

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

S.C., Appellant)
and) Docket No. 25-0825
U.S. POSTAL SERVICE, KASSON POST) Issued: December 17, 2025
OFFICE, Kasson, MN, Employer)

)

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 August 25, 2025 appellant filed a timely appeal from a July 1, 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 \$655.92, for the period September 1 through 7, 2024, for which she was without fault, because she concurrently received Office of Personnel

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that, following the July 1, 2025 OWCP decision, appellant submitted additional evidence on appeal to the Board. 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.*

Management (OPM) retirement benefits and FECA wage-loss compensation; and (2) whether OWCP properly denied waiver of recovery of the overpayment.

FACTUAL HISTORY

On January 9, 2023 appellant, then a 63-year-old postal window services employee, filed a traumatic injury claim (Form CA-1) alleging that on December 19, 2022 she sustained an injury to her left knee and leg when she stepped out of her car onto an icy parking lot and fell while in the performance of duty. On the reverse side of the claim form, the employing establishment checked “other” for appellant’s retirement coverage indicating that she was under the Federal Employees Retirement System (FERS). OWCP accepted the claim for left knee medial meniscus tear and left knee medial collateral ligament sprain. Appellant stopped work on January 4, 2023, returned to limited-duty work on February 13, 2023, and stopped work again on March 15, 2023 to undergo an OWCP-approved left knee arthroscopy surgery on March 15, 2023. OWCP paid appellant wage-loss compensation on the supplemental rolls, effective June 6, 2023, and on the periodic rolls, effective August 13, 2023.

OWCP received an election of benefits form, signed by appellant on September 17, 2024 in which she indicated that, effective August 31, 2024, she elected to receive OPM retirement benefits in lieu of any benefits to which she might be entitled under FECA.

In a letter dated September 18, 2024, OWCP advised OPM that appellant elected to receive OPM retirement benefits, effective August 31, 2024, in lieu of compensation benefits under FECA, and it requested that OPM commence annuity payments effective that date. It also requested that OPM reimburse OWCP in the amount of \$749.62 for FECA benefits paid during the period August 31 through September 7, 2024. OWCP attached appellant’s September 17, 2024 election of benefits form.

On October 6, 2024 OPM replied to OWCP notifying them that they were not in receipt of separation documents from appellant’s former employing establishment.

In follow-up letters dated November 5 and 13, 2024, OWCP advised OPM that appellant had elected OPM benefits, effective August 31, 2024, and requested that OPM reimburse OWCP in the amount of \$749.62 for FECA benefits paid during the period August 31 through September 7, 2024. It attached appellant’s separation documents and her September 17, 2024 election of benefits form.

In a letter dated March 11, 2025, OPM informed OWCP that it began payments to appellant, effective September 1, 2024. It noted that appellant’s net monthly annuity was \$64.37. OPM also advised OWCP that it could not begin collection of the overpayment incurred for the period September 1 through 7, 2024 until OWCP sent certification that due process had been given to appellant.

An April 9, 2025 internal memorandum noted that OPM reported paying appellant effective September 1, 2024. OWCP noted that appellant’s periodic rolls were terminated effective August 31, 2024 per appellant’s election form, and therefore, the overpayment was recalculated for the period September 1 through 7, 2024 based on the date OPM began paying

OWCP provided its calculations to determine that an overpayment of compensation was created in the amount of \$655.92, for the period September 1 through 7, 2024.

On April 9, 2025 OWCP issued a preliminary overpayment determination that an overpayment of compensation was created in the amount of \$655.92, for the period September 1 through 7, 2024, because appellant received prohibited dual benefit payments. It explained that the overpayment occurred because she concurrently received both FECA compensation benefits and OPM retirement benefits during the period, which resulted in a prohibited dual benefit payment. OWCP provided appellant with its calculations listing the FECA compensation benefits that she received after her election of OPM benefits on August 31, 2024. Its calculations showed that she received FECA benefits from September 1 through 7, 2024 in the amount of \$655.92. OWCP further made a preliminary determination that appellant 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 any other records to support her reported income and expenses. Additionally, OWCP enclosed an overpayment action request form and 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. No response was received.

By decision dated July 1, 2025, OWCP finalized the April 9, 2025 preliminary overpayment determination, finding that appellant had received an overpayment of compensation in the amount of \$655.92 for the period September 1 through 7, 2024, because she received both FECA payments and OPM retirement annuity payments for the same period. It found 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 payment in full within 30 days.

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.³ 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.⁴

Section 10.421(a) of OWCP's implementing regulations provides that a beneficiary may not receive wage-loss compensation concurrently with a federal retirement or survivor annuity.⁵ The beneficiary must elect the benefit that he or she wishes to receive.⁶ OWCP's procedures also

³ 5 U.S.C. § 8102(a).

