

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

S.C., Appellant)	
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)	
and)	Docket No. 22-0809
)	Issued: August 22, 2025
U.S. DEFENSE AGENCIES, TRACY DEFENSE DEPOT, Tracy, CA, Employer)	
)	
)	

Appearances:

William H. Brawner, Esq., 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 April 28, 2022 appellant, through counsel, filed a timely appeal from a March 25, 2022 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.

ISSUES

The issues are: (1) whether appellant received an overpayment of compensation in the amount of \$19,930.82 for the period July 23, 2002 through May 23, 2020, for which she was without fault, because OWCP failed to properly deduct life insurance premiums from her FECA

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.*

wage-loss compensation; (2) whether OWCP properly denied waiver of recovery of the overpayment; and (3) whether OWCP properly required recovery of the overpayment by deducting \$112.00 from appellant's continuing compensation payments, every 28 days.

FACTUAL HISTORY

On March 22, 1995 appellant, then a 39-year-old packer, filed a traumatic injury claim (Form CA-1) alleging that, on that date, she injured her back when lifting a box while in the performance of duty. OWCP accepted the claim for spondylosis with radiculopathy, lumbosacral region; intervertebral disc degeneration, lumbar region; displacement of lumbar intervertebral disc without myelopathy; and sprain of lumbosacral joint/ligament. It paid appellant wage-loss compensation.

On April 21, 2020 the Office of Personnel Management (OPM) informed OWCP that, as a compensationer, appellant was eligible to continue her life insurance coverage under the Federal Employees' Group Life Insurance (FEGLI) program. The final base salary on which life insurance coverage was based was \$33,908.00. It requested that OWCP deduct premiums for the following insurance elections: basic life insurance (BLI) at 50 percent reduction, Option A (Standard Option), Option B (Additional Optional Insurance) at "5X with no reduction -- incontestability," and Option C (Family Optional Insurance) at 4X with no reduction. OPM noted that the commencement date for the postretirement deductions was July 23, 2002, and that the basic and optional coverage premiums were to begin on the OWCP commencing date. It referred to appellant's signed election forms and requested that OWCP make appropriate corrections for any underwithholdings.

On a Continuation of Life Insurance Coverage as an Annuitant or Compensationer form (SF 2818), signed on December 2, 2003, appellant elected the following life insurance coverages: BLI at 50 percent with no reduction; Option A; Option B at "5X with full reduction;" and Option C at 4X with no reduction.³

An OPM Retirement Operations Center form (Form RI 76-13) dated January 16, 2004 indicated that appellant was in a nonpay status and that the final salary rate on which appellant's FEGLI life insurance coverage was based was \$33,908.00. The form further indicated that premiums for the following elections were to have been withheld as of March 21, 2003: BLI at 50 percent reduction; Option A; Option B at 5X with no reduction -- incontestability paid over two years; and Option C at 4X with no reduction.

On Option B and Option C Election Forms, signed by appellant on April 9, 2020, appellant elected to freeze all of her Option B and Option C coverage at the value as of age 65. She certified that this meant that the value of her Option B coverage would continue at the same level for life and that premiums would be charged as appropriate. Appellant further certified that she "can

³ Handwritten notations on the form, initialed "JMH" and dated March 24, 2020, indicated next to Option B "incontestability, paid over 2 yrs through OWCP to current date ... was cancelled per this SF 2818 dated February 12, 2003. The notations further indicated that appellant had only been paying for Option C 1X when she had elected 4X, "so needs to be billed for additional 3X of C."

cancel or reduce, but not increase, the number for this election at any time, but that if I do, I will not receive a refund of premiums.”

Effective May 24, 2020, OWCP has adjusted appellant’s life insurance premiums per the information provided by OPM.

In letters dated August 11 and November 19, 2020 and May 18 and July 26, 2021, the employing establishment advised OWCP that the appropriate deductions had not been made for appellant’s life insurance premiums for the period July 23, 2002 through May 23, 2020.

In fiscal worksheets dated July 28 and August 4, 2021, and in an August 4, 2021 memorandum, OWCP determined that it had deducted only \$20,709.76 for life insurance premiums for the period July 23, 2002 through May 23, 2020 when it should have deducted \$24,040.99 for that period, which resulted in an underwithholding of \$3,331.23. It further found that OWCP failed to deduct premiums for appellant’s postretirement life insurance (PRBLI) elections during that period, and therefore she owed \$16,599.59 for life insurance deductions. OWCP therefore found a total overpayment of compensation in the amount of \$19,930.82.

In a preliminary overpayment determination dated August 5, 2021, OWCP notified appellant that she had received an overpayment of compensation in the amount of \$19,930.82 because OWCP failed to properly deduct for her life insurance premiums for the period July 23, 2002 through May 23, 2020. It advised her of its preliminary determination that she was without fault in the creation of the overpayment and requested that she complete an overpayment action request form and an overpayment recovery questionnaire (Form OWCP-20), and submit documentation including tax returns, bank account statements, bills and cancelled checks, pay slips, and other records which supported income and expenses listed. Additionally, OWCP advised appellant that, within 30 days of the date of the letter, she could request a final decision based on the written evidence or a prercoupmment hearing.

