 1997); *see also T.T., id.; N.B.*, Docket No. 18-0795 (issued January 4, 2019).

¹⁰ *T.T., id.; D.W.*, Docket No. 20-1533 (issued May 27, 2021); *M.R.*, Docket No. 20-0427 (issued October 30, 2020); *A.C.*, Docket No. 18-1550 (issued February 21, 2019); *N.B., id.*

¹¹ *See T.T., id.; L.B.*, Docket No. 19-1322 (issued January 27, 2020).

The Board has reviewed OWCP's calculation of benefits received by appellant for the period March 1, 2018 through April 24, 2021 and finds that an overpayment of compensation in the amount of \$15,366.62 has been established. OWCP obtained documentation from SSA establishing that his SSA age-related retirement benefit rates with and without FERS during the relevant period and properly calculated the total overpayment during the period in question. The Board thus finds that appellant received an overpayment of FECA compensation in the amount of \$15,366.62 during the period March 1, 2018 through April 24, 2021.

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.¹²

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.¹³

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,¹⁴ and the beneficiary's assets do not exceed a specified amount as determined by OWCP.¹⁵ 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 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.¹⁶

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.¹⁷ Failure to submit the requested information

¹² 5 U.S.C. § 8129; 20 C.F.R. §§ 10.433, 10.434, 10.436, and 10.437; *see M.C.*, Docket No. 19-0699 (issued February 12, 2020).

¹³ *A.C.*, Docket No. 18-1550 (issued February 21, 2019); *see Robert Atchison*, 41 ECAB 83, 87 (1989).

¹⁴ An individual is deemed to need substantially all of his or her current income to meet current ordinary and necessary living expenses if monthly income does not exceed monthly expenses by more than \$50.00. Federal (FECA) Procedure Manual, Part 6 -- Debt Management, *Initial Overpayment Determinations*, Chapter 6.400.4a(3) (September 2020).

¹⁵ 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. *Id.* at Chapter 6.400.4a.(2) (September 2020).

¹⁶ *Id.* at § 10.437(a)(b).

¹⁷ *Id.* at § 10.438(a); *M.S.*, Docket No. 18-0740 (issued February 4, 2019).

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.¹⁸

ANALYSIS -- ISSUE 2

The Board finds that OWCP properly denied waiver of recovery of the overpayment.

As OWCP found appellant without fault in the creation of the overpayment, waiver must be considered, and repayment is still required unless adjustment or recovery of the overpayment would defeat the purpose of FECA or be against equity and good conscience.¹⁹

The Board finds that appellant has not established that recovery of the overpayment would defeat the purpose of FECA or be against equity and good conscience. In its preliminary overpayment determination dated April 26, 2021, OWCP explained the importance of providing the completed overpayment questionnaire and supporting financial documentation. While appellant completed the Form OWCP-20, he provided insufficient documentation supporting his reported income, expenses, or assets. His income exceeded his alleged expenses by more than \$50.00.²⁰ Therefore, OWCP properly denied waiver of recovery of the overpayment.²¹

LEGAL PRECEDENT -- ISSUE 3

The Board's jurisdiction over recovery of an overpayment is limited to reviewing those cases where OWCP seeks recovery from continuing compensation under FECA.²²

Section 10.441(a) of OWCP's regulations²³ provides in pertinent part:

“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 soon as the error is discovered or his or her attention is called to 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.”²⁴

¹⁸ *Id.* at § 10.438(b).

¹⁹ *Id.* at § 10.436.

²⁰ *Supra* note 15.

²¹ *D.C.*, Docket No. 19-0118 (issued January 15, 2020); *see S.B.*, Docket No. 16-1795 (issued March 2, 2017).

²² 20 C.F.R. § 10.441; *see G.V.*, Docket No. 22-0408 (issued July 12, 2022); *M.P.*, Docket No. 18-0902 (issued October 16, 2018).

²³ *Id.* at § 10.441(a).

²⁴ *Id.*; *see C.M.*, Docket No. 19-1451 (issued March 4, 2020).

ANALYSIS -- ISSUE 3

The Board finds that OWCP properly required recovery of the overpayment by deducting \$262.44 from appellant's continuing compensation payments every 28 days.

The record reflects that appellant received FECA compensation benefits on the periodic rolls in the net amount of \$1,049.74 every 28 days as of November 7, 2021.

