

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

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M.W., Appellant )  
and ) Docket No. 25-0745  
DEPARTMENT OF DEFENSE, DEFENSE )  
AGENCIES, DEPARTMENT OF DEFENSE )  
EDUCATION ACTIVITIES, BREWSTER )  
MIDDLE SCHOOL, CAMP LEJEUNE, NC, )  
Employer )  
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)  
)

*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  
VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On July 29, 2025 appellant filed a timely appeal from a March 12, 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>

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

<sup>2</sup> The Board notes that, following the March 12, 2025 decision, the Board and OWCP received additional evidence. 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 OWCP properly determined that appellant received an overpayment of compensation in the amount of \$12,959.31, for the period January 6, 1999 through January 29, 2022, for which she was without fault, because OWCP failed to properly deduct life insurance premiums from her FECA 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 \$1,179.25 from appellant's continuing compensation payments, every 28 days.

## FACTUAL HISTORY

On September 17, 1998 appellant, then a 42-year-old classroom teacher filed an occupational disease claim (Form CA-2) alleging that she developed a psychiatric condition due to factors of her federal employment, including changes in her duty assignment and actions of her supervisor.<sup>3</sup> OWCP accepted her claim for post-traumatic stress disorder, unspecified and schizoaffective disorder, bipolar type. Appellant stopped work on August 24, 1998. OWCP paid her wage-loss compensation on the periodic rolls commencing January 17, 1999.

On March 22, 1999 the employing establishment completed an Agency Certification of Insurance Status due to separation on January 6, 1999 listing appellant's effective date of continuous coverage under the Federal Employees' Group Life Insurance (FEGLI) program as August 23, 1984 for Option B with two multiples.

In a March 12, 2021 letter, the Office of Personnel Management (OPM) informed OWCP that, as a compensationer, appellant was eligible to continue her life insurance coverage under FEGLI. The final salary on which life insurance coverage was based was \$43,493.08. It requested that OWCP deduct premiums for the following life insurance elections: basic life insurance (BLI) at 50 percent reduction and Option B (Additional Optional Insurance) at 2X with no reduction. OPM noted that the commencement date for the postretirement deductions was January 6, 1999, 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 OPM "continue to keep premiums withheld at age 65 and forward for Option B-2X."

The record also contains a document entitled Continuation of Life Insurance Coverage as an Annuitant or Compensationer form (Standard Form (SF) 2818), signed by appellant on October 19, 1999. By that form, appellant elected the following life insurance coverages: BLI at 50 percent reduction.

On an Option B Election Form signed by appellant on March 3, 2021, appellant elected to freeze all of her Option B coverage, at 2X, 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 cancel or

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<sup>3</sup> OWCP assigned the present claim OWCP File No. xxxxxx902. Appellant also has an accepted claim under OWCP File No. xxxxxx738 for major depression, single episode. OWCP has administratively combined OWCP File Nos. xxxxxx738 and xxxxxx902, with the latter serving as the master file.

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.”<sup>4</sup>

Effective January 30, 2022, OWCP adjusted appellant’s postretirement life insurance (PRBLI) premiums per the information provided by OPM.

In fiscal worksheets dated February 16, 2022, OWCP determined that it had not properly deducted life insurance premiums for the period January 6, 1999 through January 29, 2022, when it should have deducted \$10,911.50 for that period, which resulted in an underwithholding and an overpayment of compensation in the amount of \$10,911.50.

In a preliminary overpayment determination dated February 23, 2022, OWCP notified appellant that she had received an overpayment of compensation in the amount of \$10,911.50 for the period January 6, 1999 through January 29, 2022 because OWCP failed to properly deduct life insurance premiums. 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, 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 prerecoupment hearing.

On March 16, 2022 appellant requested a prerecoupment hearing before a representative of OWCP’s Branch of Hearings and Review. She disagreed with the fact and amount of the overpayment, contended that she was without fault in the creation of the overpayment, and requested waiver of recovery of the overpayment. On her completed Form OWCP-20, appellant reported total monthly income of \$10,798.94, total monthly expenses of \$8,388.96, and total assets of \$223,725.00 including real estate, stock, and bonds. She contended that she was entitled to free BLI premiums. Appellant further provided supporting documentation including billing statements from banks, utility companies, and creditors, and a contract for application of aerial herbicide.

