

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

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<b>S.M., Appellant</b>	)	
	)	
and	)	<b>Docket No. 25-0700</b>
	)	<b>Issued: August 13, 2025</b>
<b>U.S. POSTAL SERVICE, POST OFFICE, Antioch, CA, Employer</b>	)	
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*Appearances:*

*Case Submitted on the Record*

*Appellant, pro se*

*Office of Solicitor, for the Director*

**DECISION AND ORDER**

Before:

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

**JURISDICTION**

On July 2, 2025 appellant filed a timely appeal from a June 17, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.<sup>2</sup>

**ISSUES**

The issues are: (1) whether OWCP properly determined that appellant received an overpayment of compensation in the amount of \$4,013.16 for the period February 10 through December 28, 2024, for which she was without fault, because she improperly received wage-loss

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

<sup>2</sup> The Board notes that following the June 17, 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.*

compensation at the augmented rate; (2) whether OWCP properly denied waiver of the recovery of the overpayment; and (3) whether OWCP properly required recovery of the overpayment by deducting \$670.00 from appellant's continuing compensation payments, every 28 days.

### **FACTUAL HISTORY**

On December 21, 2023 appellant, then a 64-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that on December 20, 2023 she injured her right shoulder when placing mail in a box while in the performance of duty. She stopped work on December 20, 2023 and did not return. OWCP accepted the claim for right shoulder/arm muscle/fascia/tendon strain, and subsequently expanded acceptance of the claim to include right shoulder muscle and tendon rotator cuff strain. It paid appellant wage-loss compensation on the supplemental rolls effective February 10, 2024, and on the periodic rolls effective March 24, 2024.

On February 11, 2024 appellant completed a claim for compensation (Form CA-7) for disability from work for the period February 4 to 9, 2024. On this Form CA-7, she listed a child, L.W., born December 16, 1985, as a dependent, noting his relationship as her son. In subsequent CA-7 forms for the period commencing February 10, 2024, appellant did not list any dependents.

In a letter dated December 9, 2024, OWCP requested that appellant complete a financial disclosure statement (Form EN-1032), which included questions regarding appellant's dependents in order to verify that her compensation was paid at the proper rate. It specifically indicated that compensation at the augmented rate of 75 percent (3/4) of the applicable pay rate may be paid for "an unmarried child, including an adopted child or stepchild, who lives with you and is under 18 years of age." OWCP also advised that if appellant had no eligible dependents, she would be paid wage-loss compensation at the basic 66 2/3 percent (2/3) of the applicable pay rate.

On January 8, 2025 OWCP received appellant's undated completed Form EN-1032, in which she reported that she had no qualifying dependents.

In a January 22, 2025 manual adjustment form, OWCP determined that an overpayment of compensation occurred because appellant was paid at the augmented 3/4 rate, but did not have any eligible dependents. The form also showed that, during the relevant period, February 10 through December 28, 2024, OWCP paid appellant net compensation of \$32,844.51, but that she should have been paid net compensation of \$28,831.35. It subtracted the net compensation of \$28,831.35 that appellant was entitled to receive from the net compensation of \$32,844.51 that she was paid, which resulted in an overpayment of \$4,013.16.

In a preliminary overpayment determination dated March 18, 2025, OWCP notified appellant of its preliminary finding that she received an overpayment of compensation in the amount of \$4,013.16 for the period February 10 through December 28, 2024, because she received compensation at the augmented 3/4 rate instead of the basic 2/3 rate when she had no dependents. It noted that she had received a total of \$32,844.51 in wage-loss compensation at the augmented rate based on an eligible dependent from February 10 through December 28, 2024. Appellant, however, was only entitled to receive \$28,831.35 in compensation based on the appropriate 2/3 rate for lack of an eligible dependent, resulting in a \$4,013.16 overpayment. OWCP determined that she was without fault in the creation of the overpayment. It requested that appellant submit a

completed overpayment recovery questionnaire (Form OWCP-20) to determine a reasonable recovery method and advised her that she could request waiver of recovery of the overpayment. OWCP further requested that she provide supporting financial documentation, including copies of income tax returns, bank account statements, bills, canceled checks, pay slips, and any other records that support income and expenses. Additionally, it provided an overpayment action request form and further notified appellant that, within 30 days of the date of the letter, she could request a final decision based on the written evidence or a prerecougment hearing.

In an overpayment action request form dated March 27, 2025, appellant requested review of the written evidence and waiver of the overpayment because repayment would be a financial strain.

In a letter April 28, 2025, OWCP noted receipt of an overpayment action request form requesting waiver. It noted that no Form OWCP-20 or supporting financial documentation had been submitted. OWCP emphasized the importance of submitting a completed Form OWCP-20 and supporting financial documentation. OWCP also provided appellant with another Form OWCP-20 and afforded her 30 days to submit it along with supporting financial documentation. No response was received.

