

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

D.R., Appellant)
and) Docket No. 25-0856
U.S. POSTAL SERVICE, MARION POST) Issued: September 26, 2025
OFFICE, Marion, IA, 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 an August 29, 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 appellant received an overpayment of compensation in the amount of \$19,681.55, for the period June 1, 2024 through June 14, 2025, for which he was without fault, because he 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 \$594.27 from appellant's continuing compensation payments, every 28 days.

¹ 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On December 7, 2015 appellant, then a 57-year-old letter carrier, filed an occupational disease claim (Form CA-2) alleging that he sustained a ruptured disc and calcium deposits on his spinal cord as a result of repetitive work duties, including walking, climbing up and down hills and delivering mail on his route. Appellant's supervisor noted on the claim form that his retirement system was under the Federal Employees Retirement System (FERS). OWCP accepted the claim for thoracic disc herniation with myelopathy at T6-7 and calcification of herniated discs. On September 16, 2015 appellant underwent OWCP-authorized thoracic T6-7-8 laminectomy pediculectomy. OWCP paid appellant wage-loss compensation on the supplemental rolls effective December 12, 2015 and on the periodic rolls effective December 11, 2016.

On May 27, 2025 OWCP provided SSA with a dual benefits form for its completion.

On the completed dual benefits form, dated May 28, 2025, SSA reported appellant's SSA age-related retirement benefit rates with and without federal service effective June and December 2024. Beginning June 2024, the SSA rate with federal service was \$2,700.90 and without federal service was \$1,145.80. Beginning December 2024, the SSA rate with federal service was \$2,768.40 and without federal service was \$1,174.40.

In a letter dated June 24, 2025, OWCP advised appellant that, effective July 12, 2025, his FECA wage-loss compensation would be offset by his SSA age-related retirement benefits every 28 days, in the amount of \$1,471.38. Appellant's new net wage-loss compensation payments every 28 days would be in the amount of \$2,378.28.

In a preliminary overpayment determination dated June 25, 2025, OWCP notified appellant that he had received an overpayment of compensation in the amount of \$19,681.55 for the period June 1, 2024 through June 14, 2025, because he concurrently received FECA wage-loss compensation and SSA age-related retirement benefits, without an appropriate offset. It calculated the overpayment amount by determining the difference between his SSA age-related retirement benefit rates with and without federal service for the stated period and totaling this amount to find an overpayment of \$19,681.55. OWCP further advised appellant of its preliminary determination that he was without fault in the creation of the overpayment. It requested that he 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 his reported income and expenses. Additionally, OWCP 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.

On July 23, 2025 appellant submitted an overpayment action request form dated July 21, 2025, requesting a decision based on the written evidence regarding the issue of possible waiver of the overpayment. He contended that he helped his children and grandchildren with expenses, and that he had limited income and was unable to repay the overpayment. Appellant also submitted a completed Form OWCP-20 also dated July 21, 2025, reporting total monthly income of \$6,896.00, total monthly expenses of \$3,892.49, and total assets of \$531,416.24. He submitted supporting documentation.

In a July 25, 2025 development letter, OWCP informed appellant that the evidence submitted was insufficient to establish waiver of recovery of the \$19,681.55 overpayment. It advised appellant of the type of evidence needed and afforded him 30 days to submit the necessary evidence.

On July 30, 2025 appellant resubmitted his July 21, 2025 overpayment action request form and completed Form OWCP-20. In an undated statement, appellant further explained his monthly expenses and argued that he would not have entered into a repayment agreement with the employing establishment if he was not entitled to this wage-loss compensation. He provided supporting financial documentation.

In a July 31, 2025 development letter, OWCP informed appellant that the evidence submitted was insufficient to establish waiver of recovery of the \$19,681.55 overpayment. It advised appellant of the type of evidence needed and afforded him 30 days to submit the necessary evidence.

Appellant resubmitted his undated statement regarding his monthly expenses. He provided additional supporting financial documentation.