OWCP gave due regard to the financial information submitted, as well as the factors set forth in 20 C.F.R. § 10.441 and found that this method of recovery would minimize the resulting hardship. The Board, therefore, finds that OWCP properly required recovery of the overpayment from appellant's continuing compensation payments at the rate of \$262.44 every 28 days.

LEGAL PRECEDENT -- ISSUE 4

Section 8104(a) of FECA provides that OWCP may direct a permanently disabled employee to undergo vocational rehabilitation.²⁵ Section 8113(b) provides that, if an individual without good cause fails to apply for and undergo vocational rehabilitation when so directed under 8104, the Secretary, on review under section 8128 and after finding that in the absence of the failure the wage-earning capacity of the individual would probably have substantially increased, may reduce prospectively the monetary compensation of the individual in accordance with what would probably have been his or her wage-earning capacity in the absence of the failure, until the individual in good faith complies with the direction of OWCP.²⁶

OWCP's procedures provide that, specific instances of noncooperation include a failure to appear for the initial interview, counseling sessions, an FCE, other interviews conducted by the rehabilitation counselor, vocational testing sessions and work evaluations, as well as lack of response or inappropriate response to directions in a testing session after several attempts at instruction.²⁷

ANALYSIS -- ISSUE 4

The Board finds that OWCP properly suspended appellant's wage-loss compensation pursuant to 5 U.S.C. § 8113(b) and 20 C.F.R. § 10.519 effective May 19, 2022 for failing to cooperate with vocational rehabilitation efforts without good cause.

In second opinion reports dated May 7 and 14, 2021, Dr. Panchbhavi discussed his examination findings and the findings from the FCE. He concluded that appellant was capable of performing light-duty work with restrictions based on his examination and the FCE. As

²⁵ 5 U.S.C. § 8104(a); *see also J.E.*, 59 ECAB 606 (2008).

²⁶ *Id.* at § 8113(b).

²⁷ *Supra* note 14 at Chapter 2.813.17(b) (February 2011).

Dr. Panchbhavi's reports were sufficiently rationalized and based on an accurate factual history and the complete medical record, his opinion constitutes the weight of the medical evidence.²⁸

Based on Dr. Panchbhavi's findings, OWCP referred appellant to vocational rehabilitation. The vocational rehabilitation counselor identified the position of routing clerk as the best employment option for appellant and provided him a rehabilitation plan. However, appellant failed to cooperate with the vocational rehabilitation counselor when he did not respond to telephone calls from the vocational rehabilitation specialist, and he informed her that he was not going to cooperate or look for a job. The Board finds that the evidence of record establishes that he failed to participate in vocational rehabilitation without good cause.

Pursuant to 5 U.S.C. § 8113(b) and the implementing regulations, OWCP may suspend appellant's compensation based on the amount which would likely have been his wage-earning capacity had he undergone vocational rehabilitation. The rehabilitation counselor identified the position of routing clerk, DOT No. 222.687-022, with entry level wages of \$506.00 per week. This represents the amount, which would likely have been appellant's wage-earning capacity had he completed vocational rehabilitation. OWCP followed its procedures and advised him that, if he did not continue vocational rehabilitation, his compensation would be reduced. It properly applied the *Shadrick* formula, as codified in section 10.403 of its regulations,²⁹ in determining appellant's loss of wage-earning capacity and reducing his compensation. The Board, thus, finds that he had, without good cause, failed to continue participation in vocational rehabilitation, and his compensation was properly suspended to reflect a wage-earning capacity as a routing clerk.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128 and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant received an overpayment of compensation during the period March 1, 2018 through April 24, 2021, in the amount of \$15,366.62, for which he was without fault, because he concurrently received FECA wage-loss compensation and SSA age-related retirement benefits, without appropriate offset. The Board further finds that OWCP properly denied waiver of recovery of the overpayment, and properly required recovery of the overpayment by deducting \$262.44 from his continuing compensation payments every 28 days. The Board also finds that OWCP properly suspended appellant's wage-loss compensation, pursuant to 5 U.S.C. 8113(b) and 20 C.F.R. § 10.519, effective May 19, 2022, for failure to cooperate with vocational rehabilitation efforts without good cause.

²⁸ *Id.* at Chapter 2.813.18(c) (February 2011).

²⁹ 20 C.F.R. § 10.403.

ORDER

IT IS HEREBY ORDERED THAT the December 3, 2021 and May 19, 2022 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: June 26, 2023
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

James D. McGinley, Alternate Judge
Employees' Compensation Appeals Board