

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

J.J., Appellant

and

**U.S. POSTAL SERVICE, SOUTHERN
FLORIDA PROCESSING & DISTRIBUTION
CENTER, Pembroke Pines, FL, Employer**

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) **Docket No. 25-0778**
) **Issued: December 2, 2025**
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Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge

JURISDICTION

On August 7, 2025 appellant filed a timely appeal from a June 10, 2025 merit decision 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 \$33,509.77, for the period February 1, 2023 through January 31, 2025, for which she was without fault, as she concurrently received FECA

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that, following the June 10, 2025 decision, 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.*

wage-loss compensation and Social Security Administration (SSA) age-related retirement benefits, without an appropriate offset; (2) whether OWCP properly denied waiver of recovery of the overpayment; and (3) whether OWCP properly required recovery of the overpayment by deducting \$657.84 from appellant's continuing compensation payments, every 28 days.

FACTUAL HISTORY

On November 20, 2001 appellant, then a 45-year-old clerk filed a traumatic injury claim (Form CA-1) alleged that on October 15, 2001 she sustained a psychological injury when she was informed that she had been exposed to anthrax while in the performance of duty. On the reverse side of the claim form, the employing establishment indicated that appellant's retirement coverage was Federal Employees Retirement System (FERS). Appellant stopped work on October 15, 2001. OWCP accepted the claim for exacerbation of post-traumatic stress disorder. It paid wage-loss compensation on the periodic rolls commencing June 16, 2002.

On January 28, 2025 OWCP provided SSA with a dual benefits form for its completion.

On January 29, 2025 SSA returned the completed form reporting appellant's SSA age-related retirement benefit rates with and without federal service from February 2023 through December 2024. Beginning February 2023, the SSA rate with federal service was \$2,469.10 and without federal service was \$1,148.30. Beginning December 2023, the SSA rate with federal service was \$2,548.10 and without federal service was \$1,185.00. Beginning December 2024, the SSA rate with federal service was \$2,611.80 and without federal service was \$1,214.60.

In a letter dated March 4, 2025, OWCP advised appellant that, effective March 22, 2025, her FECA wage-loss compensation would be offset by her SSA age-related retirement benefits every 28 days, in the amount of \$1,289.72. Appellant's new net wage-loss compensation payments every 28 days would be in the amount of \$2,513.36.

In a March 17, 2025 preliminary overpayment determination, OWCP notified appellant that she had received an overpayment of compensation in the amount of \$33,509.77 for the period February 1, 2023 through February 22, 2025, because she concurrently received FECA wage-loss compensation and SSA age-related retirement benefits, without an appropriate offset. It provided an offset overpayment calculation, in which it determined that, during the period February 1 through November 30, 2023, appellant received an overpayment in the amount of \$13,193.49; during the period December 1, 2023 through November 30, 2024, she received an overpayment in the amount of \$16,447.13; and during the period December 1, 2024 through February 22, 2025, she received an overpayment in the amount of \$3,869.16. It noted the total overpayment amount was \$33,509.77. OWCP further advised appellant of its preliminary determination that she was without fault in the creation of the overpayment. It requested that she complete an enclosed overpayment recovery questionnaire (Form OWCP-20) and submit supporting financial documentation, including copies of income tax returns, bank account statements, bills, pay slips, and other records to support her reported income and expenses. Additionally, it 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 prerecoupment hearing.

In a letter dated April 15, 2025, appellant disagreed with the fact and the amount of the overpayment and requested waiver of recovery of the overpayment. No requested financial information was received.

By decision dated June 10, 2025, OWCP finalized its preliminary overpayment determination, finding that appellant had received an overpayment of compensation in the amount of \$33,509.77 for the period February 1, 2023 through February 22, 2025, because she concurrently received FECA wage-loss compensation and SSA age-related retirement benefits, without an appropriate offset. It determined that she was without fault in the creation of the overpayment, but denied waiver of recovery of the overpayment. OWCP required recovery of the overpayment by deducting \$657.84 from her continuing compensation payments, every 28 days.³

LEGAL PRECEDENT -- ISSUE 1

Section 8102(a) 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 his or her federal employment.⁴ 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.⁵

Section 10.421(d) of the implementing regulations requires that OWCP reduce the amount of compensation by the amount of any SSA age-related retirement benefits that are attributable to federal service of the employee.⁶ 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.⁷

ANALYSIS -- ISSUE 1

The Board finds that OWCP properly determined that appellant received an overpayment of compensation in the amount of \$33,509.77, for the period February 1, 2023 through February 22, 2025, for which she was without fault, because she concurrently received FECA wage-loss compensation and SSA age-related retirement benefits, without an appropriate offset.

The evidence of record establishes that appellant received wage-loss compensation under FECA, and SSA age-related retirement benefits based on her federal service for the same period. No appropriate offset was made. A claimant cannot receive both compensation for wage loss and

³ The record reflects that as of June 10, 2025, appellant's net wage-loss compensation payment was in the amount of \$2,631.36.

⁴ 5 U.S.C. § 8102(a).

⁵ *Id.* at § 8116.

⁶ 20 C.F.R. § 10.421(d).

⁷ FECA Bulletin No. 97-09 (issued February 3, 1997).

