

ISSUES

The issues are: (1) whether OWCP properly determined that appellant received an overpayment of compensation in the amount of \$1,267.73, for the period September 15, 2023 through March 22, 2025, for which she was without fault, as 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 \$110.00 from appellant's continuing compensation payments, every 28 days.

FACTUAL HISTORY

On November 7, 2023 appellant, then a 70-year-old loan specialist, filed a traumatic injury claim (Form CA-1) alleging that on September 14, 2023 she sustained face, right hand/wrist, and left knee injuries as she was walking while in the performance of duty. OWCP accepted the claim for right wrist sprain. It paid appellant wage-loss compensation on the supplemental rolls from September 15, 2023 through October 5, 2024, and on the periodic rolls effective October 6, 2024.⁴

On February 24, 2025 OWCP provided SSA with a dual benefits form for its completion.

On March 12, 2025 SSA returned the completed form, reporting appellant's SSA age-related retirement benefit rates with and without federal service from March 12, 2015 through December 2024. Beginning January 2023, the SSA rate with federal service was \$925.70 and without federal service was \$810.70. Beginning December 2023, the SSA rate with federal service was \$955.30 and without federal service was \$836.60. Beginning January 2024, the SSA rate with federal service was \$976.20 and without federal service was \$836.60. Beginning December 2024, the SSA rate with federal service was \$1,000.50 and without federal service was \$857.50.

In an April 7, 2025 FERS offset overpayment calculation worksheet, OWCP calculated appellant's FERS/SSA offset for each period from September 15, 2023 through March 22, 2025, and the amount of the overpayment for each period. It found that from September 15 through 26, 2023, she received an overpayment in the amount of \$45.49; on September 28, 2023, she received an overpayment in the amount of \$3.79; on September 29, 2023, she received an overpayment in the amount of \$3.79; from October 4 through November 30, 2023, she received an overpayment in the amount of \$219.88; on October 13, 2023, she received an overpayment in the amount of \$3.79; from December 1 through 16, 2023, she received an overpayment in the amount of \$62.61; from September 5 through 20, 2024, she received an overpayment in the amount of \$73.63; from September 21 through October 4, 2024, she received an overpayment in the amount of \$64.43; on October 5, 2024, she received an overpayment in the amount of \$4.60; from October 6 through November 2, 2024, she received an overpayment in the amount of \$128.86; from November 3 through 30, 2024, she received an overpayment in the amount of \$128.86; from December 1, 2024 through 28, 2024, she received an overpayment in the amount of \$132.00; from December 29, 2024 through January 25, 2025, she received an overpayment in the amount \$132.00; from January 26 through February 22, 2025, she received an overpayment in the amount of \$132.00;

⁴ Appellant's retirement coverage was noted on the claim form as under the Federal Employees Retirement System (FERS).

and from February 23 through March 22, 2025, she received an overpayment in the amount of \$132.00. OWCP therefore found a total overpayment of \$1,267.73.

In an April 16, 2025 preliminary overpayment determination, OWCP notified appellant that she had received an overpayment of compensation in the amount of \$1,267.73 for the period September 15, 2023 through March 22, 2025, because she concurrently received FECA wage-loss compensation and SSA age-related retirement benefits, without an appropriate offset. It further advised appellant of its preliminary determination that she was without fault in the creation of the overpayment. OWCP 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 other records to support her reported income and expenses. It advised appellant that failure to submit the requested information within 30 days would result in the denial of waiver and no further request for waiver would be considered until the requested information was furnished. Additionally, OWCP 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 precoupment hearing. No response was received.

By decision dated June 16, 2025, OWCP finalized its preliminary overpayment determination, finding that appellant had received an overpayment of compensation in the amount of \$1,267.73 for the period September 15, 2023 through March 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 \$110.00 from appellant's 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.⁵ 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.⁶

Section 10.421(d) of the implementing regulations requires that OWCP reduce the amount of compensation by the amount of any SSA age-related retirement benefits that are attributable to federal service of the employee.⁷ 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

⁵ *Supra* note 2 at § 8102(a).

⁶ *Id.* at § 8116.

⁷ 20 C.F.R. § 10.421(d); *see R.S.*, Docket No. 24-0068 (issued January 9, 2026); *T.T.*, Docket No. 20-1257 (issued July 29, 2022); *L.W.*, Docket No. 19-0787 (issued October 23, 2019); *S.M.*, Docket No. 17-1802 (issued August 20, 2018).