A prerecoupment hearing was held on July 26, 2022. Appellant contended that she had detrimentally relied on her continued OWCP benefits as she had paid \$8,500.00 towards reforestation to increase the value of harvestable timber on her farm property.

By decision dated June 18, 2024, OWCP’s hearing representative vacated the February 23, 2022 preliminary overpayment determination, finding that, while an overpayment had occurred due to OWCP’s failure to collect life insurance premiums, the amount of the overpayment had not been established.

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<sup>4</sup> In a preliminary overpayment determination dated October 25, 2021, OWCP notified appellant that she had received an overpayment of compensation in the amount of \$665.28 for the period March 28 through October 9, 2021 because OWCP failed to properly deduct for her optional life insurance premiums. Appellant made a payment of \$814.28 and requested a prerecoupment hearing before a representative of OWCP’s Branch of Hearings and Review. By decision dated January 12, 2022, an OWCP hearing representative determined that the \$665.28 overpayment fell below the threshold of debt collection and should be waived, that OWCP should delete the overpayment from the accounts receivable log, and that it should notify appellant that the collection activities for the overpayment of \$665.28 were terminated. In a February 7, 2022 letter, OWCP informed her that the overpayment in the amount of \$665.28 had been repaid in full, was fully liquidated, and all collective activities terminated.

In a preliminary overpayment determination dated August 19, 2024, OWCP notified appellant that she had received an overpayment of compensation in the amount of \$12,959.31 for the period January 6, 1999 through January 29, 2022 because OWCP failed to properly deduct her life insurance premiums. It provided its calculations, noting that premiums due were for BLI in the amount of \$4,025.74, PRBLI elections in the amount of \$8,855.69, and Option B in the amount of \$11,804.76 during the period January 6, 1999 through January 29, 2022 resulting in a total of \$24,686.19 in life insurance premiums due for that period. Optional life insurance (OLI) was withheld from January 6, 1999 through January 29, 2022 in the amount of \$10,482.56 and appellant repaid \$665.28 for the overpayment that was previously declared for the period March 28, 2021 through October 9, 2021, for a total withholding of \$11,726.88. OWCP determined that the resulting overpayment for underwithholding of life insurance premiums was \$12,959.31. 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 a Form OWCP-20, and submit documentation including tax returns, bank account statements, bills, 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 prerecoumpt hearing.

On September 16, 2024 appellant requested a prerecoumpt hearing. She disagreed with the fact and amount of the overpayment, contended that she was without fault in the creation of the overpayment, and requested waiver of recovery of the overpayment. Appellant contended that she was entitled to free BLI premiums. On her completed Form OWCP-20, she reported total monthly income of \$12,595.65, total monthly expenses of \$7,502.44, and total assets of \$376,189.73 including personal property, bank balances, real estate, and stocks and bonds. Appellant asserted that she detrimentally relied on her FECA benefits for gifts, college tuition, a car purchase, and forest management. She further provided supporting documentation including billing statements from banks, utility companies, and creditors, and a contract for application of aerial herbicide. Appellant provided an additional partially completed Form OWCP-20 dated October 15, 2024 listing total monthly income of \$12,440.65, total monthly expenses of \$14,538.57. She provided additional supporting documentation.

A prerecoumpt hearing was held on December 20, 2024. Appellant disagreed with the amount of the overpayment, asserted that she did not owe any amount for OLI. She further contended that she had detrimentally relied upon her FECA benefits paid in making a discretionary expenditure of \$8,594.12 related to the management of the family farm, and in extending her son's college graduation date to summer rather than spring 2019, which resulted in additional tuition costs of \$2,300.00. Following the oral hearing, appellant provided additional documentation.

