

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

N.L., Appellant	)	
	)	
and	)	<b>Docket No. 26-0226</b>
	)	<b>Issued: April 17, 2026</b>
U.S. POSTAL SERVICE, BARTOW POST	)	
OFFICE, Bartow, FL, Employer	)	
	)	

*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  
VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On January 6, 2026 appellant filed a timely appeal from a December 17, 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.<sup>2</sup>

**ISSUES**

The issues are: (1) whether appellant received an overpayment of compensation in the amount of \$3,110.96 for the period January 11 through June 14, 2025, for which she was without fault, because OWCP failed to properly deduct health insurance premiums from her FECA wage-loss compensation; (2) whether OWCP properly denied waiver of recovery of the overpayment;

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

<sup>2</sup> The Board notes that following the December 17, 2025 decision and on appeal, 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.*

and (3) whether OWCP properly required recovery of the overpayment by deducting \$129.62 from appellant's continuing compensation payments, every 28 days.

### **FACTUAL HISTORY**

On October 2, 2024 appellant, then a 55-year-old city carrier assistant 1, filed a traumatic injury claim (Form CA-1) alleging that on September 30, 2024 she injured her upper extremities when she slipped and fell from a long-life vehicle doorstep, while in the performance of duty. She stopped work on September 30, 2024. OWCP accepted the claim for contusions of the right hand, right wrist, right forearm, right shoulder, and right hip. It subsequently expanded the acceptance of the claim to include other extraarticular fracture of lower end of left radius, closed fracture; nondisplaced fracture of left ulna styloid process, closed fracture; unspecified sprain of right wrist; and unspecified sprain of left wrist. OWCP paid appellant wage-loss compensation on the supplemental rolls effective January 11, 2025, and on the periodic rolls effective June 15, 2025.

On February 25, 2025 appellant filed a claim for compensation (Form CA-7), claiming disability from work for the period January 11 through 24, 2025. On the reverse side of the claim form, the employing establishment noted that appellant was not enrolled in health benefit coverage. It continued to note that she had no health benefit coverage on subsequent CA-7 forms which appellant filed on February 2, April 13, April 22, May 15, May 19, June 2, and June 16, 2025.

In a July 7, 2025 e-mail, the employing establishment informed OWCP that appellant had health insurance coverage for self plus one. OWCP subsequently received a copy of appellant's signed health insurance election form (Standard Form (SF) 2809) documenting her election of self plus one coverage effective January 1, 2025.

As of June 15, 2025, OWCP began deducting appropriate health insurance premiums from appellant's wage-loss compensation in the amount of \$561.98 every 28 days.

In a July 9, 2025 overpayment referral memorandum, OWCP found that appellant had received an overpayment of compensation for the period January 11 through June 14, 2025, as health insurance premiums for self plus one coverage were not properly deducted from appellant's FECA wage-loss compensation. On a July 25, 2025 overpayment calculation worksheet, it indicated that it had paid appellant \$23,059.12 for the period January 11 through June 14, 2025 when she was only entitled to receive \$19,948.16, resulting in an overpayment of \$3,110.96.

In a preliminary overpayment determination dated September 18, 2025, OWCP notified appellant of its preliminary finding that she had received an overpayment of compensation in the amount of \$3,110.96 for the period January 11 through June 14, 2025 because it failed to properly deduct health insurance premiums from her FECA wage-loss compensation payments. It advised appellant of its preliminary determination that she was without fault in the creation of the overpayment and requested that she complete an overpayment action request form and an overpayment recovery questionnaire (Form OWCP-20). OWCP further requested that appellant submit supporting financial documentation including income tax returns, bank account statements, bills, cancelled checks, pay slips, and any other records. Additionally, it advised her 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. OWCP afforded appellant 30 days to respond.

On October 9, 2025 appellant requested that OWCP issue a decision based on the written evidence regarding possible waiver of recovery of the overpayment. She submitted a completed Form OWCP-20, dated October 9, 2025, wherein she reported total monthly income of \$5,300.00, total monthly expenses of \$6,603.00, and total assets of \$37,247.73. Appended thereto, appellant submitted supporting financial documentation.

By decision dated December 17, 2025, OWCP finalized the September 18, 2025 preliminary overpayment determination that appellant had received an overpayment of compensation in the amount \$3,110.96 for the period January 11 through June 14, 2025, for which she was without fault, because it failed to properly deduct health insurance premiums from her FECA wage-loss compensation. It provided a detailed explanation of its calculations. OWCP denied waiver of recovery of the overpayment and required recovery by deducting \$129.62 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 or death of an employee resulting from personal injury sustained while in the performance of duty.<sup>3</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>4</sup>

The Board has recognized that, when an underwithholding of health insurance premiums is discovered, the entire amount is deemed an overpayment of compensation because OWCP must pay the full premium to OPM when the error is discovered.<sup>5</sup>

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

The Board finds that appellant received an overpayment of compensation in the amount of \$3,110.96 for the period January 11 through June 14, 2025, for which she was without fault, because OWCP failed to properly deduct health insurance premiums from her FECA wage-loss compensation.