On September 13, 2021 appellant requested waiver of recovery of the overpayment, contending that she was without fault in the creation of the overpayment and that she relied on OPM and OWCP to make calculations that were beyond her knowledge and abilities. On her completed Form OWCP-20, she reported total monthly income of \$5,168.00, total monthly expenses of \$6,566.28, and total assets of \$175.00. Appellant provided supporting documentation, including a July 2, 2021 Social Security Administration statement, a September 1, 2021 bookkeeping statement, a July 7, 2021 insurance statement, and billing statements from banks, utility companies, and creditors.

In a March 25, 2022 decision, OWCP finalized its August 5, 2021 preliminary overpayment determination. It found that appellant had received an overpayment of compensation in the amount of \$19,930.82 because OWCP failed to properly deduct life insurance premiums for the period July 23, 2002 through May 23, 2020. OWCP further found that she was without fault in the creation of the overpayment, but denied waiver of recovery of the overpayment, finding that she failed to provide sufficient documentation to support her reported income, expenses, and assets. OWCP required recovery of the overpayment by deducting \$112.00 from appellant’s continuing compensation payments, every 28 days.

LEGAL PRECEDENT -- ISSUE 1

FECA provides that the United States shall pay compensation for the disability or death of an employee resulting from personal injury sustained while in the performance of duty.⁴ When an overpayment has been made to an individual because of an error of fact or law, adjustment shall be made under regulations prescribed by the Secretary of Labor by decreasing later payments to which the individual is entitled.⁵

When an underwithholding of life insurance premiums occurs, the entire amount is deemed an overpayment of compensation because OWCP must pay the full premium to OPM upon discovery of the error.⁶

ANALYSIS -- ISSUE 1

The Board finds that appellant received an overpayment of compensation for the period July 23, 2002 through May 23, 2020, for which she was without fault, because OWCP failed to properly deduct life insurance premiums from her FECA wage-loss compensation.

On April 21, 2020 OPM informed OWCP that, as a compensationer, appellant was eligible to continue her life insurance coverage under the FEGLI program. It requested that OWCP deduct premiums for appellant's life insurance elections, noting that the commencement date for the postretirement deductions was July 23, 2002, and that the basic and optional coverage premiums were to begin on the OWCP commencing date. Appellant's SF 2818, signed on December 2, 2003, documented appellant's life insurance elections, and On Option B and Option C Election Forms, signed by appellant on April 9, 2020, appellant elected to freeze all of her Option B and Option C coverage at the value as of age 65. The case record, however, establishes that OWCP failed to properly deduct the appropriate life insurance premiums from appellant's FECA wage-loss compensation for the period July 23, 2002 through May 23, 2020. The Board thus finds that appellant received an overpayment of compensation for the period July 23, 2002 through May 23, 2020, for which she was without fault.⁷

The Board further finds, however, that the case is not in posture for decision with regard to the amount of the overpayment.

In fiscal worksheets dated July 28 and August 4, 2021, and in an August 4, 2021 memorandum, OWCP found that failed to deduct premiums for appellant's PRBLI elections during the period July 23, 2002 through May 23, 2020, resulting in an overpayment of \$16,599.59. However, it based its calculations on the information provided by OPM, which indicated that appellant's Option B coverage was at "5X with no reduction -- incontestability," when appellant's signed SF 2818 election form indicates that she elected Option B coverage at "5X with full

⁴ 5 U.S.C. § 8102(a).

⁵ *Id.* at § 8129(a).

⁶ 5 U.S.C. § 8707(d); *see also A.V.*, Docket No. 21-0887 (issued May 12, 2022); *J.H.*, Docket No. 20-0281 (issued May 18, 2021).

⁷ *Supra* note 5.

reduction.” As the case record contains conflicting information regarding appellant’s Option B election, it remains unclear whether OWCP properly determined the amount of the overpayment. The case must therefore be remanded for OWCP to determine the appropriate amount of the overpayment.⁸

On remand, OWCP shall issue a new preliminary overpayment determination with an overpayment action request form, a Form OWCP-20, and instructions for providing updated supporting financial documentation. Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.⁹

CONCLUSION

The Board finds that appellant received an overpayment of compensation for the period July 23, 2002 through May 23, 2020, for which she was without fault, because OWCP failed to properly deduct life insurance premiums from her FECA wage-loss compensation. The Board further finds, however, that the case is not in posture for decision with regard to the amount of the overpayment.

⁸ *F.G.*, Docket No. 22-0200 (issued August 23, 2022); *A.V.*, Docket No. 21-0887 (issued May 12, 2022); *P.J.*, Docket No. 21-1107 (issued January 31, 2022) (the Board remanded the case to OWCP for clarification regarding the period and amount of an overpayment).

⁹ In light of the Board’s disposition of Issue 1, Issues 2 and 3 are rendered moot.

ORDER

IT IS HEREBY ORDERED THAT the March 25, 2022 decision of the Office of Workers' Compensation Programs is affirmed in part, set aside in part. The case is remanded for further proceedings consistent with this decision of the Board.

Issued: August 22, 2025
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