

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

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<p><b>P.H., Appellant</b></p> <p>and</p> <p><b>U.S. POSTAL SERVICE, OKLAHOMA CITY AMF RETAIL POST OFFICE, Oklahoma City, OK, Employer</b></p>	) ) ) ) ) ) )	<b>Docket No. 24-0255</b> <b>Issued: November 17, 2025</b>
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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 January 6, 2024 appellant filed a timely appeal from a July 13, 2023 merit decision of the Office of Workers' Compensation Programs (OWCP).<sup>1</sup> Pursuant to the Federal Employees' Compensation Act<sup>2</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

**ISSUES**

The issues are: (1) whether appellant received an overpayment of compensation in the amount of \$21,395.01 during the period December 16, 2009 through November 5, 2022, for which she was without fault, as OWCP failed to properly deduct life insurance premiums from her FECA

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<sup>1</sup> Under the Board's *Rules of Procedure*, an appeal must be filed within 180 days from the date of issuance of an OWCP decision. An appeal is considered filed upon receipt by the Clerk of the Appellate Boards. *See* 20 C.F.R. § 501.3(e)-(f). One hundred and eighty days from OWCP's July 13, 2023 decision was January 9, 2024. Since using January 17, 2024, the date the appeal was received by the Clerk of the Appellate Boards, would result in the loss of appeal rights, the date of the postmark is considered the date of filing. The date of the U.S. Postal Service postmark is January 6, 2024, rendering the appeal timely filed. *See* 20 C.F.R. § 501.3(f)(1).

<sup>2</sup> 5 U.S.C. § 8101 *et seq.*

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 \$600.00 from appellant's continuing compensation benefits, every 28 days.

### **FACTUAL HISTORY**

This case has previously been before the Board on different issues.<sup>3</sup> The facts and circumstances as set forth in the Board's prior decisions are incorporated herein by reference. The relevant facts are set forth below.

On February 11, 2008 appellant, then a 51-year-old administrative assistant, filed an occupational disease claim (Form CA-2) alleging that she developed constant pain in her elbows, hands, arms, neck, and back due to factors of her federal employment, including the use of a computer and holding her telephone. By decision dated April 3, 2008, OWCP accepted her claim for bilateral lateral epicondylitis, bilateral medial epicondylitis, sciatica, and neck sprain.<sup>4</sup> On June 10, 2009 it subsequently expanded the acceptance of appellant's claim to include bilateral carpal tunnel syndrome. OWCP paid appellant wage-loss compensation on the periodic rolls effective June 7, 2009.

In a letter dated October 14, 2022, the Office of Personnel Management (OPM) informed OWCP that, as a compensationer, appellant was eligible to continue the life insurance coverage under the Federal Employees' Group Life Insurance (FEGLI) program. The final base salary on which life insurance coverage was based was \$53,668.16. It requested that OWCP deduct premiums for the following life insurance elections: basic life insurance (BLI) at no reduction, effective December 16, 2009; Option A (Standard Option); Option B (Additional Optional Insurance) at 5X with no reduction; Option C (Family Optional Insurance) at 1X with no reduction. OPM instructed OWCP to collect for any underpaid premiums "for Option B 5x and Option C 1x effective February 1, 2022 (1<sup>st</sup> of the month after age 65)."

The record also contains a document entitled Continuation of Life Insurance Coverage as Annuitant or Compensationer (Standard Form (SF) 2818) signed by appellant on December 16, 2009, indicating that she elected the following life insurance coverages: BLI with no reduction; Option A Standard; Option B 5X with no reduction; and Option C 1X with no reduction.

On November 6, 2022 OWCP began making the appropriate deductions for life insurance premiums per the information provided by OPM.

In payment documents of record, OWCP determined that the appropriate deductions had not been made for appellant's life insurance premiums for the period December 16, 2009 through November 5, 2022. The record contains a November 14, 2022 overpayment calculation worksheet in which OWCP determined that appellant received a total of \$21,395.01, during the period

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<sup>3</sup> Docket No. 17-1362 (issued March 13, 2018); Docket No. 19-1354 (issued March 10, 2022).