By decision dated March 12, 2025,<sup>5</sup> OWCP's hearing representative finalized the August 19, 2024 preliminary overpayment determination, finding that appellant received an overpayment of compensation in the amount of \$12,959.31 for the period January 6, 1999 through January 29, 2022, because life insurance premiums were not properly deducted from her FECA compensation. The hearing representative found appellant without fault in the creation of

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<sup>5</sup> OWCP's hearing representative initially issued a March 11, 2025 decision which was superseded by the March 12, 2025 decision.

the overpayment, but denied waiver of recovery of the overpayment because the evidence of record was insufficient to establish that recovery of the overpayment would defeat the purpose of FECA or be against equity and good conscience. The hearing representative required recovery of the overpayment by deducting \$1,179.25 from appellant's continuing compensation payments, every 28 days.

### **LEGAL PRECEDENT -- ISSUE 1**

FECA<sup>6</sup> 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.<sup>7</sup> 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.<sup>8</sup>

When an under withholding 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.<sup>9</sup>

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

The Board finds that appellant received an overpayment of compensation in the amount of \$12,959.31 for the period January 6, 1999 through January 29, 2022, for which she was without fault, because OWCP failed to properly deduct life insurance premiums from her FECA wage-loss compensation.

In a March 12, 2021 letter, OPM informed OWCP that, as a compensationer, appellant was eligible to continue her life insurance coverage under the FEGLI program. The final base salary on which life insurance coverage was based was \$43,493.08. It noted appellant's life insurance elections as follows: BLI at 50 percent reduction; Option B at 2X with no reduction. OPM noted that the commencement date for the postretirement deductions was January 6, 1999, and that the basic and optional coverage premiums were to begin on OWCP's commencing date. The case record also contains an SF-2818 signed by appellant on October 19, 1999, indicating that she elected BLI at 50 percent reduction, and an Option B Election Form signed by appellant on March 3, 2021, indicating that she elected to freeze all of her Option B coverage, at 2X, at the value as of age 65. The Board thus finds that appellant received an overpayment of compensation for the period January 6, 1999 through January 29, 2022, for which she was without fault.

With regard to the amount of the overpayment, OWCP provided its overpayment calculations, finding that it failed to properly deduct life insurance premiums. It explained that premiums due were for BLI in the amount of \$4,025.74, PRBLI elections in the amount of

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<sup>6</sup> *Supra* note 1.

<sup>7</sup> 5 U.S.C. § 8102(a).

<sup>8</sup> *Id.* at § 8129(a).

<sup>9</sup> *P.H.*, Docket No. 24-0255 (issued November 17, 2025); *R.M.*, Docket No. 19-0183 (issued November 18, 2019); *James Lloyd Otte*, 48 ECAB 334 (1997).

\$8,855.69, and Option B in the amount of \$11,804.76 during the period January 6, 1999 through January 29, 2022 resulting in a total of \$24,686.19 in life insurance premiums due for that period. OLI was withheld from January 6, 1999 through January 29, 2022 in the amount of \$10,482.56 and appellant repaid \$665.28 for the overpayment that was previously declared for the period March 28, 2021 through October 9, 2021, for a total withholding of \$11,726.88. The Board thus finds that OWCP properly determined that appellant received an overpayment of compensation in the amount of \$12,959.31 for the period January 6, 1999 through January 29, 2022.

### **LEGAL PRECEDENT -- ISSUE 2**

Section 8129 of FECA provides that an overpayment in compensation shall be recovered by OWCP unless incorrect payment has been made to an individual who is without fault and when adjustment or recovery would defeat the purpose of FECA or would be against equity and good conscience.<sup>10</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 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>11</sup> An individual is deemed to meet current ordinary and necessary living expenses if monthly income does not exceed monthly expenses by more than \$50.00.<sup>12</sup>

Section 10.437 of OWCP's implementing regulations provides that 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 attempting to repay the debt; and when an individual, in reliance on such payments or on notice that such payments would be made, gives up a valuable right or changes his or her position for the worse.<sup>13</sup> OWCP's procedures provide that, to establish that a valuable right has been relinquished, an individual must demonstrate that the right was in fact valuable, that he or she was unable to get the right back, and that his or her action was based primarily or solely on reliance on the payment(s) or on the notice of payment.<sup>14</sup>

Section 10.438 of OWCP's regulations provides that the individual who received the overpayment is responsible for providing information about income, expenses, and assets as

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<sup>10</sup> 5 U.S.C. § 8129.