By decision dated August 29, 2025, OWCP finalized the preliminary overpayment determination that appellant had received an overpayment of compensation in the amount of \$19,681.55 for the period June 1, 2024 through June 14, 2025, for which he was without fault, because his FECA compensation payments were not offset by the portion of his SSA age-related retirement benefits attributable to his federal service. It explained how it calculated the amount of the overpayment. OWCP found that he was without fault in the creation of the overpayment, but denied waiver of recovery 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. It required recovery of the overpayment by deducting 25 percent of the net amount of appellant's 28-day continuing compensation payments, which resulted in a monthly repayment amount of \$594.27.

LEGAL PRECEDENT -- ISSUE 1

Section 8102(a) of 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.² However, section 8116 also 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 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.⁴

² *Id.* at § 8102(a).

³ *Id.* at § 8116.

⁴ *Id.* at § 8129(a).

Section 10.421(d) of OWCP's implementing regulations requires that it reduce the amount of compensation by the amount of any SSA benefits that are attributable to the federal service of the employee.⁵ FECA Bulletin No. 97-09 states 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.⁶

ANALYSIS -- ISSUE 1

The Board finds that appellant received an overpayment of compensation in the amount of \$19,681.55, for the period June 1, 2024 through June 14, 2025, for which he was without fault, because he concurrently received FECA wage-loss compensation and SSA age-related retirement benefits, without an appropriate offset.

In its August 29, 2025 decision, OWCP found that an overpayment of compensation was created for the period June 1, 2024 through June 14, 2025. The overpayment was based on the evidence received from SSA with respect to age-related retirement benefits paid to appellant. As noted, a claimant cannot receive both compensation for wage loss under FECA and SSA age-related retirement benefits attributable to federal service for the same period.⁷ The information provided by SSA established that appellant received SSA age-related retirement benefits that were attributable to federal service beginning June 1, 2024. OWCP, however, neglected to offset his FECA wage-loss compensation until June 14, 2025. Accordingly, the Board finds that OWCP properly determined that appellant received an overpayment of wage-loss compensation for the period June 1, 2024 through June 14, 2025.

To determine the amount of the overpayment, the portion of the SSA benefits that were attributable to federal service must be calculated. OWCP received documentation from SSA with respect to the specific amount of SSA age-related retirement benefits that were attributable to federal service. The SSA provided appellant's SSA rates with FERS and without FERS effective June and December 2024. OWCP provided its calculations of the amount that it should have offset during the relevant period based on the SSA worksheet.

The Board has reviewed OWCP's calculation of benefits received by appellant for the period June 1, 2024 through June 14, 2025 and finds that an overpayment of compensation in the amount of \$19,681.55 was created.⁸

⁵ 20 C.F.R. § 10.421(d); *see R.R.*, Docket No. 19-0104 (issued March 9, 2020); *T.B.*, Docket No. 18-1449 (issued March 19, 2019); *L.J.*, 59 ECAB 264 (2007).

⁶ FECA Bulletin No. 97-09 (issued February 3, 1997); *see also N.B.*, Docket No. 18-0795 (issued January 4, 2019).

⁷ *Id.*

⁸ *See M.B.*, Docket No. 23-0775 (issued March 11, 2024); *B.J.*, Docket No. 24-0599 (issued July 16, 2024); *M.D.*, Docket No. 21-0725 (issued January 25, 2023); *P.M.*, Docket No. 21-0915 (issued December 14, 2021); *W.C.*, Docket No. 20-1241 (issued February 9, 2021); *M.S.*, Docket No. 18-0740 (issued February 4, 2019); *D.C.*, Docket No. 17-0559 (issued June 21, 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.⁹ 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.¹⁰

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.¹¹ 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 \$50.00.¹² 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.¹³ 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.¹⁴ 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.¹⁵

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.¹⁶ OWCP's procedures provide that, to establish that a valuable right has been relinquished, an

⁹ 5 U.S.C. § 8129(a)-(b).