<sup>4</sup> Under OWCP File No. xxxxxx455, OWCP accepted appellant's September 15, 2008 occupational disease claim for left knee sprain, left knee arthropathy, left knee internal derangement, bilateral pes planus, neck sprain, bilateral shoulder sprain, bilateral upper arm sprain, bilateral brachial plexus lesions, bilateral plantar fibromatosis, and bilateral tarsal tunnel syndrome as causally related to her employment duties. On September 1, 2010 OWCP administratively combined OWCP File Nos. xxxxxx045 and xxxxxx455, with the latter serving as the master file.

December 16, 2009 through November 5, 2022, to which she was not entitled, due to the underpayment of life insurance premiums.

On November 21, 2022 OWCP issued a preliminary overpayment determination, finding that appellant had received an overpayment of compensation in the amount of \$21,395.01, for the period December 16, 2009 through November 5, 2022, because life insurance premiums had not been properly deducted from her compensation payments. It provided a calculation of the overpayment, noting that she was not at fault in its creation. OWCP requested that appellant submit a completed overpayment recovery questionnaire (Form OWCP-20) to determine a reasonable recovery method and advised him that he could request waiver of recovery of the overpayment. It also requested that he provide financial documentation including copies of income tax returns, bank account statements, bills, cancelled checks, pay slips, and other records that support income and expenses. OWCP provided an overpayment action request form and notified appellant that, within 30 days of the date of the letter he could request a final decision based on the written evidence, or a prerecoupment hearing.

Appellant initially submitted a Form OWCP-20 within 30 days of the preliminary overpayment determination, but on May 10, 2023 she submitted an updated Form OWCP-20 in which she reported a total of \$7,591.94 in monthly income, a total of \$8,425.06 in monthly expenses, and a total of \$180,321.00 in assets. Appellant also submitted financial documents in support of her claim.

In an overpayment action request form signed on December 12, 2022, appellant requested waiver of recovery of the overpayment. She also requested a prerecoupment hearing, which was held on May 22, 2023.

By decision dated July 13, 2023, OWCP's hearing representative finalized the preliminary overpayment determination, finding that appellant received an overpayment of compensation in the amount of \$21,395.01 for the period December 16, 2009 through November 5, 2022, for which she was without fault, as OWCP failed to deduct life insurance premiums from her FECA wage-loss compensation. The hearing representative denied appellant's request for waiver of recovery of the overpayment, and required recovery of the overpayment by deducting \$600.00 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 personal injury sustained while in the performance of duty.<sup>5</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>6</sup>

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<sup>5</sup> 5 U.S.C. § 8102(a).

<sup>6</sup> 20 C.F.R. §§ 10.434-10.437; *J.L.*, Docket No. 18-0212 (issued June 8, 2018).

When an underwithholding 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>7</sup>

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

The Board finds that appellant received an overpayment of compensation in the amount of \$21,395.01 for the period December 16, 2009 through November 5, 2022, for which she was without fault, as OWCP failed to properly deduct life insurance premiums from her FECA wage-loss compensation.

On October 14, 2022 OPM informed OWCP that, as a compensationer, appellant was eligible to continue the life insurance coverage under the FEGLI program. The final base salary on which life insurance coverage was based was \$53,668.16. It requested that OWCP deduct premiums for the following life insurance elections: BLI at no reduction, effective December 16, 2009; Option A (Standard Option); Option B (Additional Optional Insurance) at 5x with no reduction; Option C (Family Optional Insurance) at 1X with no reduction. OPM instructed OWCP to collect for any underpaid premiums “for Option B 5x and Option C 1x effective February 1, 2022 (1<sup>st</sup> of the month after age 65).” Appellant’s SF 2818 signed on December 16, 2009, indicated her election of the following life insurance coverages: BLI with no reduction; Option A Standard; Option B 5X with no reduction; and Option C 1X with no reduction. The case record establishes that the appropriate deductions were not made for appellant’s life insurance premiums for the period December 16, 2009 through November 5, 2022. The Board thus finds that an overpayment of compensation was created for this period.