<sup>11</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>12</sup> *Id.* at Chapter 6.400.4.a(3); *see also* N.J., Docket No. 19-1170 (issued January 10, 2020); M.A., Docket No. 18-1666 (issued April 26, 2019).

<sup>13</sup> 20 C.F.R. § 10.437; *see* E.H., Docket No. 18-1009 (issued January 29, 2019).

<sup>14</sup> *Supra* note 11 at Chapter 6.400.4c(3).

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>15</sup>

## **ANALYSIS -- ISSUE 2**

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

As OWCP found appellant without fault in the creation of this 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>16</sup>

Appellant has not established that recovery of the overpayment would defeat the purpose of FECA because she has not shown both that she needs substantially all of her current income to meet ordinary and necessary living expenses and that her assets do not exceed the allowable resource base. As appellant reported assets of \$376,189.73 on her September 16, 2024 completed form OWCP-20, her assets exceed the allowable resource base of a claimant.<sup>17</sup> Therefore, recovery of the overpayment would not defeat the purpose of FECA.

The Board also finds that appellant has not established that she was entitled to waiver on the basis that recovery of the overpayment would be against equity and good conscience. Appellant argued that she detrimentally relied on her FECA benefits to pay for gifts, college tuition, a car purchase, and forest management. She explained that she spent \$8,594.12 related to the management of the family farm, and in extending her son's college graduation date, which resulted in additional tuition costs of \$2,300.00. When claimants argue that they changed their position for the worse, it must be shown that they made a decision that they would not otherwise have made, but for the receipt of benefits, and that this decision resulted in a loss.<sup>18</sup> The Board has held that conversion of the overpayment into a different form, from which the claimant derived some benefit, is not considered a loss.<sup>19</sup> Consequently, appellant has not shown that recovery of the overpayment would defeat the purpose of FECA or be against equity and good conscience. As the evidence of record fails to support that recovery of the overpayment would defeat the purpose of FECA or be against equity and good conscience, the Board finds that OWCP properly denied waiver of recovery of the overpayment.

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<sup>15</sup> *Id.* at § 10.438(a); *M.S.*, Docket No. 18-0740 (issued February 4, 2019).

<sup>16</sup> *Id.* at § 10.438.

<sup>17</sup> *See supra* note 11.

<sup>18</sup> *Supra* note 13.

<sup>19</sup> *See R.F.*, Docket No. 20-0159 (issued October 15, 2020).

### **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>20</sup> Section 10.441(a) of the regulations provides:

"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 \$1,179.25 from appellant's continuing compensation payments every 28 days.

In determining whether appellant could repay the overpayment by deducting \$1,179.25 from continuing compensation payments, OWCP took into account her financial information as well as factors set forth in 20 C.F.R. § 10.441, and found that this method of recovery would minimize any resulting hardship, not necessarily eliminate it, while at the same time liquidating the debt in a reasonably prompt fashion.<sup>22</sup> Thus, the Board finds that it properly required recovery of the overpayment by deducting \$1,179.25 from appellant's continuing compensation payments, every 28 days.

### **CONCLUSION**

The Board finds that appellant received an overpayment of compensation in the amount of \$12,959.31, for the period January 6, 1999 through January 29, 2022, 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 that OWCP properly denied waiver of recovery of this overpayment and properly required recovery by deducting \$1,179.25 from her continuing compensation payments, every 28 days.

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<sup>20</sup> See *K.W.*, Docket No. 23-1166 (issued February 14, 2024); *Lorenzo Rodriguez*, 51 ECAB 295 (2000).

<sup>21</sup> 20 C.F.R. § 10.441(a).

<sup>22</sup> See *C.S.*, Docket No. 23-0587 (issued July 9, 2025); *J.B.*, Docket No. 24-0876 (issued September 26, 2024); *L.F.*, Docket No. 15-0489 (issued May 11, 2015).

**ORDER**

**IT IS HEREBY ORDERED THAT** the March 12, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 10, 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