⁴ *Id.* at § 8116.

⁵ 20 C.F.R. § 10.421(a).

⁶ *Id.*

explain that the employee must make an election between FECA and OPM retirement benefits. The employee has the right to elect the monetary benefit, which is the most advantageous.⁷

ANALYSIS

The Board finds that OWCP properly determined that appellant received an overpayment of compensation in the amount of \$655.92, for the period September 1 through 7, 2024, for which she was without fault, because she concurrently received OPM retirement benefits and FECA wage-loss compensation.

On September 17, 2024 appellant elected OPM retirement benefits, effective August 31, 2024. The evidence of record indicates that appellant began receiving FECA wage-loss compensation benefits on the periodic rolls commencing August 13, 2023, continuing through August 31, 2024. In a letter dated March 11, 2025, OPM confirmed that it paid appellant monthly benefits beginning September 1, 2024 and reported her net monthly annuity as \$64.37.

A FECA beneficiary may not receive wage-loss compensation concurrently with a federal retirement or survivor annuity.⁸ The clear language of section 8116(a) of FECA, section 10.421(a) of OWCP's implementing regulations, and OWCP's procedures prohibit the concurrent receipt of FECA wage-loss compensation benefits and a federal annuity.⁹ The evidence of record establishes that appellant continued to receive FECA wage-loss compensation benefits while concurrently receiving OPM retirement benefits from September 1 through 7, 2024.¹⁰ OWCP's calculations show that appellant received \$655.92 in FECA wage-loss compensation benefits for the period September 1 through 7, 2024. Therefore, as appellant had elected OPM retirement benefits for the period of the overpayment, September 1 through 7, 2024, an overpayment of compensation in that amount was created.¹¹

The Board has reviewed OWCP's calculations and finds that it properly determined that appellant received prohibited dual benefits totaling \$655.92, for the period September 1 through 7, 2024. Therefore, the Board finds that OWCP properly determined that appellant received an overpayment of compensation in the amount of \$655.92, for the period September 1 through 7, 2024, for which she was without fault, because she concurrently received OPM retirement benefits and FECA wage-loss compensation.

⁷ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Dual Benefits*, Chapter 2.1000.4a (January 1997); *see also* R.S., Docket No. 11-0428 (issued September 27, 2011); *Harold Weisman*, Docket No. 93-1335 (issued March 30, 1994).

⁸ *Supra* note 5; *B.C.*, Docket No. 20-1415 (issued April 14, 2021).

⁹ *Supra* notes 5-7; *M.G.*, Docket No. 20-0867 (issued October 13, 2021).

¹⁰ *See J.S.*, Docket No. 17-1395 (issued October 27, 2017).

¹¹ *E.F.*, Docket No. 18-1320 (issued March 13, 2019); *C.H.*, Docket No. 18-0772 (issued November 14, 2018).

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.¹²

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.¹³ 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.¹⁴

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.¹⁵ 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.¹⁶

ANALYSIS -- ISSUE 2

The Board finds that OWCP properly denied waiver of recovery of the overpayment.¹⁷

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

¹² 5 U.S.C. § 8129; 20 C.F.R. §§ 10.433, 10.434, 10.436, and 10.437; *see A.S.*, Docket No. 17-0606 (issued December 21, 2017).

¹³ 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).

¹⁴ *Id.* at § 10.437(a)-(b).

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

¹⁶ *Id.* at § 10.438(b).

¹⁷ *A.C.*, Docket No. 18-1550 (issued February 21, 2019).

would defeat the purpose of FECA or be against equity and good conscience.¹⁸ Appellant, however, had the responsibility to provide the appropriate financial information to OWCP.¹⁹

In its preliminary overpayment determination dated April 9, 2025, OWCP explained the importance of providing the completed overpayment questionnaire and supporting financial documentation, 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 information within 30 days. Appellant, however, did not respond. As such, 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.²⁰

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

CONCLUSION

The Board finds that OWCP properly determined that appellant received an overpayment of compensation in the amount of \$655.92 during the period September 1 through 7, 2024, for which she was without fault, because she concurrently received OPM retirement benefits and FECA wage-loss compensation benefits. The Board further finds that OWCP properly denied waiver of recovery of the overpayment.

¹⁸ 20 C.F.R. § 10.436.

¹⁹ *Id.* at § 10.438; *see N.J.*, Docket No. 19-1170 (issued January 10, 2020).

²⁰ *R.M.*, Docket No. 19-1570 (issued June 1, 2020); *G.G.*, Docket No. 19-0684 (issued December 23, 2019).

²¹ *P.M.*, Docket No. 22-1059 (issued April 28, 2023); *S.P.*, Docket No. 19-1318 (issued July 31, 2020).

ORDER

IT IS HEREBY ORDERED THAT the July 1, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 17, 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