

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

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R.P., Appellant)	
)	
and)	
)	Docket No. 24-0613
)	Issued: April 9, 2026
U.S. POSTAL SERVICE, OREGON CITY POST OFFICE, Oregon City, OR, Employer)	
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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 May 17, 2024, appellant filed a timely appeal from a November 21, 2023 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 to consider the merits of this case.²

ISSUES

The issues are: (1) whether appellant received an overpayment of compensation in the amount of \$4,531.22 for the period August 17, 2019 through April 23, 2022, for which he was without fault, as OWCP failed to properly deduct life insurance premiums from his FECA wage-

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that, following the December 19, 2023 decision, appellant submitted additional evidence to OWCP. However, 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.*

loss compensation; (3) whether OWCP properly denied waiver of recovery of the overpayment; and (4) whether OWCP properly required recovery of the overpayment by deducting \$138.46 from appellant's continuing compensation payments, every 28 days.

FACTUAL HISTORY

On August 31, 2018, appellant, then a 51-year-old part-time rural carrier on modified duty working as a clerk, filed a traumatic injury claim (Form CA-1) alleging that on August 13, 2018 he sustained injuries to his left shoulder and neck when performing demanding physical work while in the performance of duty. OWCP accepted the claim for bilateral bursitis of the shoulders, bilateral impingement syndrome of the shoulders, and strain of muscle, fascia and tendon at the neck level. It paid appellant wage-loss compensation on the supplemental rolls effective August 20, 2018, and on periodic rolls effective March 3, 2019.

On April 18, 2022, the Office of Personnel Management (OPM) advised OWCP that appellant, as a compensationner, was eligible to continue coverage under the Federal Employees' Group Life Insurance (FEGLI) Program. It further notified OWCP that he had elected Basic Life Insurance (BLI) \$63,000.00 at no reduction. OPM noted that the BLI coverage premiums began on the "OWCP commencing date." It reported that appellant's final base salary on which FEGLI deductions were based was \$60,170.00.

On April 24, 2022, OWCP began deducting the life insurance premiums for appellant's election of BLI at no reduction from appellant's wage-loss compensation.

By notice dated June 28, 2022, OWCP advised appellant of its preliminary overpayment determination that he had received an overpayment of compensation in the amount of \$6,128.48 for the period August 20, 2018 through April 23, 2022 because as OWCP failed to properly deduct life insurance premiums from his FECA wage-loss compensation. It provided a calculation of the overpayment and found that he was without fault in its creation. OWCP requested that appellant complete an overpayment action request form and an overpayment recovery questionnaire (Form OWCP-20), and submit documentation including copies of income tax returns, bank account statements, bills and cancelled checks, pay slips, and other records to support his reported income and expenses. Additionally, it advised him 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 27, 2022, appellant requested a prerecoupment hearing before a representative of OWCP's Branch of Hearings and Review. A hearing was held on November 18, 2022.

Appellant subsequently submitted a January 5, 2023 narrative statement, along with additional documentation, including a copy of an April 18, 2022 letter wherein OPM confirmed his FEGLI coverage of BLI \$63,000.00 at no reduction.

An accompanying Continuation of Life Insurance Coverage as an Annuitant or Compensationner Form (SF 2818), signed on January 2, 2022, documented appellant's election of the following life insurance coverage: BLI at no reduction.

By decision dated January 30, 2023, OWCP's hearing representative vacated the June 28, 2022 decision, finding that the evidence of record was unclear as to the period of overpayment. The hearing representative remanded the case for further development to include confirmation of appellant's enrollment period, coverage code, and effective date, with an explanation of the coverage effective date.

By letter dated February 17, 2023, OWCP requested that OPM provide a statement confirming appellant's life insurance enrollment period, coverage code, and the effective date that deductions should commence from OWCP, with an explanation of the effective coverage date.

In March 7, 2023 response, OPM confirmed that the effective date was August 17, 2019, the date that appellant reached 12 months in a nonpay status. It further confirmed that the final salary on which FEGLI was based was \$60,170.00 and that appellant had elected BLI at no reduction commencing August 17, 2019.

On March 21, 2023, OWCP issued a *de novo* preliminary overpayment determination finding that appellant had been overpaid \$4,531.22 during the period August 17, 2019 through April 23, 2022 because it had not properly deducted life insurance premiums from his compensation payments. It provided its calculations explaining that a total of \$4,531.22 should have been deducted for appellant's life insurance premiums for the period August 17, 2019 through April 23, 2022. OWCP found that appellant was without fault in the creation of the overpayment and requested that appellant complete an overpayment action request form and a Form OWCP-20. It further requested that he submit documentation including copies of income tax returns, bank account statements, bills and cancelled checks, pay slips, and other records to support his reported income and expenses. Additionally, OWCP advised 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 April 17, 2023, appellant requested a prerecoupment hearing before a representative of OWCP's Branch of Hearings and Review. On a completed Form OWCP-20 dated April 17, 2023, appellant reported total net monthly income of \$5,781.48, total monthly expenses of \$5,575.60, and assets totaling \$27,694.02.

A hearing was held on September 7, 2023. During the hearing, appellant argued that the effective date of the deductions should have been January 1, 2022, which was the date that he elected BLI at no reduction and signed the SF 2818.

By decision dated November 21, 2023, the OWCP hearing representative finalized the preliminary overpayment determination, finding that appellant had received an overpayment of compensation in the amount of \$4,531.22 for the period August 17, 2019 through April 23, 2022, because OWCP failed to properly deduct life insurance premiums from his FECA wage-loss compensation. The hearing representative further found that appellant was without fault in the creation of the overpayment, but denied waiver of recovery of the overpayment. The hearing representative required recovery of the overpayment by deducting \$138.46 from appellant's continuing compensation payments, every 28 days.