By decision dated June 17, 2025, OWCP finalized its preliminary overpayment determination that appellant had received an overpayment of compensation in the amount of \$4,013.16 for the period February 10 through December 28, 2024 because she improperly received augmented compensation without having eligible dependents. It found appellant without fault in the creation of the overpayment, but denied waiver of recovery of the overpayment as appellant had not submitted any financial documentation in support of waiver. OWCP also determined that the overpayment would be recovered by deducting \$670.00 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 a personal injury sustained while in the performance of duty.<sup>3</sup> If the disability is total, the United States shall pay the employee during the period of total disability the basic compensation rate of 66 2/3 percent of his or her monthly pay. A disabled employee is entitled to an augmented compensation rate of 75 percent if he or she has one or more dependents.<sup>4</sup>

A dependent includes a student, which under 5 U.S.C. § 8101 means an individual under 23 years of age who has not completed four years of education beyond high school and is pursuing a full-time course of study.<sup>5</sup>

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<sup>3</sup> 5 U.S.C. § 8102(a).

<sup>4</sup> *C.P.*, Docket No. 22-1248 (issued June 14, 2024); *E.B.*, Docket No. 19-1571 (issued December 31, 2020); *R.G.*, Docket No. 18-1251 (issued November 26, 2019); *O.R.*, 59 ECAB 432 (2008); *id.* at §§ 8105(a) and 8110(b).

<sup>5</sup> 5 U.S.C. § 8101(a).

If a claimant received compensation at the augmented rate during a period when he or she did not have an eligible dependent, the difference between the compensation that was disbursed at the 75 percent augmented rate and the compensation that should have been disbursed at the 66 2/3 percent basic rate constitutes an overpayment of compensation.<sup>6</sup>

### **ANALYSIS -- ISSUE 1**

The Board finds that OWCP properly determined that appellant received an overpayment of compensation in the amount of \$4,013.16 for the period February 10 through December 28, 2024 for which she was without fault, because she improperly received wage-loss compensation at an augmented rate.

The evidence of record reflects that on the Form CA-7 dated February 11, 2024, appellant claimed compensation at the augmented rate despite the fact that her son was 38 years old at the time. However, appellant did not list any dependents on subsequent CA-7 forms or on a January 28, 2025 Form EN-1032. As OWCP paid appellant at the augmented rate for the period February 10 through December 28, 2024, fact of overpayment is established.

Compensation records confirm that OWCP paid appellant wage-loss compensation at the augmented rate from February 10 through December 28, 2024 in the net amount of \$32,844.51. Appellant, however, was only entitled to receive \$28,831.35 in net wage-loss compensation at the basic rate, resulting in an overpayment in the amount of \$4,013.16. Accordingly, the Board finds that OWCP properly determined that she received an overpayment of compensation in the amount of \$4,013.16 for the period February 10 through December 28, 2024.<sup>7</sup>

### **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.<sup>8</sup> 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.<sup>9</sup>

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

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<sup>6</sup> *C.P.*, *supra* note 4; *E.B.*, Docket No. 19-1571 (issued December 31, 2020); *R.G.*, Docket No. 18-1251 (issued November 26, 2019); *O.R.*, 59 ECAB 432 (2008); *id.* at §§ 8105(a) and 8110(b).

<sup>7</sup> *C.P.*, *id.*; *W.A.*, Docket No. 18-0070 (issued May 14, 2018); *see D.S.*, Docket No. 17-1224 (issued August 28, 2017).

<sup>8</sup> 5 U.S.C. § 8129; 20 C.F.R. §§ 10.433, 10.434, 10.436, and 10.437; *see V.H. (S.H.)*, Docket No. 21-0589 (issued September 10, 2024); *B.G.*, Docket No. 20-0541 (issued April 28, 2021); *A.F.*, Docket No. 19-0054 (issued June 12, 2019).

<sup>9</sup> *V.H. (S.H.)*, *id.*; *B.G.*, *id.*; *A.C.*, Docket No. 18-1550 (issued February 21, 2019); *see Robert Atchison*, 41 ECAB 83, 87 (1989).

benefits, to meet current ordinary and necessary living expenses, and the beneficiary's assets do not exceed a specified amount as determined by OWCP.<sup>10</sup> 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.<sup>11</sup>

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.<sup>12</sup> 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.

