

FACTUAL HISTORY

This case was previously before the Board on a different issue.² The facts and circumstances as set forth in the Board's prior decision are incorporated herein by reference. The relevant facts are as follows.

On August 28, 1977 appellant, then a 27-year-old special agent, filed a traumatic injury claim (Form CA-1) alleging that on August 14, 1977 he sustained low back and left thigh injuries when he jumped from a security car when providing physical security coverage for the Secretary of State while in the performance of duty. OWCP initially accepted the claim for bilateral aseptic necrosis of femoral heads. It subsequently expanded the acceptance of appellant's claim to include displaced fracture of the medial malleolus right tibia, right ankle osteonecrosis, drug-induced lupus, right femur secondary osteonecrosis, left femur secondary osteonecrosis, phlebitis and thrombophlebitis of deep vessels of lower extremities, phlebitis and thrombophlebitis of femoral vein, tuberculosis (TB) of vertebral column, right bone infection, arthropathy of the pelvic region and thigh, and infection and inflammatory reaction due to other internal device, implant, and graft.

On April 19, 1993 appellant completed a Federal Employees' Group Life Insurance (FEGLI) program election form. He indicated by signature that he elected basic life insurance coverage (BLI) and Option B (Additional Optional Insurance) at 5X.

Appellant last worked on January 21, 1996. He received wage-loss compensation payments from OWCP as of January 21, 1996. Appellant retired from the employing establishment on June 1, 1999.

On March 3, 2000 appellant completed a Continuation of Life Insurance Coverage as a Retiree or Compensationeer under FEGLI (SF 2818). By his signature he elected BLI at no reduction.

On May 16, 2000 the Office of Personnel Management (OPM) informed OWCP that, as a compensationeer, appellant was eligible to continue his life insurance coverage under FEGLI. The final salary on which life insurance coverage was based was \$95,979.00, effective June 1, 1999. OPM noted appellant's life insurance elections as follows: BLI and Option B with 5X. It further noted that appellant's "Post Retirement election is NO reduction." OPM requested that OWCP deduct for any appropriate premiums. In an October 1, 2014 letter OWCP advised appellant that previously all deductions for optional life insurance automatically stopped when an OWCP claimant reached age 65, however, under current legislation he now had the option of continuing his Option B and Option C (Family Optional Insurance) past age 65. It further advised that if appellant wished to obtain further information regarding this program he should complete the enclosed form and return it to OPM.

In a memorandum of telephone call (Form CA-110) dated December 8, 2022, appellant contended that when he reached age 65, he did not receive an election form from OPM regarding his optional life insurance (OLI) coverage. He further contended that he never received an

² Docket No. 20-0622 (issued September 30, 2020).

October 1, 2014 letter from OPM offering him a “Post-65 Reduction Election.” Appellant maintained that he would have chosen a less expensive option had he been given a choice. He was concerned that incorrect amounts had been deducted over the five-year period after he turned 65 years old. Appellant requested an explanation for why in 2020 the OLI deductions stopped and later began at a much lower rate. He noted that OPM sent him a February 17, 2022 FEGLI coverage statement, which described the FEGLI coverage of another federal employee. Appellant indicated that he eventually got OPM to issue him a corrected letter, but he wanted to make sure his FEGLI insurance was correct for his family. He also wanted to elect his post age 65 OLI and have everything corrected.

In a December 23, 2022 memorandum, OWCP found that there was confusion in the case because on February 17, 2022 OPM sent appellant a coverage statement listing the name of another federal employee with a different OPM number. It planned to obtain clarification from OPM regarding the correct coverage for appellant before establishing an overpayment dating back to June 1, 1999.

In a letter dated January 24, 2023, OWCP requested that OPM verify that appellant’s final base salary for FEGLI was \$95,979.00 and his postretirement election was at no reduction commencing June 1, 1999.

In a March 2, 2023 response, OPM confirmed that appellant had BLI with no reduction and Option B with 5X at full reduction. It further confirmed that his final base salary was \$95,979.00.

In a preliminary overpayment determination dated August 16, 2023, OWCP advised appellant that he had received a \$30,126.83 overpayment for the period June 1, 1999 through July 17, 2021 because it had failed to properly deduct life insurance premiums from his compensation payments. It explained its calculation of the overpayment. 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 accompanying overpayment recovery questionnaire (Form OWCP-20) and provide supporting financial documentation, including copies of income tax returns, bank account statements, bills, pay slips, and other records to support income and expenses. Additionally, 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.

