

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

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A.H., Appellant	)	
	)	
and	)	<b>Docket No. 26-0202</b>
	)	<b>Issued: April 6, 2026</b>
U.S. POSTAL SERVICE, TAMPA POST	)	
OFFICE, Tampa, FL, Employer	)	

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*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 December 19, 2025 appellant filed a timely appeal from a November 28, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (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 \$9,537.28 for the period August 26 through November 30, 2024, for which she was without fault during the period August 26 through October 25, 2024, and at fault for the period October 26 through November 30, 2024 because she continued to receive wage-loss compensation for total disability from work following her return to regular-duty work; (2) whether OWCP properly denied waiver of recovery of the portion of the overpayment that occurred from August 26 through October 25, 2024; and (3) whether OWCP properly found appellant at fault in the creation of the portion of the overpayment that occurred from October 26 through November 30, 2024, thereby precluding waiver of recovery.

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

## **FACTUAL HISTORY**

On September 12, 2022 appellant, then a 46-year-old city carrier assistant 1, filed an occupational disease claim (Form CA-2) alleging that she sustained a right heel Achilles injury due to factors of her federal employment. She explained that her work boots had worn down, which shifted her balance while walking. Appellant noted that she first became aware of her condition and its relationship to her federal employment on June 15, 2022. She did not stop work.

By decision dated February 8, 2023, OWCP found that the medical evidence of record was sufficient to establish that appellant sustained lesion of plantar nerve, right lower limb; and non-traumatic compartment syndrome of right lower extremity, causally related to the accepted factors of her federal employment.

By separate decision also dated February 8, 2023, OWCP formally accepted appellant's claim for lesion of plantar nerve, right lower limb, and non-traumatic compartment syndrome of right lower extremity. It advised appellant that if she received a compensation check which included payment for a period she worked, she must return it immediately to prevent an overpayment of compensation.

On August 2, 2023, appellant stopped work.

OWCP subsequently paid appellant wage-loss compensation on the supplemental rolls for disability from work *via* electronic funds transfer (EFT).

On November 29, 2023, OWCP expanded the acceptance of appellant's claim to include Achilles tendinitis, right leg. It paid her wage-loss compensation on the supplemental rolls for the period November 4 through December 30, 2023 and on the periodic rolls effective December 31, 2023 *via* EFT.

In a letter dated January 10, 2024, OWCP advised that appellant would receive a net compensation payment of \$2,877.20 for the period December 2 through 30, 2023, and \$2,777.99 for every 28-day period from December 31, 2023 through January 27, 2024, and continuing. It further instructed that, if she worked during any portion of the covered period and compensation payments were received by paper check or EFT, she was to return the payment to OWCP even if she had already advised OWCP that she was working. OWCP noted that appellant was expected to monitor her EFT deposits carefully, at least every two weeks.

On January 29, 2024, appellant underwent OWCP-authorized right ankle Achilles debridement and reattachment. The preoperative and postoperative diagnoses were Achilles tendinitis, right leg; pain in right foot; and spontaneous rupture of other tendons, right ankle and foot.

On March 19, 2024, OWCP further expanded the acceptance of appellant's claim to include spontaneous rupture of other tendons, right ankle and foot. It continued to pay her wage-loss compensation on the periodic rolls.

In a work capacity evaluation (Form OWCP-5c) dated August 1, 2024, Dr. Jonathon Watts, a Board-certified orthopedic surgeon, released appellant to return to full-time medium-duty work, for two months.

In a report of work status (Form CA-3) dated November 7, 2024, the employing establishment reported that appellant had returned to full-time regular-duty work with no restrictions on August 26, 2024. OWCP, however, continued to pay appellant wage-loss compensation *via* EFT through November 30, 2024.

