

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

R.C., Appellant)
and) Docket No. 25-0677
U.S. POSTAL SERVICE, IDA JEAN HAXTON)
POST OFFICE, Huntington Beach, CA,)
Employer) Issued: August 15, 2025
)
)

Appearances:

Alan J. Shapiro, Esq., for the appellant¹
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On July 7, 2025 appellant, through counsel, filed a timely appeal from a June 24, 2025² merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the

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 an 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 Counsel did not request review of the July 1, 2025 decisions. Thus, this decision is not currently before the Board on this appeal. *See* 20 C.F.R. § 501.3.

Federal Employees' Compensation Act³ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.⁴

ISSUES

The issues are: (1) whether OWCP properly determined that appellant received an overpayment of compensation in the amount of \$18,404.76 during the period February 21 through October 24, 2024 because he continued to receive wage-loss compensation for total disability following his release to return to work; and (2) whether OWCP properly determined that appellant was at fault in creation of the overpayment, thereby precluding waiver of recovery of the overpayment.

FACTUAL HISTORY

On November 6, 2023 appellant, then a 27-year-old city carrier assistant, filed an occupational disease claim (Form CA-2) alleging that he developed left foot and ankle conditions due to factors of his federal employment, including standing, walking, carrying mail, ascending and descending stairs, traversing uneven surfaces and mounting and dismounting his postal vehicle. He indicated that he first became aware of his condition and its relationship to his federal employment on September 5, 2023. Appellant stopped work on September 12, 2023. OWCP accepted the claim for temporary aggravations of Achilles tendinitis and plantar fascial fibromatosis. It paid appellant wage-loss compensation on the periodic rolls effective September 9, 2023.

On February 20, 2024 Dr. Hosea Brown, III, a Board-certified internist, completed a duty status report (Form CA-17) and indicated that appellant could return to full-time work on February 20, 2024.

In a report of work status, (Form CA-3) OWCP indicated that appellant returned to full-time regular-duty work on February 21, 2024.

In a March 5, 2024 memorandum of telephone call (Form CA-110), the employing establishment notified OWCP that appellant had not returned to work and that he was indicating that he planned to resign from his date-of-injury position.

On March 7, 2024 OWCP proposed to terminate appellant's medical benefits and wage-loss compensation based on Dr. Brown's February 20, 2024 Form CA-17.

³ 5 U.S.C. § 8101 *et seq.*

⁴ The Board notes that, following the June 24, 2025 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.*

In a March 19, 2024 Form CA-110, the employing establishment informed OWCP that appellant had resigned from his federal employment on February 26, 2024.

OWCP subsequently received a February 20, 2024 form report from Dr. Brown diagnosing Achilles tendinitis and plantar fascial fibromatosis on the left and providing examination findings. Dr. Brown reiterated his opinion that appellant could return to full-duty work on February 20, 2024.

On September 17, 2024 appellant completed a Form EN-1032 indicating that he received unemployment compensation benefits from January 31 through September 8, 2024.

Dr. Kristin Klepper, a family practitioner, completed an October 9, 2024 attending physician's report (Form CA-20) indicating that appellant was disabled from September 5, 2023 through October 9, 2024.

By decision dated October 25, 2024, OWCP terminated appellant's medical benefits and wage-loss compensation effective that date.

On November 19, 2024 appellant, through counsel, requested an oral hearing before a representative of OWCP's Branch of Hearings and Review.

Following a preliminary review, by decision dated January 14, 2025, OWCP's hearing representative reversed the October 25, 2024 termination decision finding that the medical evidence did not establish that the accepted conditions had resolved.⁵

On May 14, 2025 OWCP issued a preliminary overpayment determination that appellant had received an overpayment of compensation in the amount of \$18,404.74, for the period February 21 through October 24, 2024, because he continued to receive wage-loss compensation for total disability following his return to full-time work. It further notified him of its preliminary finding that he was at fault in the creation of the overpayment, as he had accepted payments that he knew or reasonably should have known to be incorrect. Additionally, OWCP provided an overpayment action request form and informed appellant that, within 30 days, he could request a final decision based on the written evidence or a prerecoupment hearing. It requested that he complete an enclosed overpayment recovery questionnaire (Form OWCP-20) and submit supporting financial documentation.

In an overpayment action request form dated May 25, 2025, appellant requested a decision based on the written evidence including waiver of recovery of the overpayment. He attached a completed Form OWCP-20, wherein he reported total monthly income of \$2,242.76, total monthly expenses of \$1,150.00, and cash of \$761.00. Supporting financial documentation was also received.