The case record contains a signed SF 2809, which recorded appellant's election of self plus one coverage, effective January 1, 2025. OWCP accepted appellant's traumatic injury claim, and it paid her wage-loss compensation on the supplemental rolls effective January 11, 2025. The case record, however, establishes that OWCP did not begin to deduct the health insurance premiums until it paid her wage-loss compensation on the periodic rolls effective June 15, 2025. The Board

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<sup>3</sup> *Id.* at § 8102(a).

<sup>4</sup> *Id.* at § 8129(a).

<sup>5</sup> *K.W.*, Docket No. 23-1166 (issued February 14, 2024); *E.D.*, Docket No. 20-0963 (issued January 6, 2022); *D.B.*, Docket No. 19-1742 (issued March 22, 2021); *R.M.*, Docket No. 19-0183 (issued November 18, 2019); *J.W.*, Docket No. 14-1531 (issued November 3, 2014); *James Lloyd Otte*, 48 ECAB 334 (1997).

thus finds that appellant received an overpayment of compensation for the period January 11 through June 14, 2025, for which she was without fault.

With regard to the amount of the overpayment, OWCP provided an overpayment calculation worksheet, wherein it explained that appellant had received \$23,059.12 in FECA compensation for the period January 11 through June 14, 2025, when she was only entitled to receive \$19,948.16. This resulted in an overpayment payment of compensation in the amount of \$3,110.96. The Board has reviewed OWCP's calculations and finds that appellant received an overpayment of compensation in the amount of \$3,110.96 for the period January 11 through June 14, 2025.

### **LEGAL PRECEDENT – ISSUE 2**

Section 8129 of FECA<sup>6</sup> provides that an overpayment must be recovered 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. Thus, a finding that appellant was without fault does not automatically result in waiver of the overpayment. OWCP must 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>7</sup>

According to 20 C.F.R. § 10.436, recovery of an overpayment would defeat the purpose of FECA if recovery would cause hardship because the beneficiary needs substantially all of his or her 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 from data provided by the Bureau of Labor Statistics.<sup>8</sup> An individual's liquid assets include, but are not limited to, cash on hand, the value of stocks, bonds, savings accounts, mutual funds, and certificates of deposits. 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.

Section 10.437 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.<sup>9</sup>

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

<sup>7</sup> *Id.* at Chapter 6.400.4a(2).

<sup>8</sup> *Id.* at Chapter 6.400.4b(3)(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>9</sup> 20 C.F.R. § 10.437; *see E.H.*, Docket No. 18-1009 (issued January 29, 2019).

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 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>10</sup> 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.<sup>11</sup>

### **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 of recovery of the overpayment 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.<sup>12</sup>

On her completed Form OWCP-20, appellant reported assets totaling \$37,247.73. 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.<sup>13</sup> As appellant's assets 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 she was entitled to waiver on the basis that recovery of the overpayment would be against equity and good conscience.<sup>14</sup>

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.<sup>15</sup> Section 10.441(a) of the regulations provides:

“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

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<sup>10</sup> *Id.* at § 10.438(a); *P.M.*, Docket No. 22-1059 (issued April 28, 2023); *M.S.*, Docket No. 18-0740 (issued February 4, 2019).

<sup>11</sup> *Id.* at § 10.438(b); *P.M., id., see also C.J.*, Docket No. 24-0401 (issued February 12, 2026).

<sup>12</sup> 5 U.S.C. § 8129.

<sup>13</sup> *Supra* note 8.

<sup>14</sup> *Supra* note 9.

<sup>15</sup> *Lorenzo Rodriguez*, 51 ECAB 295 (2000).

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 factors, so as to minimize any hardship.”<sup>16</sup>

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

The Board finds that OWCP properly required recovery of the overpayment by deducting \$129.62 from appellant’s continuing compensation payments, every 28 days.

In determining whether appellant could repay the overpayment by deducting \$129.62 from continuing compensation payments, OWCP took into account her financial information as well as factors set forth in 20 C.F.R. § 10.441, and found that this method of recovery would minimize any resulting hardship, not necessarily eliminate it, while at the same time liquidating the debt in a reasonably prompt fashion.<sup>17</sup> Thus, the Board finds that it properly required recovery of the overpayment by deducting \$129.62 from appellant’s continuing compensation payments, every 28 days.

### **CONCLUSION**

The Board finds that appellant received an overpayment of compensation in the amount of \$3,110.96 for the period January 11 through June 14, 2025, for which she was without fault, because OWCP failed to properly deduct health insurance premiums from her FECA wage-loss compensation. The Board further finds that OWCP properly denied waiver of recovery of the overpayment and properly required recovery by deducting \$129.62 from her continuing compensation payments, every 28 days.

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<sup>16</sup> 20 C.F.R. § 10.441(a).

<sup>17</sup> See *M.W.*, Docket No. 25-0745 (issued December 10, 2025); *C.S.*, Docket No. 23-0587 (issued July 9, 2025); *J.B.*, Docket No. 24-0876 (issued September 26, 2024); *L.F.*, Docket No. 15-0489 (issued May 11, 2015).

**ORDER**

**IT IS HEREBY ORDERED THAT** the December 17, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 17, 2026  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge  
Employees' Compensation Appeals Board

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