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.⁸

ANALYSIS -- ISSUE 1

The Board finds that OWCP properly determined that appellant received an overpayment of compensation in the amount of \$1,267.73, for the period September 15, 2023 through March 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 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. 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.⁹ Consequently, the fact of overpayment has been established.¹⁰

To determine the amount of the overpayment, the portion of 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 September 15, 2023 through March 22, 2025. OWCP then calculated the overpayment for each relevant period, based on the information provided by SSA, and determined that appellant received an overpayment in the amount of \$1,267.73.

The Board has reviewed OWCP's calculations for the period September 15, 2023 through March 22, 2025, and finds that an overpayment of compensation in the amount of \$1,267.73 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.¹¹ The waiver or refusal to waive an overpayment of compensation by OWCP is a matter that rests within OWCP's discretion pursuant to statutory guidelines.¹²

⁸ FECA Bulletin No. 97-09 (issued February 3, 1997); *see also R.S., id.; T.T., id.; N.B.*, Docket No. 18-0795 (issued January 4, 2019).

⁹ *See J.Z.*, Docket No. 25-0885 (issued December 1, 2025); *R.B.*, Docket No. 25-0691 (issued August 20, 2025); *E.M.*, Docket No. 21-1231 (issued April 19, 2023); *E.K.*, Docket No. 18-0587 (issued October 1, 2018).

¹⁰ *J.Z., id., R.B., id.; L.M.*, Docket No. 19-1197 (issued January 8, 2020).

¹¹ *Supra* note 2 at § 8120(a)-(b).

¹² *Supra* note 7 at § 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 6.4004a(2) (September 2020).

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 \$1,267.73 overpayment of compensation.

As OWCP found appellant without fault in the creation of the overpayment, waiver must be considered, and repayment is required unless recovery of the overpayment would defeat the purpose of FECA or would be against equity and good conscience.¹⁷ Appellant, however, had the burden to provide the appropriate financial information to OWCP.¹⁸

In its April 16, 2025 preliminary overpayment determination, OWCP explained the importance of providing a completed Form OWCP-20 and supporting financial documentation. Appellant, however, did not respond. The evidence of record is, therefore, insufficient to establish that recovery of the overpayment would defeat the purpose of FECA or be against equity and good conscience.¹⁹

¹³ *Id.* at § 10.437(a)(b).

¹⁴ *Id.* at 10.438(a); *J.Z.*, *supra* note 9; *B.H.*, Docket No. 25-0589 (issued July 3, 2025); *M.S.*, Docket No. 18-0740 (issued February 4, 2019).

¹⁵ *Supra* note 2 at § 8129.

¹⁶ *Supra* note 7 at § 10.438(b).

¹⁷ *Id.*

¹⁸ *Id.* at § 10.438; *see N.J.*, Docket No. 19-1170 (issued January 10, 2020).

¹⁹ *Id.* at § 10.438.

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

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.

ANALYSIS -- ISSUE 3

The Board finds that OWCP properly required recovery of the overpayment by deducting \$110.00 from appellant's continuing compensation payments, every 28 days.

OWCP's procedures provide that, in instances where the claimant fails to provide the requested financial information, OWCP should set the rate of recovery at 25 percent of the 28-day net compensation amount until the balance of the overpayment is paid in full.²¹ In this case, appellant did not submit a completed Form OWCP-20, reporting her income, assets, and expenses with supporting financial documentation prior to OWCP's issuance of the June 16, 2025 final overpayment determination. The Board, therefore, finds that OWCP properly required recovery of the overpayment by deducting \$110.00 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 \$1,267.73, for the period September 15, 2023 through March 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 deduction of \$110.00 from her continuing compensation payments, every 28 days.

²⁰ See *J.Z.*, *supra* note 9; *B.H.*, *supra* note 14; *K.P.*, Docket No. 25-0040 (issued December 5, 2024); *E.T.*, Docket No. 22-0234 (issued August 17, 2022); *T.E.*, Docket No. 19-0348 (issued December 11, 2019).

²¹ *Supra* note 12 at Chapter 6.500.8c(1).

ORDER

IT IS HEREBY ORDERED THAT the June 16, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 1, 2026
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