On August 17, 2023 appellant requested a prerecoupment hearing before a representative of OWCP’s Branch of Hearings and Review, regarding the overpayment indicating that he disagreed that the overpayment occurred and with the amount of the overpayment. He requested waiver of recovery. Appellant submitted a partially completed Form OWCP-20 of even date and a statement.

Following a preliminary review, by decision dated October 10, 2023, an OWCP hearing representative vacated the August 16, 2023 preliminary overpayment determination and remanded the case for OWCP to issue a *de novo* decision with proper findings regarding whether appellant had signed a document electing life insurance coverage during the overpayment period.

In a December 15, 2023 letter, OWCP requested that OPM confirm appellant's FEGLI coverage. In an April 4, 2024 letter, it requested that OPM provide the most recent SF 2818 or election letter documenting appellant's life insurance elections.

On May 1, 2024 OWCP received a copy of OPM's March 2, 2023 letter. On June 6, 2024 it received copies of the SF 2818 signed by appellant on March 3, 2000.

On November 13, 2024 OWCP issued a *de novo* preliminary overpayment determination, finding that an overpayment of compensation in the amount of \$30,126.83 was created for the period June 1, 1999 through July 17, 2021 because it had failed to properly deduct life insurance premiums from appellant's compensation payments for the stated period. It summarized its calculation of the overpayment. 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 accompanying Form OWCP-20, and provide supporting financial documentation, including copies of income tax returns, bank account statements, bills, pay slips, and other records to support income and expenses. Additionally, OWCP further 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.

On November 23, 2024 appellant requested a prerecoupment hearing and requested waiver of recovery. He submitted a statement and supportive documents.

Following a preliminary review, by decision dated January 16, 2025, OWCP's hearing representative vacated the November 13, 2024 preliminary overpayment determination and remanded the case for OWCP to issue a *de novo* decision with proper findings regarding the overpayment period and the basis of the overpayment as it appeared from the record that the overpayment should only pertain to the lack of deductions for BLI at no reduction.

On February 5, 2025 OWCP issued a *de novo* preliminary overpayment determination, finding that an overpayment of compensation in the amount of \$56,045.30 was created for the period June 1, 1999 through July 17, 2021 because it had failed to properly deduct life insurance premiums from his compensation payments for the stated period. It summarized its calculation of the overpayment, noting the daily rate, number of days, and the proper deduction amount for each period of the overpayment. 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 accompanying Form OWCP-20, and provide supporting financial documentation, including copies of income tax returns, bank account statements, bills, pay slips, and other records to support income and expenses. OWCP further 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.

In a March 13, 2025 letter, appellant disagreed with the overpayment determination, contending that his life insurance premiums may have been confused with those for another federal employee. He also requested a prerecoupment hearing before a representative of OWCP's Branch of Hearings and Review.

By letter dated March 14, 2025, OWCP informed appellant that he had not submitted a completed Form OWCP-20. It advised him that he must submit the enclosed Form OWCP-20 and supporting documentation if he wished waiver of recovery of the overpayment or a repayment plan for the debt to be considered in establishing his financial hardship.

In a letter dated March 18, 2025, appellant related that his sole income was derived from his OWCP compensation payment. Citing privacy concerns, he refused to provide any financial documentation for assets held jointly with his spouse.

On June 7, 2025 OWCP converted appellant's request for a prerecoupment hearing to a review of the written record.

By decision dated July 8, 2025, OWCP's hearing representative finalized the February 5, 2025 preliminary overpayment determination that appellant received an overpayment of compensation in the amount of \$56,045.30 because it failed to properly deduct life insurance premiums from his compensation payments during the period June 1, 1999 through July 17, 2021. The hearing representative explained that the amount of the overpayment represented the premiums for BLI at no reduction that should have been deducted from appellant's wage-loss compensation. The hearing representative further finalized 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 \$2,298.06 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 \$56,045.30 during the period June 1, 1999 through July 17, 2021, for which he was without

³ *Supra* note 1.

⁴ 5 U.S.C. § 8102(a).

⁵ *Id.* at § 8129(a).

