

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

D.H., Appellant)
and) Docket No. 25-0867
U.S. POSTAL SERVICE, GULFPORT POST) Issued: November 25, 2025
OFFICE, Gulfport, MS, 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 September 8, 2025 appellant filed a timely appeal from a July 24, 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.

ISSUES

The issues are: (1) whether OWCP properly determined that appellant received an overpayment of compensation in the amount of \$41,634.09, for the period February 1, 2018 through February 22, 2025, for which she was without fault, because she concurrently received FECA 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 \$380.72 from appellant's continuing compensation payments, every 28 days.

¹ 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On June 30, 2017 appellant, then a 61-year-old rural carrier, filed a traumatic injury claim (Form CA-1) alleging that on June 20, 2017 she sustained a cervical sprain after she was rear ended in a motor vehicle accident (MVA) while in the performance of duty. On the reverse side of the claim form, the employing establishment indicated that appellant's retirement coverage was under the Federal Employees Retirement System (FERS). OWCP accepted the claim for aggravation of other cervical disc degeneration, unspecified cervical region; cervical disc disorder with radiculopathy, unspecified cervical region; and sprain of joints and ligaments of other parts of neck, initial encounter. It paid appellant wage-loss compensation on the supplemental rolls, effective August 12, 2017, and on the periodic rolls, effective January 5, 2020.

On January 28, 2025 OWCP provided SSA with a dual benefits form, requesting that it report appellant's SSA age-related retirement benefit rates with and without federal service.

On January 29, 2025 SSA returned the completed form, which reported appellant's SSA age-related retirement benefit rates with and without federal service. Beginning February 2018, the SSA rate with federal service was \$1,351.80 and without federal service was \$911.50. Beginning December 2018, the SSA rate with federal service was \$1,389.60 and without federal service was \$937.00. Beginning December 2019, the SSA rate with federal service was \$1,411.80 and without federal service was \$952.00. Beginning December 2020, the SSA rate with federal service was \$1,430.10 and without federal service was \$964.30. Beginning December 2021, the SSA rate with federal service was \$1,514.50 and without federal service was \$1,021.20. Beginning December 2022, the SSA rate with federal service was \$1,646.20 and without federal service was \$1,110.00. Beginning December 2023, the SSA rate with federal service was \$1,698.90 and without federal service was \$1,145.40. Beginning December 2024, the SSA rate with federal service was \$1,174.30 and without federal service was \$1,174.10.

In a letter dated February 28, 2025, OWCP advised appellant that, effective February 23, 2025, her FECA wage-loss compensation would be offset by her SSA age-related retirement benefits every 28 days, in the amount of \$523.57. Appellant's new net wage-loss compensation payments every 28 days would be \$3,673.21.

On April 29, 2025 OWCP prepared an overpayment calculation worksheet wherein it explained the calculation of appellant's \$41,634.09 overpayment for the period February 1, 2018 through February 22, 2025 in the amount of \$41,634.09. It determined that for the period February 1 through November 30, 2018, appellant received an overpayment in the amount of \$4,398.15; for the period December 1, 2018 through November 30, 2019, she received an overpayment in the amount of \$5,446.06; for the period December 1, 2019 through November 30, 2020, she received an overpayment in the amount of \$5,547.91; for the period December 1, 2020 through November 30, 2021, she received an overpayment in the amount of \$5,604.97; for the period December 1, 2021 through November 30, 2022, she received an overpayment in the amount of \$5,935.81; for the period December 1, 2022 through November 30, 2023, she received an overpayment in the amount of \$6,452.03; for the period December 1, 2023 through November 30, 2024, she received an overpayment in the amount of \$6,678.45; and for the period December 1, 2024 through February 22, 2025, she received an overpayment in the amount of \$1,570.71.

In an April 29, 2025 preliminary overpayment determination, OWCP notified appellant that she had received an overpayment of compensation in the amount of \$41,634.09 for the period February 1, 2018 through February 22, 2025, because she received FECA wage-loss compensation and SSA age-related retirement benefits, without an appropriate offset. It further made a preliminary determination that appellant was without fault in the creation of the overpayment. OWCP requested that she complete an enclosed overpayment recovery questionnaire and updated 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, 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.

On May 27, 2025 OWCP received an overpayment action request form, signed on May 23, 2025, in which appellant challenged the fact and amount of the overpayment, and requested waiver of recovery. In an accompanying statement, appellant requested waiver of recovery of the overpayment as it would cause her severe financial hardship, occurred through no fault of her own, and would be against equity and good conscience. She explained that she was older, disabled, and a widow with many unforeseen expenses due to the hurricane and damage to her house and roof and repayment would cause her severe financial distress.