## **ANALYSIS -- ISSUE 2**

The Board finds that OWCP properly denied waiver of recovery of the \$4,013.16 overpayment of compensation.<sup>13</sup>

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.<sup>14</sup> Appellant, however, had the responsibility to provide the appropriate financial information to OWCP.<sup>15</sup>

In its March 18, 2025 preliminary overpayment determination and the April 28, 2025 letter, OWCP explained the importance of providing the completed overpayment questionnaire and financial information, including copies of income tax returns, bank account statements, bills, pay slips, and any other records to support income and expenses. It advised appellant that it would deny waiver if she failed to furnish the requested financial information. Appellant, however, did not submit a Form OWCP-20 or provide any financial documentation supporting her assets,

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<sup>10</sup> 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 6.400.4a(2) (September 2020).

<sup>11</sup> *Id.* at § 10.437(a), (b).

<sup>12</sup> *Id.* at § 10.438(a); *V.H.*, (S.H.), *supra* note 8; *P.N.*, Docket No. 20-1159 (issued April 20, 2021); *Ralph P. Beachum, Sr.*, 55 ECAB 442 (2004).

<sup>13</sup> *V.H.*, (S.H.), *id.*; *B.G.*, *supra* note 8; *A.C.*, *supra* note 9.

<sup>14</sup> 20 C.F.R. § 10.436.

<sup>15</sup> *Id.* at § 10.438; *see V.H.*, (S.H.), *supra* note 8; *J.H.*, Docket No. 20-0218 (issued May 28, 2021); *N.J.*, Docket No. 19-1170 (issued January 10, 2020).

income, and expenses, within the time allotted.<sup>16</sup> As a result, OWCP did not have the necessary financial information to determine if recovery of the overpayment would defeat the purpose of FECA or if recovery would be against equity and good conscience.<sup>17</sup> The Board thus finds that OWCP, properly denied waiver of recovery of the overpayment.<sup>18</sup>

### **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.<sup>19</sup> Section 10.441(a) of OWCP's regulations<sup>20</sup> 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.”<sup>21</sup>

### **ANALYSIS -- ISSUE 3**

The Board finds that OWCP properly required recovery of the overpayment by deducting \$670.00 from appellant's continuing compensation payments, every 28 days.

As noted above, appellant did not provide the necessary financial information regarding her income, expenses, and assets prior to the final overpayment decision. When an individual fails to provide requested financial information, OWCP should follow minimum collection guidelines designed to collect the debt promptly and in full.<sup>22</sup> The Federal (FECA) Procedure Manual

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<sup>16</sup> *V.H. (S.H.)*, *id.*; *B.G.*, *supra* note 8; *R.M.*, Docket No. 19-1570 (issued June 1, 2020).

<sup>17</sup> *B.G.*, *id.*; *G.G.*, Docket No. 19-0684 (issued December 23, 2019).

<sup>18</sup> 20 C.F.R. § 10.438; *see R.G.*, Docket No. 21-0148 (issued June 7, 2021); *L.D.*, Docket No. 19-0606 (issued November 21, 2019).

<sup>19</sup> 20 C.F.R. § 10.441; *see C.P.*, *supra* note 4; *R.L.*, Docket No. 23-0110 (issued July 28, 2023); *M.P.*, Docket No. 18-0902 (issued October 16, 2018).

<sup>20</sup> *Id.* at § 10.441(a).

<sup>21</sup> *Id.*; *see C.M.*, Docket No. 19-1451 (issued March 4, 2020).

<sup>22</sup> *See P.S.*, Docket No. 25-0258 (issued February 24, 2025); *A.S.*, Docket No. 19-0171 (issued June 12, 2019); *Frederick Arters*, 53 ECAB 397 (2002).

provides that, in these instances, OWCP should set the rate of recovery at 25 percent of the 28-day net compensation amount until the balance of the overpayment is paid in full.<sup>23</sup>

The Board, therefore, finds that OWCP properly required recovery of the overpayment by deducting \$670.00 from appellant's continuing compensation payments, every 28 days.

**CONCLUSION**

The Board finds that OWCP properly determined that appellant received an overpayment of compensation in the amount of \$4,013.16 for the period February 10 through December 28, 2024, for which she was without fault, because she improperly received wage-loss compensation at an augmented rate. The Board further finds that OWCP properly denied waiver of recovery of the overpayment and properly required recovery of the overpayment by deducting \$670.00 from her continuing compensation payments, every 28 days.

**ORDER**

**IT IS HEREBY ORDERED THAT** the June 17, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 13, 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

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<sup>23</sup> See Federal (FECA) Procedure Manual, Part 6 -- Debt Management, *Debt Liquidation*, Chapter 6.500.8c(1) (September 2018); *D.H.*, Docket No. 20-1064 (issued December 14, 2020); *M.S.*, Docket No. 18-0740 (issued February 4, 2019).