⁶ 5 U.S.C. § 8707(d); *A.S.*, Docket No. 23-0437 (issued February 16, 2024); *K.N.*, Docket No. 22-1364 (issued October 18, 2023); *D.H.*, Docket No. 19-0384 (issued August 12, 2019).

fault, as OWCP failed to properly deduct life insurance premiums from his FECA wage-loss compensation.

Appellant retired on June 1, 1999. On March 3, 2000 he completed an SF 2818. By his signature he elected BLI, with no reduction. On May 16, 2000 OPM informed OWCP that, as a compensationner, appellant was eligible to continue his life insurance coverage under FEGLI. The final salary on which life insurance coverage was based was \$95,979.00, effective June 1, 1999. OPM noted appellant's life insurance elections as follows: BLI and Option B with 5X. It further noted that appellant's "Post Retirement election is NO reduction." OPM requested that OWCP deduct for any appropriate premiums. The case record, however, establishes that OWCP failed to properly deduct the appropriate premiums for BLI at no reduction from appellant's FECA wage-loss compensation for the period June 1, 1999 through July 17, 2021. The Board thus finds that appellant received an overpayment of compensation for the period June 1, 1999 through July 17, 2021 for which he was without fault.⁷

With regard to the amount of the overpayment, the hearing representative explained that the amount of the overpayment represented the premiums for BLI at no reduction that should have been deducted from appellant's wage-loss compensation. The Board has reviewed OWCP's calculations for the period June 1, 1999 through July 17, 2021 and finds that appellant received an overpayment of compensation in the amount of \$56,045.30.

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 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

⁷ *Supra* note 5; *see also*, S.C., Docket No. 22-0809 (issued August 22, 2025).

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).

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.¹¹

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.¹²

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.¹³ Appellant, however, has the responsibility to provide supporting financial information and documentation to OWCP.¹⁴

In its preliminary overpayment determination dated February 5, 2025, OWCP requested a completed overpayment recovery questionnaire and supporting financial documentation regarding monthly income, monthly expenses, and assets, including copies of income tax returns, bank account statements, bills, pay slips, and any other records to support the reported income, expenses, and assets. It advised appellant that it would deny waiver of recovery if he failed to furnish the requested financial information within 30 days. Appellant, however, did not submit a completed Form OWCP-20, or otherwise provide the requested financial information. 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.¹⁵

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.¹⁶

¹¹ 20 C.F.R. § 10.437(a), (b).

¹² *Id.* at § 10.438(a); *M.S.*, Docket No. 18-0740 (issued February 4, 2019).

¹³ *Id.* at § 10.436.

¹⁴ *Id.* at § 10.438; *see also A.V.*, Docket No. 21-0887 (issued May 12, 2022); *N.J.*, Docket No. 19-1170 (issued January 10, 2020); *S.M.*, Docket No. 17-1802 (issued August 20, 2018).

¹⁵ *See A.V., id.; J.H.*, Docket No. 20-0281 (issued May 18, 2021); *D.H.*, Docket No. 19-0384 (issued August 12, 2019).

¹⁶ *Id.*

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 of OWCP's regulations¹⁸ provides in pertinent part 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 soon as the error is discovered or his or her 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.¹⁹

ANALYSIS -- ISSUE 3

The Board finds that OWCP properly required recovery of the overpayment by deducting \$2,298.06 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.²⁰ In this case, appellant did not submit a fully completed Form OWCP-20, reporting his income, assets, and expenses with supporting financial documentation prior to OWCP's issuance of the July 8, 2025 final overpayment determination. The Board, therefore, finds that OWCP properly required recovery of the overpayment by deducting \$2,298.06 from appellant's continuing compensation payments, every 28 days.

CONCLUSION

The Board finds that appellant received an overpayment of compensation in the amount of \$56,045.30 during the period June 1, 1999 through July 17, 2021, 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. Lastly, the Board finds that OWCP properly required recovery of the overpayment by deducting \$2,298.06 from appellant's continuing compensation payments, every 28 days.

¹⁷ 20 C.F.R. § 10.441; *see B.H.*, Docket No. 25-0589 (issued July 3, 2025); *M.P.*, Docket No. 18-0902 (issued October 16, 2018).

¹⁸ *Id.* at § 10.441(a).

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

²⁰ Federal (FECA) Procedure Manual, Part 6 -- Debt Management, *Debt Liquidation*, Chapter 6.500.8c(1) (September 2018).

ORDER

IT IS HEREBY ORDERED THAT the July 8, 2025 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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board