LEGAL PRECEDENT -- ISSUE 1

FECA³ 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 his or her duty.⁴ 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.⁵

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.⁶

ANALYSIS -- ISSUE 1

The Board finds that appellant received an overpayment of compensation in the amount of \$4,531.22 for the period August 17, 2019 through April 23, 2022, for which he was without fault, because OWCP failed to properly deduct life insurance premiums from his FECA wage-loss compensation.

On April 18, 2022, OPM advised OWCP that appellant, as a compensationner, was eligible to continue coverage under the FEGLI Program. It further notified OWCP that he had elected BLI \$63,000.00 at no reduction. OPM noted that the BLI coverage premiums began on the “OWCP commencing date.” It reported that appellant’s final salary on which FEGLI deductions were based was \$60,170.00. On an SF 2818, signed on January 2, 2022, appellant elected the following life insurance coverage: BLI at no reduction. The case record, however, establishes that OWCP failed to properly deduct the appropriate life insurance premiums from appellant’s FECA wage-loss compensation for the period August 17, 2019 through April 23, 2022. The Board thus finds that appellant received an overpayment of compensation for the period August 17, 2019 through April 23, 2022, for which he was without fault.⁷

With regard to the amount of the overpayment, in its March 21, 2023 preliminary overpayment determination, OWCP explained that no deductions were made from appellant’s wage-loss compensation for BLI at no reduction for the period August 17, 2019 through April 23, 2022. It should have deducted a total of \$4,531.22 for that same period. The Board has reviewed OWCP’s calculations for the period August 17, 2019 through April 23, 2022 and finds that appellant received an overpayment of compensation in the amount of \$4,531.22.

³ 5 U.S.C. § 8101 *et seq.*

⁴ 5 U.S.C. § 8102(a).

⁵ *Id.* at § 8129(a).

⁶ 5 U.S.C. § 8707(d); *D.H.*, Docket No. 19-0384 (issued August 12, 2019).

⁷ *Supra* note 6. *See also S.C.*, Docket No. 22-0809 (issued August 22, 2025).

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.⁸

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.⁹ An individual is deemed to meet current ordinary and necessary living expenses if monthly income does not exceed monthly expenses by more than \$50.00.¹⁰

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.¹¹ 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.¹²

Section 10.438 of OWCP's regulations provides 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.¹³

⁸ 5 U.S.C. § 8129.

⁹ 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).

¹⁰ *Id.* at Chapter 6.400.4.a(3); *see also N.J.*, Docket No. 19-1170 (issued January 10, 2020); *M.A.*, Docket No. 18-1666 (issued April 26, 2019).

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

¹² *Supra* note 9 at Chapter 6.400.4c(3).

¹³ 20 C.F.R. at § 10.438(a); *M.S.*, Docket No. 18-0740 (issued February 4, 2019).

ANALYSIS -- ISSUE 2

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

As OWCP found appellant without fault in the creation of the overpayment, waiver must be considered, and recovery is still required unless adjustment or recovery of the overpayment would defeat the purpose of FECA or be against equity and good conscience.¹⁴

On a completed Form OWCP-20 dated April 17, 2023, appellant reported assets totaling \$27,694.02. As explained above, for an individual with no eligible dependents, the asset resource 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.¹⁵ As appellant's assets totaling \$27,694.02 exceed the allowable resource base, recovery of the overpayment would not defeat the purpose of FECA.

The Board also finds that appellant has not established that he was entitled to waiver of recovery of the overpayment on the basis that recovery would be against equity and good conscience.¹⁶

As the evidence of record fails to support 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

The Board's jurisdiction over recovery of an overpayment is limited to reviewing those cases where OWCP seeks recovery from continuing compensation under FECA.¹⁷

Section 10.441(a) of OWCP's regulations¹⁸ provides in pertinent part:

“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

¹⁴ 5 U.S.C. § 8129.

¹⁵ *Supra* note 9.

¹⁶ *Supra* note 11.

¹⁷ 20 C.F.R. § 10.441; *see R.L.*, Docket No. 23-0110 (issued July 28, 2023); *M.P.*, Docket No. 18-0902 (issued October 16, 2018).

¹⁸ *Id.* at § 10.441(a).

circumstances of the individual, and any other relevant factors, so as to minimize any hardship.”¹⁹

ANALYSIS -- ISSUE 3

The Board finds that OWCP properly required recovery of the overpayment by deducting \$138.46 from appellant’s continuing compensation payments, every 28 days.

The case record supports that in requiring recovery of the overpayment by deducting \$138.46 from appellant’s continuing compensation payments every 28 days, OWCP took into consideration the financial information submitted by appellant, as well as factors set forth in 20 C.F.R. § 10.441. It found that this method of recovery would minimize any resulting hardship on appellant, while at the same time liquidating the debt in a reasonably prompt fashion.²⁰ The Board thus finds that OWCP properly required recovery of the overpayment by deducting \$138.46 from appellant’s continuing compensation payments, every 28 days.

CONCLUSION

The Board finds that OWCP properly determined that appellant received an overpayment of compensation in the amount of \$4,531.22 for the period August 17, 2019 through April 23, 2022, for which he was without fault, as OWCP failed to properly deduct life insurance premiums from his FECA wage-loss compensation. The Board further finds that OWCP properly denied waiver of recovery of the overpayment and OWCP properly required recovery of the overpayment by deducting \$138.46 from appellant’s continuing compensation payments, every 28 days.

¹⁹ *Id.*; see *C.M.*, Docket No. 19-1451 (issued March 4, 2020).

²⁰ See *L.F.*, Docket No. 15-0489 (issued May 11, 2015).

ORDER

IT IS HEREBY ORDERED THAT the November 21, 2023 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 9, 2026
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