In a preliminary overpayment determination dated February 5, 2025, OWCP notified appellant that she had received an overpayment of compensation in the amount of \$9,537.28 for the period August 26 through November 30, 2024, because she received compensation for total disability after she returned to work on August 26, 2024. It explained that during the period August 11 through September 7, 2024 she received 15 days of wage-loss compensation to which she was entitled, but she was overpaid for 13 days from August 26 through September 7, 2024, for an overpayment of \$1,278.19. OWCP also advised that appellant had received three additional wage-loss compensation payments from September 8 through November 30, 2024, each in the amount of \$2,753.03. Therefore, she received a total overpayment of \$9,537.28. It further advised appellant of its preliminary determination that she was at fault in the creation of the overpayment because she failed to provide information which she knew, or should have known, to be material and she accepted a payment that she knew or, reasonably should have known was incorrect. Additionally, OWCP provided an overpayment action request form and informed appellant that, within 30 days, she could request a final decision based on the written evidence, or a precoupment hearing. It 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 any other records to support income and expenses.

On February 28, 2025, appellant requested a precoupment hearing before a representative of OWCP's Branch of Hearings and Review. She additionally requested waiver of recovery of the overpayment. Appellant submitted a Form OWCP-20 dated February 25, 2025, in which she contended that an overpayment of compensation had not occurred and that she had informed OWCP that she had returned to work. She reported no monthly income, monthly expenses totaling \$3,483.00, and assets totaling \$15,593.05. Appellant did not submit supporting financial documentation.

A precoupment hearing was held on August 15, 2025 before a representative of OWCP's Branch of Hearings and Review. The hearing representative requested that appellant provide an updated Form OWCP-20 and supporting financial documentation.

Appellant subsequently submitted a completed Form OWCP-20 dated September 2, 2025, wherein she reported monthly income totaling \$4,000.00, monthly expenses totaling \$3,433.96, and assets totaling \$17,993.43. She did not submit supporting financial documentation.

By decision dated November 28, 2025, OWCP finalized the February 5, 2025 preliminary overpayment determination that appellant had received an overpayment of compensation in the amount of \$9,537.28 for the period August 26 through November 30, 2024 because she continued to receive FECA wage-loss compensation after her return to full-time

work on August 26, 2024. It found her without fault in the creation of the overpayment for the period August 26 through October 25, 2024, as she received her wage-loss compensation payments *via* EFT but, denied waiver of recovery of the overpayment. OWCP further found appellant at fault in the creation of the overpayment for the period October 26 through November 30, 2024, as she knew or reasonably should have known that she was not entitled to the compensation she received after returning to work on August 26, 2024, thereby precluding waiver of recovery for that period of the overpayment. It required recovery of the overpayment by monthly payments of \$400.00.

### **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.<sup>2</sup> Section 8129(a) of FECA provides, in pertinent part, that when an overpayment has been made to an individual under this subchapter 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 an individual is entitled.<sup>3</sup>

Section 8116(a) of FECA provides that, while an employee is receiving compensation or if he or she has been paid a lump sum in commutation of installment payments until the expiration of the period during which the installment payments would have continued, the employee may not receive salary, pay, or remuneration of any type from the United States, except in limited specified instances.<sup>4</sup> Section 10.500 of OWCP's regulations provides that compensation for wage loss due to disability is available only for periods during which an employee's work-related medical condition prevents him or her from earning the wages earned before the work-related injury.<sup>5</sup> A claimant is not entitled to receive temporary total disability (TTD) benefits and actual earnings for the same time period.<sup>6</sup> OWCP's procedures provide that an overpayment of compensation is created when a claimant returns to work, but continues to receive wage-loss compensation for TTD.<sup>7</sup>

### **ANALYSIS -- ISSUE 1**

The Board finds that appellant received an overpayment of compensation in the amount of \$9,537.28 for the period August 26 through November 30, 2024, because she continued to receive total disability compensation following her return to work.

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<sup>2</sup> 5 U.S.C. § 8102(a).

<sup>3</sup> *Id.* at § 8129(a).

<sup>4</sup> *Id.* at § 8116(a).

<sup>5</sup> 20 C.F.R. § 10.500(a).