With regard to the amount of the overpayment, the record contains a November 14, 2022 overpayment calculation worksheet in which OWCP determined that appellant received a total of \$21,395.01, during the period December 16, 2009 through November 5, 2022, to which she was not entitled, due to the underpayment of life insurance premiums. The Board has reviewed OWCP’s calculations and finds that it properly determined that appellant received an overpayment of compensation in the amount of \$21,395.01 for the period December 16, 2009 through November 5, 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>8</sup> The guidelines for determining whether recovery of an overpayment would defeat the purpose of FECA or would be against equity and good conscience are set forth in sections 10.434 to 10.437 of OWCP regulations.<sup>9</sup>

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<sup>7</sup> 5 U.S.C. § 8707(d); *see also A.V.*, Docket No. 21-0887 (issued May 12, 2022); *J.H.*, Docket No. 20-0281 (issued May 18, 2021).

<sup>8</sup> 5 U.S.C. § 8129.

<sup>9</sup> 20 C.F.R. §§ 10.434-10.437.

Section 10.436 provides that recovery of an overpayment would defeat the purpose of FECA if recovery would cause hardship because the beneficiary needs substantially all of his or her current income (including compensation benefits) to meet current ordinary and necessary living expenses and, also, if the beneficiary's assets do not exceed a specified amount as determined by OWCP from data provided by the Bureau of Labor Statistics.<sup>10</sup> 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.<sup>11</sup>

OWCP procedures provide that the 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.<sup>12</sup> An individual's liquid assets include, but are not limited to cash, the value of stocks, bonds, saving accounts, mutual funds, and certificates of deposit. Nonliquid assets include, but are not limited to the fair market value of an owner's equity in property such as a camper, boat, 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.<sup>13</sup>

### **ANALYSIS -- ISSUE 2**

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

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>

On her completed Form OWCP-20, appellant reported a total of \$180,321.00 in assets. As such, her assets exceeded the allowable resource base.<sup>15</sup> Because she has not met the second prong of the two-prong test of whether recovery of the overpayment would defeat the purpose of FECA, it is unnecessary for OWCP to consider the first prong of the test, *i.e.*, whether she needs substantially all of her current income to meet ordinary and necessary living expenses.

### **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>16</sup> Section 10.441

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<sup>10</sup> *Id.* at § 10.436.

<sup>11</sup> Federal (FECA) Procedure Manual, Part 6 -- Debt Management, *Final Overpayment Determinations*, Chapter 6.400.4a(3) (September 2020).

<sup>12</sup> *Id.* at Chapter 6.400.4a(2).

<sup>13</sup> *Id.* at Chapter 6.400.4b(3)(a), (b).

<sup>14</sup> See *supra* notes 8 through 10.

<sup>15</sup> See *supra* note 12.

<sup>16</sup> M.P., Docket No. 18-0902 (issued October 16, 2018); *Albert Pinero*, 51 ECAB 310 (2000); *Lorenzo Rodriguez*, 51 ECAB 295 (2000).

of Title 20 of the Code of Federal Regulations provides that if an overpayment of compensation has been made to one entitled to future payments, proper adjustment shall be made by decreasing subsequent 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>17</sup> 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.<sup>18</sup>

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

The Board finds that OWCP properly required recovery of the overpayment by deducting \$600.00 from appellant’s continuing compensation payments, every 28 days.

The record supports that, in requiring recovery of the overpayment by deducting \$600.00 from appellant’s compensation payments every 28 days, OWCP took into consideration the financial information submitted by appellant as well as the factors set forth in section 10.441 and found that this method of recovery would minimize any resulting hardship on appellant. OWCP followed minimum collection guidelines by requiring installments large enough to collect the full debt promptly. Therefore, the Board finds that OWCP properly required recovery of the overpayment by deducting \$600.00 from appellant’s continuing compensation payments, every 28 days.

### **CONCLUSION**

The Board finds that appellant received an overpayment of compensation in the amount of \$21,395.01 for the period December 16, 2009 through November 5, 2022, for which she was without fault, as 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 the overpayment and properly required recovery of the overpayment by deducting \$600.00 from appellant’s continuing compensation benefits, every 28 days.

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<sup>17</sup> 20 C.F.R. § 10.441; *see A.F.*, Docket No. 19-0054 (issued June 12, 2019); *Donald R. Schueler*, 39 ECAB 1056, 1062 (1988).

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

**ORDER**

**IT IS HEREBY ORDERED THAT** the July 13, 2023 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 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