Appellant requested waiver of recovery of the overpayment and submitted a completed Form OWCP-20 dated May 23, 2025 wherein she reported total monthly income of \$6,414.23, total monthly expenses of \$8,491.47, and total assets of \$127,105.83. She also reported owning land for which she paid approximately \$50,000.00. Appellant did not provide supporting financial documentation.

By decision dated July 24, 2025, OWCP finalized its April 29, 2025 preliminary overpayment determination, finding that appellant had received an overpayment of compensation in the amount of \$41,634.09 for the period February 1, 2018 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 \$380.72 from her continuing compensation payments, every 28 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.² 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.³

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

² 5 U.S.C. § 8102(a).

³ *Id.* at § 8116.

federal service of the employee.⁴ 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.⁵

ANALYSIS -- ISSUE 1

The Board finds that OWCP properly determined that appellant received an overpayment of compensation in the amount of \$41,634.09, for the period February 1, 2018 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. However, no appropriate offset was made. A claimant cannot receive both compensation for wage-loss and SSA age-related retirement benefits attributable to federal service for the same period.⁶ Consequently, fact of overpayment has been established.⁷

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 benefits rates with and without federal service for the period February 1, 2018 through February 22, 2025. OWCP provided its overpayment calculations for the relevant period based on SSA's dual benefits form and determined that appellant received an overpayment of compensation in the amount of \$41,634.09.

The Board has reviewed OWCP's calculations for the period February 1, 2018 through February 22, 2025, and finds that it properly determined that an overpayment of compensation in the amount of \$41,634.09 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.⁸ Thus, a finding that appellant was without fault does not automatically result in waiver of the

⁴ 20 C.F.R. § 10.421(d).

⁵ FECA Bulletin No. 97-09 (issued February 3, 1997).

⁶ See *E.M.*, Docket No. 21-1231 (issued April 19, 2023); *E.K.*, Docket No. 18-0587 (issued October 1, 2018).

⁷ *L.M.*, Docket No. 19-1197 (issued January 8, 2020).

⁸ 5 U.S.C. § 8129(a)-(b).

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.⁹

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.¹⁰ 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 \$50.00.¹¹ 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.¹² 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.¹³ 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, 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.¹⁴

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.¹⁵ 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.¹⁶

ANALYSIS -- ISSUE 2

The Board finds that OWCP properly denied waiver of recovery of the \$41,634.09 overpayment of compensation.

⁹ *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).

¹⁰ 20 C.F.R. § 10.436(a)(b).

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

¹² *Id.* at Chapter 6.400.4a(2).

¹³ *Id.* at Chapter 6.400.4b(3).

¹⁴ *Id.* at Chapter 6.400.4b(3)(a), (b).

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

¹⁶ *Supra* note 11 at Chapter 6.400.4c(3).

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.¹⁷

On her Form OWCP-20, appellant reported total assets of \$127,105.83. In addition, appellant also reported owning land which she purchased for \$50,000.00. As noted above, in determining whether recovery of the overpayment would defeat the purpose of FECA, OWCP considers whether assets exceed a resource base of \$6,200.00 for an individual or \$10,300.00 for an individual with a spouse or dependent.¹⁸ Accordingly, the Board finds that appellant has not met the standard for waiver of recovery of the overpayment, because her assets exceed the allowable resource base.¹⁹ Because appellant has not established that recovery of the overpayment would defeat the purpose of FECA, it is not necessary for OWCP to consider whether she needs substantially all of her current income to meet ordinary and necessary living expenses.²⁰

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.

Because appellant has not established 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.

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 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.²¹

ANALYSIS -- ISSUE 3

The Board finds that OWCP properly required recovery of the overpayment by deducting \$380.72 from appellant's continuing compensation payments, every 28 days.

In determining whether appellant could repay the overpayment through \$380.72 deductions 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

¹⁷ See *B.G.*, Docket No. 20-0541 (issued April 28, 2021); *R.H.*, Docket No. 15-0392 (issued February 3, 2016).

¹⁸ *Supra* note 12.

¹⁹ *S.W.*, Docket No. 20-0363 (issued November 23, 2020); *H.F.*, Docket No. 17-0101 (issued September 5, 2017).

²⁰ *S.R.*, Docket No. 20-1416 (issued September 8, 2022); *M.H.*, Docket No. 19-1497 (issued September 9, 2020).

²¹ 20 C.F.R. § 10.441(a).

time liquidating the debt in a reasonably prompt fashion.²² Thus, the Board finds that it properly required recovery of the overpayment by deducting \$380.72 from appellant's continuing compensation payments every 28 days.²³

CONCLUSION

The Board finds that appellant received an overpayment of compensation in the amount of \$41,634.09, for the period February 1, 2018 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 and properly required recovery of the overpayment by deducting \$380.72 from her continuing compensation payments, every 28 days.

ORDER

IT IS HEREBY ORDERED THAT the July 24, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 25, 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

²² 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).

²³ *Id.*