¹⁰ *M.T.*, Docket No. 25-0493 (issued June 10, 2025); *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).

¹¹ 20 C.F.R. § 10.436(a)(b).

¹² Federal (FECA) Procedure Manual, Part 6 -- Debt Management, *Final Overpayment Determinations*, Chapter 6.400.4a(3) (September 2020).

¹³ *Id.* at Chapter 6.400.4a(2).

¹⁴ *Id.* at Chapter 6.400.4b(3).

¹⁵ *Id.* at Chapter 6.400.4b(3)(a), (b).

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

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.¹⁷

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.¹⁸

On his July 21, 2025 Form OWCP-20, appellant reported total assets of \$531,416.24. As explained 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.¹⁹ As his reported assets exceed the allowable resource base, the Board finds that he has not met the standard for waiver of recovery.²⁰ 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 he needs substantially all of his current income to meet ordinary and necessary living expenses.²¹

The Board also finds that appellant has not established that he was entitled to waiver on the basis that recovery of the overpayment would be against equity and good conscience.²² In an undated statement submitted with his Form OWCP-20, appellant argued that he would not have entered into a repayment agreement with the employing establishment if he was not entitled to this wage-loss compensation. However, appellant has not sufficiently shown that he would experience severe financial hardship in attempting to repay the debt, or that he has relinquished a valuable right, or changed his position for the worse in reliance on the payments which created the overpayment.²³

¹⁷ *Supra* note 12 at Chapter 6.400.4c(3).

¹⁸ *Supra* note 10.

¹⁹ *Supra* note 12 at Chapter 6.400.4a(2).

²⁰ *M.T.*, *supra* note 10; *S.W.*, Docket No. 20-0363 (issued November 23, 2020); *H.F.*, Docket No. 17-0101 (issued September 5, 2017).

²¹ *M.T.*, *id.*; *S.R.*, Docket No. 20-1416 (issued September 8, 2022); *M.H.*, Docket No. 19-1497 (issued September 9, 2020).

²² See *M.T.*, *id.*; *J.D.*, Docket No. 94-2567 (issued October 17, 1996).

²³ See *M.T.*, *id.*; *B.C.*, Docket No. 19-0629 (issued June 2, 2020); *William J. Murphy*, 41 ECAB 569, 571-72 (1989).

Because appellant has not established that recovery of the overpayment would defeat the purpose of FECA or be against equity and good conscience, OWCP properly denied waiver of recovery of the \$19,681.55 overpayment.²⁴

LEGAL PRECEDENT -- ISSUE 3

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 facts, so as to minimize any hardship.²⁵

ANALYSIS -- ISSUE 3

The Board finds that OWCP properly required recovery of the overpayment by deducting \$594.27 from appellant's continuing compensation payments, every 28 days.

OWCP gave due regard to the financial information submitted, as well as the factors set forth in 20 C.F.R. § 10.441 and found that this method of recovery would minimize resulting hardship. Therefore, it properly required recovery of the overpayment by deducting \$594.27 from appellant's continuing compensation payments, every 28 days.²⁶

CONCLUSION

The Board finds that appellant received an overpayment of compensation in the amount of \$19,681.55, for the period June 1, 2024 through June 14, 2025, for which he was without fault, because he 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 \$594.27 from his continuing compensation payments, every 28 days.

²⁴ *M.T.*, *id.*; *J.R.*, Docket No. 24-0852 (issued November 14, 2024); *S.W.*, Docket No. 20-0363 (issued November 23, 2020).

²⁵ 20 C.F.R. § 10.441(a). *See also L.B.*, Docket No. 11-2076 (issued August 29, 2012); *G.B.*, Docket No. 11-1568 (issued February 15, 2012).

²⁶ *M.S.*, Docket No. 20-0068 (issued May 14, 2021); *M.B.*, Docket No. 20-1578 (issued March 25, 2021). Docket No. 20-0068 (issued May 14, 2021).

ORDER

IT IS HEREBY ORDERED THAT the August 29, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 26, 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