<sup>6</sup> *See S.S.*, Docket No. 20-0776 (issued March 15, 2021); *L.T.*, Docket No. 19-1389 (issued March 27, 2020); *K.P.*, Docket No. 19-1151 (issued March 18, 2020); *C.H.*, Docket No. 19-1470 (issued January 24, 2020); *L.S.*, 59 ECAB 350, 352-53 (2008).

<sup>7</sup> Federal (FECA) Procedure Manual, Part 6 -- Debt Management, *Identifying and Calculating an Overpayment*, Chapter 6.200.1(a) (September 2018); *see also S.S.*, *id.*; *L.T.*, *id.*; *K.P.*, *id.*; *C.H.*, *id.*

The case record establishes that appellant returned to work on August 26, 2024. OWCP, however, continued to pay her wage-loss compensation for total disability following her return to work through November 30, 2024, which resulted in an overpayment of compensation. Therefore, an overpayment of compensation was created in this case.

OWCP calculated appellant's net compensation paid for the period August 26 through November 30, 2024 as \$9,537.28. The Board has reviewed OWCP's calculations and finds that it properly calculated and explained that appellant had received an overpayment of compensation in the amount of \$9,537.28 for the period August 26 through November 30, 2024.

### **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.<sup>8</sup> 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.<sup>9</sup>

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, also, if the beneficiary's assets do not exceed a specified amount as determined by OWCP.<sup>10</sup> 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.<sup>11</sup>

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.<sup>12</sup> Failure to submit the requested

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<sup>8</sup> 5 U.S.C. § 8129(a)-(b).

<sup>9</sup> See *D.B.*, Docket No. 21-0009 (issued June 7, 2021); *R.Q.*, Docket No. 18-0964 (issued October 8, 2019); *S.J.*, Docket No. 09-370 (issued August 18, 2009).

<sup>10</sup> 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).

<sup>11</sup> *Id.* at § 10.437(a)(b).

<sup>12</sup> *Id.* at § 10.438(a).

information within 30 days of the request will result in a denial of waiver of recovery, and no further request for waiver shall be considered until the requested information is furnished.<sup>13</sup>

### **ANALYSIS -- ISSUE 2**

The Board finds that OWCP properly denied waiver of recovery of the portion of the overpayment that occurred from August 26 through October 25, 2024.

In its preliminary overpayment determination dated February 5, 2025, OWCP explained the importance of providing the completed Form OWCP-20 and supporting financial documentation. Although appellant submitted a completed Form OWCP-20 dated September 2, 2025, she did not provide supporting financial documentation. 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.<sup>14</sup>

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.<sup>15</sup>

### **LEGAL PRECEDENT -- ISSUE 3**

Section 8129 of FECA provides that adjustment or recovery by the United States may not be made when 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. A claimant who is at fault in the creation of the overpayment is precluded from waiver of recovery of the overpayment.<sup>16</sup>

Section 10.433(a) of OWCP's regulations provides that an individual is found at fault in the creation of an overpayment if he or she has: (1) made an incorrect statement as to a material fact which he or she knew or should have known to be incorrect; (2) failed to furnish information which he or she knew or should have known to be material; or (3) accepted a payment which he or she knew or should have known was incorrect.<sup>17</sup>

Even if an overpayment resulted from negligence by OWCP, this does not excuse the employee from accepting payment, which the employee knew or should have been expected to know he or she was not entitled.<sup>18</sup> The Board has held that an employee who receives payments

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<sup>13</sup> *Id.* at § 10.438(b).

<sup>14</sup> *Id.*

<sup>15</sup> *See C.Z.*, Docket No. 25-0798 (issued November 26, 2025); *E.T.*, Docket No. 22-0234 (issued August 17, 2022); *T.E.*, Docket No. 19-0348 (issued December 11, 2019).