⁵ OWCP's hearing representative found that appellant returned to work in a full-duty status on February 21, 2024, that therefore there was no need to reinstate his wage-loss compensation, and that an overpayment of compensation had occurred.

Appellant provided a statement dated May 25, 2025 relating that he had resigned from the employing establishment on February 26, 2024. He asserted that he resigned as he continued to experience his work-related injury. Appellant denied working for the employing establishment or receiving any wages during the period February through October 2024.

By decision dated June 24, 2025, OWCP finalized its preliminary overpayment determination that appellant had received an overpayment of compensation in the amount of \$18,404.76 for the period February 21 through October 24, 2024, because he continued to receive wage-loss compensation for total disability following his release to return to full-time work on February 21, 2024 and his resignation on February 26, 2024. It determined that he was at fault in the creation of the overpayment and required recovery of the overpayment by payment in full.

LEGAL PRECEDENT -- ISSUE 1

Section 8102(a) of 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.⁶ Section 8129(a) of FECA provides, in pertinent part, that when an overpayment has been made to an individual under this subchapter 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 an individual is entitled.⁷

A claimant is not entitled to receive temporary total disability benefits and actual earnings for the same time period.⁸ OWCP regulations provide that compensation for wage loss due to disability is available only for any periods during which an employee's work-related medical condition prevents him or her from earning the wages earned before the work-related injury.⁹

ANALYSIS

The Board finds that OWCP failed to meet its burden of proof to establish that appellant received an overpayment of compensation in the amount of \$18,404.76 during the period February 21 through October 24, 2024.

Preliminarily, the Board notes that by decision dated January 14, 2025, OWCP's hearing representative reversed the October 25, 2024 decision terminating wage-loss compensation and medical benefits finding that the medical evidence did not establish that the accepted conditions had resolved.

⁶ *Supra* note 3 at § 8102(a).

⁷ *Id.* at § 8129(a).

⁸ See *K.A.*, Docket No. 25-0127 (issued December 11, 2024); *T.L.*, Docket No. 23-0424 (issued December 28, 2023); *S.S.*, Docket No. 20-0776 (issued March 15, 2021); *C.H.*, Docket No. 19-1470 (issued January 24, 2020); *L.S.*, 59 ECAB 350 (2008).

⁹ *K.A.*, *id.*; *T.L.*, *id.*; *S.S.*, *id.*; *C.H.*, *id.*; Federal (FECA) Procedure Manual, Part 6 -- Debt Management, *Identifying and Calculating an Overpayment*, Chapter 6.200.1a (September 2020).

The evidence of record establishes that OWCP paid wage-loss compensation on the periodic rolls during the period February 21 through October 24, 2024. In its preliminary overpayment determination findings, OWCP related that appellant had returned to full-duty work on February 21, 2024. In its final overpayment decision, it related that appellant had been released to full-duty work, but had resigned his federal position effective February 26, 2024. However, OWCP then found that an overpayment of compensation occurred for the period February 21 through October 24, 2024 on the basis of appellant's resignation.

OWCP's overpayment determinations did not provide an accurate basis for the finding of overpayment as appellant did not return to work on or after February 21, 2024.¹⁰ It did not adequately explain its determination that appellant was not entitled to any compensation for the period February 21 through October 24, 2024. Therefore, it has not supported its finding of a \$18,404.76 overpayment of compensation.¹¹ As such, the Board finds that OWCP has not established that appellant received an overpayment of compensation during the period February 21 through October 24, 2024 and thus it failed to meet its burden of proof.¹²

CONCLUSION

The Board finds that OWCP failed to meet its burden of proof to establish that appellant received an overpayment of compensation in the amount of \$18,404.76 during the period February 21 through October 24, 2024.¹³

¹⁰ *P.T.*, Docket No. 22-0802 (issued April 11, 2025); *C.N.*, Docket No. 24-0549 (issued April 2, 2025); *V.T.*, Docket No. 22-1036 (issued February 13, 2025); *J.M.*, Docket No. 24-0321 (issued September 17, 2024); *W.U.*, Docket No. 21-0530 (issued August 6, 2024); *R.C.*, Docket No. 24-0253 (issued June 14, 2024); *T.M.*, Docket No. 20-0967 (issued April 12, 2020).

¹¹ *Y.S.*, Docket No. 09-964 (issued November 9, 2009).

¹² *Supra* note 10.

¹³ In light of the Board's disposition of Issue 1, Issue 2 is rendered moot.

ORDER

IT IS HEREBY ORDERED THAT the June 24, 2025 decision of the Office of Workers' Compensation Programs is reversed.

Issued: August 15, 2025
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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