SSA age-related retirement benefits attributable to federal service for the same period.⁸ Consequently, the fact of overpayment has been established.⁹

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. SSA provided appellant's age-related retirement benefit rates with and without federal service for the period February 1, 2023 through February 22, 2025. OWCP provided its overpayment calculations for this period based on the information provided by SSA. The Board has reviewed OWCP's calculations for the period February 1, 2023 through February 22, 2025, and finds that an overpayment of compensation in the amount of \$33,509.77 was created.

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.¹⁰ Thus, a finding that appellant was without fault does not automatically result in waiver of the overpayment. OWCP must then exercise its discretion to determine whether recovery of the overpayment would defeat the purpose of FECA or would be against equity and good conscience.¹¹

Section 10.436 of OWCP's implementing regulations provides that recovery of an overpayment would defeat the purpose of FECA if such recovery would cause hardship 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.¹² 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 \$50.00.¹³ Also, assets must not exceed a resource base of \$6,200.00 for an individual or \$10,300.00 for an individual with a spouse or dependent plus \$1,200.00 for each additional dependent.¹⁴ An individual's liquid assets include, but are not limited to cash, the value of stocks, bonds, saving accounts, mutual funds, and certificate of deposits.¹⁵ Non liquid assets include, but are not limited to, the fair market value of an owner's equity in property such as a camper, boat,

⁸ See *E.M.*, Docket No. 21-1231 (issued April 19, 2023); *E.K.*, Docket No. 18-0587 (issued October 1, 2018).

⁹ *L.M.*, Docket No. 19-1197 (issued January 8, 2020).

¹⁰ 5 U.S.C. § 8129(a)-(b).

¹¹ *D.H.*, Docket No. 19-0384 (issued August 12, 2019); *V.H.*, Docket No. 18-1124 (issued January 16, 2019); *L.S.*, 59 ECAB 350 (2008).

¹² 20 C.F.R. § 10.436(a)(b).

¹³ Federal (FECA) Procedure Manual, Part 6 -- Debt Management, *Final Overpayment Determinations*, Chapter 6.400.4a(3) (September 2020).

¹⁴ *Id.* at Chapter 6.400.4a(2).

¹⁵ *Id.* at Chapter 6.400.4b(3).

second home, furnishings/supplies, vehicle(s) above the two allowed per immediate family, retirement account balances (such as Thrift Savings Plan or 401(k)), jewelry, and artwork.¹⁶

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.¹⁷ 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.¹⁸

ANALYSIS -- ISSUE 2

The Board finds that OWCP properly denied waiver of recovery of the \$33,509.77 overpayment of compensation.

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

In its preliminary overpayment determination dated March 17, 2025, OWCP explained the importance of providing the completed Form OWCP-20 and supporting financial documentation. Appellant, however, did not provide the requested information. The evidence of record is, therefore, insufficient to establish that recovery of the overpayment would defeat the purpose of FECA or be against equity and good conscience.²⁰

Consequently, as appellant did not submit the information required under 20 C.F.R. § 10.438 of OWCP's regulations, which was necessary to determine her eligibility for waiver, the Board finds that OWCP properly denied waiver of recovery of the overpayment.²¹

LEGAL PRECEDENT -- ISSUE 3

Section 10.441 of OWCP's regulations provides that 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 the error is discovered or his attention is called to the same. If no

¹⁶ *Id.* at Chapter 6.400.4b(3)(a), (b).

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

¹⁸ *Supra* note 13 at Chapter 6.400.4c(3).

¹⁹ *A.C.*, Docket No. 18-1550 (issued February 21, 2019).

²⁰ 20 C.F.R. § 10.438.

²¹ *See E.T.*, Docket No. 22-0234 (issued August 17, 2022); *T.E.*, Docket No. 19-0348 (issued December 11, 2019).

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.²² When an individual fails to provide the requested information on income, expenses and assets, OWCP should follow minimum collection guidelines, which state in general that government claims should be collected in full and that, if an installment plan is accepted, the installments should be large enough to collect the debt promptly.²³

ANALYSIS -- ISSUE 3

The Board finds that OWCP properly required recovery of the overpayment by deducting \$657.84 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.²⁴ The Federal (FECA) Procedure Manual 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.²⁵ As of June 10, 2025, appellant's net wage-loss compensation payment was in the amount of \$2,631.36. Twenty-five percent of \$2,631.36 is \$657.84. The Board, therefore, finds that OWCP properly required recovery of the overpayment by deducting \$657.84 from appellant's continuing compensation payments, every 28 days.

CONCLUSION

The Board finds that appellant received an overpayment of compensation in the amount of \$33,509.77, for the period February 1, 2023 through February 22, 2025, for which she was without fault, as she concurrently received FECA wage-loss compensation and SSA age-related retirement benefits, without an appropriate offset. The Board further finds that OWCP properly denied waiver of recovery of the overpayment. The Board also finds that OWCP properly required recovery of the overpayment by deducting \$657.84 from appellant's continuing compensation payments, every 28 days.

²² 20 C.F.R. § 10.441(a).

²³ *R.O.*, Docket No. 18-0076 (issued August 3, 2018); *Gail M. Roe*, 47 ECAB 268 (1995).

²⁴ 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).

²⁵ 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).

ORDER

IT IS HEREBY ORDERED THAT the June 10, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 2, 2025
Washington, DC

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

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board