<sup>16</sup> *J.S.*, Docket No. 19-1363 (issued April 10, 2020); *B.R.*, Docket No. 18-0339 (issued January 24, 2019); *K.E.*, Docket No. 18-0687 (issued October 25, 2018); *Gregg B. Manston*, 45 ECAB 344, 354 (1994); *Robert W. O'Brien*, 36 ECAB 541, 547 (1985).

<sup>17</sup> 20 C.F.R. § 10.433(a).

<sup>18</sup> *Diana L. Booth*, 52 ECAB 370 (2001).

from OWCP in the form of a direct deposit may not be at fault the first or second time that incorrect funds are deposited into his or her account, as he or she lacks the requisite knowledge in accepting payment.<sup>19</sup>

### **ANALYSIS -- ISSUE 3**

The Board finds that OWCP properly found appellant at fault in the creation of the portion of the overpayment that occurred from October 26 through November 30, 2024, thereby precluding waiver of recovery of the overpayment.

As explained above, section 10.433(a) of OWCP's regulations provides that an individual is found at fault in the creation of an overpayment if he or she has accepted a payment which he or she knew or should have known was incorrect.<sup>20</sup> Even if an overpayment resulted from negligence by OWCP, this does not excuse the employee from accepting payment, which the employee knew or should have been expected to know he or she was not entitled.<sup>21</sup> After her receipt of the first and second wage-loss compensation payments following her return to work, appellant knew or reasonably should have known that OWCP had begun to make payments to her in error, and that she was no longer entitled to compensation payments.<sup>22</sup> By the time the third direct deposit payment was received following appellant's return to work at the employing establishment, she should have known that she was not entitled to the same amount of wage-loss compensation as the amount received prior to returning to work.<sup>23</sup> The Board, therefore, finds that OWCP properly found appellant at fault in the creation of the overpayment for the period October 26 through November 30, 2024, thereby precluding waiver of recovery of the overpayment for that period.

### **CONCLUSION**

The Board finds that appellant received an overpayment of compensation in the amount of \$9,537.28 for the period August 26 through November 30, 2024, for which she was without fault for the period August 26 through October 25, 2024, and at fault for the period October 26 through November 30, 2024 because she continued to receive total disability compensation following her return to regular-duty work. The Board further finds that OWCP properly denied waiver of recovery of the portion of the overpayment that occurred from August 26 through October 25, 2024. The Board also finds that OWCP properly found appellant at fault in the

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<sup>19</sup> See *C.B.*, Docket No. 23-0769 (issued May 28, 2024); *R.S.*, Docket No. 20-0177 (issued September 3, 2021); *L.G.*, Docket No. 20-1342 (issued September 3, 2021); *M.J.*, Docket No. 19-1665 (issued July 29, 2020); *Tammy Craven*, 57 ECAB 689 (2006).

<sup>20</sup> *Supra* note 17.

<sup>21</sup> *Supra* note 18.

<sup>22</sup> See *C.Z.*, *supra* note 15; *C.S.*, Docket No. 25-0562 (issued July 29, 2025); *M.R.*, Docket No. 24-0200 (issued March 28, 2024); *J.B.*, Docket No. 22-1027 (issued November 16, 2023).

<sup>23</sup> See *C.Z.*, *id.*; *S.R.*, Docket No. 24-0338 (issued May 10, 2024).

creation of the portion of the overpayment that occurred from October 26 through November 30, 2024, thereby precluding waiver of recovery of the overpayment.<sup>24</sup>

**ORDER**

**IT IS HEREBY ORDERED THAT** the November 28, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 6, 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

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<sup>24</sup> With respect to recovery of the overpayment of compensation, the Board's jurisdiction is limited to reviewing those cases where OWCP seeks recovery from continuing compensation benefits under FECA. As appellant is no longer receiving wage-loss compensation, the Board does not have jurisdiction with respect to the recovery of the overpayment under the Debt Collection Act. *See T.C.*, Docket No. 21-0612 (issued December 2, 2021); *R.W.*, Docket No. 18-1059 (issued February 6, 2019); *Cheryl Thomas*, 55 ECAB 610 (2004).